Hacettepe University Graduate School of Social Sciences

Department of International Relations

NEW CHALLENGES WITHIN THE FRAMEWORK OF THE RESPONSIBILITY TO PROTECT: TERRORISM AND PROTECTION OF POPULATIONS

Çağlar AÇIKYILDIZ

Master's Thesis

Ankara, 2018

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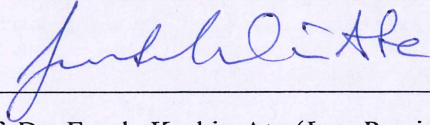

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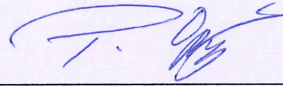Department of International Relations

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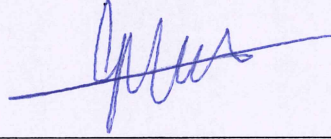
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Bu çalışmadaki bütün bilgi ve belgeleri akademik kurallar çerçevesinde elde ettiğimi, görsel, işitsel ve yazılı tüm bilgi ve sonuçları bilimsel ahlak kurallarına uygun olarak sunduğumu, kullandığım verilerde herhangi bir tahrifat yapmadığımı, yararlandığım kaynaklara bilimsel normlara uygun olarak atıfta bulunduğumu, tezimin kaynak gösterilen durumlar dışında özgün olduğunu, Doç. Dr. Mine Pınar GÖZEN ERCAN danışmanlığında tarafımdan üretildiğini ve Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü Tez Yazım Yönergesine göre yazıldığını beyan ederim.

Çağlar AÇIKYILDIZ

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ABSTRACT

Açıkyıldız, Çağlar, *New Challenges within the Framework of Responsibility to Protect: Terrorism and the protection of populations*, Master's Thesis, Ankara, 2018.

In response to ongoing human rights violations, as well as the debates on humanitarian interventions, the International Commission on Intervention and State Sovereignty (ICISS) developed the notion of the Responsibility to Protect (R2P) in 2001 and it was unanimously adopted by the United Nations General Assembly in the 2005 World Summit. At the core of the R2P notion lies the sovereignty as responsibility understanding and the responsibility of the international community to protect populations when their states are unable or unwilling to do so. From 2006, to date, the United Nations Security Council has invoked R2P in more than 50 resolutions. Moreover, since 2009, the United Nations General Assembly has held nine informal interactive dialogues on R2P. Essentially, since the first introduction of R2P, UN member states are working to form consensus around it, as well as to narrow the gap between conceptual progress and preventive action. To date, R2P has found wide coverage in the International Relations literature, nevertheless, there are still underexplored aspects of the topic. In this vein, building its analysis on the observation that States are not the only actors who are responsible for mass atrocities, this thesis aims to make a contribution to the existing literature by focusing on non-state actors, and more precisely terrorist organizations, within the context of R2P and protection of populations. In the current era, together with technological progresses and globalization, non-state actors have become major challengers to states and the international system. In this regard, this thesis focuses on the international R2P response in situations wherein the perpetrators are non-state actors, and accordingly focuses on the two select cases of the Islamic State (ISIS) and Boko Haram within the context of the mass atrocity crimes that are grounds for invoking R2P action.

Key Words

Responsibility to Protect (R2P), United Nations, Security Council, humanitarian intervention, Boko Haram, ISIS, UN Reformation.

ÖZET (Turkish Abstract)

Açıkyıldız, Çağlar, *Koruma Sorumluluğu Çerçevesinde Yeni Zorluklar: terörizm ve nüfusların korunması*, Yüksek Lisans Tezi, Ankara, 2018

Müdahale ve Devlet Egemenliği Uluslararası Komisyonu (ICISS), 2001 yılında insan hakları ihlalleri ve insani müdahale tartışmalarına karşılık olarak Koruma Sorumluluğu (R2P) kavramını ortaya koymuştur. Bu kavram, 2005 Dünya Zirvesi Sonuç Belgesi'yle Birleşmiş Milletler (BM) Genel Kurulu tarafından oy birliği ile kabul edildi. Koruma sorumluluğunun temelinde egemenlik anlayışının birtakım sorumluluklar getirdiği ve devletlerin bu yükümlülüğü yerine getirmekten aciz veya isteksiz olduğu durumlarda bu sorumluluğun uluslararası topluma geçtiği fikri yatmaktadır. Güvenlik Konseyi, 2006'dan beri koruma sorumluluğunu 50'den fazla sayıda kararda hatırlatmıştır. Ayrıca, 2010'dan beri BM Genel Kurulu'nda, koruma sorumluluğunun uygulamasına dair dokuz adet gayri resmi interaktif diyalog düzenlemiştir. Esasen, koruma sorumluluğunun 2001 yılında ortaya konmasından bu yana, BM üyesi devletler bu konuda fikir birliği oluşturmaya ve kavramsal ilerleme ile önleyici eylem arasındaki boşluğu daraltmaya çalışmaktadırlar. Bugüne kadar koruma sorumluluğu, Uluslararası İlişkiler literatüründe geniş yer bulmuş olmasına rağmen, yine de konunun az gelişmiş yönleri vardır. Bu bağlamda, analizlerini devletlerin kitlesel zulümlerden sorumlu olan tek aktör olmadığı gözlemi üzerine oturtan bu tezin amacı devlet dışı aktörlere ve spesifik olarak terör örgütlerine, koruma sorumluluğu bağlamında ve nüfusun korunmasına odaklanarak mevcut literatüre katkıda bulunmayı sağlamaktır. Günümüzde, teknolojik ilerlemeler ve küreselleşmeyle birlikte, devlet dışı aktörler de devletler gibi uluslararası sistemin önemli bir parçası haline gelmiştir. Buradan yola çıkarak, bu tez, koruma sorumluluğunun kapsamına giren suçların faillerin devlet dışı aktörler olduğu durumlara uluslararası toplumun sorumluluğunun yerine getirilmesi gerekliliğini incelemektedir. Bunu yaparken, koruma sorumluluğunu fiiliyata geçirilmesine zemin oluşturan kitlesel vahşet suçları bağlamında Nijerya'da Boko Haram ve Suriye'de İslam Devleti terör örgütlerinin faaliyetlerine odaklanmaktadır.

Anahtar Sözcükler

Koruma Sorumluluğu, Birleşmiş Milletler, Güvenlik Konseyi, insani müdahale, Boko Haram, IŞİD, BM Reformu.

TABLE OF CONTENTS

ABBREVIATIONS

ACT - Accountability, Coherence and Transparency

ANF - Al Nusrah Front

AU – African Union

AUPSC - The Peace and Security Council of the African Union

CoI - Commission of Inquiry

ECOWAS - Economic Community of West African States

EU - The European Union

FSA - Free Syrian Army

GA – General Assembly

HRC – Human Rights Council

HRUF - Human Rights Up Front

HRW - Human Rights Watch

ICC – International Criminal Court

ICJ – International Court of Justice

ICISS - International Commission on Intervention and State Sovereignty

ICRP – International Coalition for the Responsibility to Protect

IDPs - internally displaced people

IIIM - International Impartial and Independent Mechanism

ISSG - International Syria Support Group

ISIS - Islamic State

KLA - Kosovo Liberation Army

LAS - The League of Arab States

LCBC - The Lake Chad Basin Commission

MNJTF - Multinational Joint Task Force

NATO – North Atlantic Treaty Organization

NGO – Non-governmental Organization

OCHA - UN Office for the Coordination of Humanitarian Affairs

OHCHR - Office of the United Nations High Commissioner for Human Rights

OPCW - Organization for the Prohibition of Chemical Weapons

OPCW FFM - Organization for the Prohibition of Chemical Weapons Fact-Finding Mission

OSCE - Organization for Security and Cooperation in Europe

OTP - Office of the Prosecutor

para. - paragraph

P5 – permanent (five) members of the Security Council

RRF - UN Rapid Reaction Force

RwP - Responsibility While Protecting

R2P – Responsibility to Protect

SC – Security Council

SOHR - The Syrian Observatory for Human Rights

S5 – Small Five Group

UN – United Nations

UNASUR - Union of South American Nations

UNESCO - United Nations Educational, Scientific and Cultural Organization

UNDP - United Nations Development Programme

UNGA – United Nations General Assembly

UNHCR - United Nations High Commissioner for Refugees

UNSC – United Nations Security Council

UNSG United Nations Secretary General

UNSMIS - The United Nations Supervision Mission in Syria

UNOAU - the United Nations Office to the African Union

YPG - Kurdish People's Protection Units

ZOPACAS - South Atlantic Peace and Cooperation Zone

WHO - World Health Organization

WSOD - World Summit Outcome Document

INTRODUCTION

The core reason for the very existence of R2P is human security concerns. Humanitarian crises of the 1990s such as the cases of Somalia, Rwanda, Bosnia-Herzegovina and Kosovo led then Secretary-General of the United Nations (UN) Kofi Annan to challenge states to rethink the notions of sovereignty and intervention. In 2001, the International Commission on Intervention and State Sovereignty (ICISS) prepared a report and claimed that a responsibility to provide security was inherent in the notion of sovereignty, as well as developing practices and standards of human rights and human security. The Report posited that "states have the primary responsibility to protect their populations. However, in the case of a population suffering harms because the state authorities are unwilling or unable to stop it, the principle of non-intervention yields to the international responsibility to protect" (ICISS, 2001: viii). While suggesting that there exist the responsibilities to prevent, react and rebuild, the Report places emphasis on the protection of populations as a responsibility, and hence, suggests reconsidering the limits of the understanding of territorial sovereignty and non-intervention in order to protect populations from suffering mass human rights violations (Falk and Skinner, 2016: 494).

With the initiative of then UN Secretary-General and the support of R2P advocates, R2P was placed in the agenda of the UN in 2005, and it was adopted by the UN General Assembly (UNGA) under the 2005 World Summit Outcome Document (WSOD). This was a milestone for this emerging norm, as it formally placed R2P on the UN agenda. R2P's evolution continued with the annual comprehensive reports of the UN Secretary-General and the follow-up interactive dialogues. Since 2009, the main focus has been on the implementation of R2P through Ban Ki-moon's three pillar strategy—state responsibility, international assistance and capacity building, and timely and decisive response. In each report, R2P was approached from a different aspect, but recurring emphases have been on prevention and that mass murders took different forms and its perpetrators varies. In his 2015 Report, Ban underlines two new challenges to R2P's present state. He draws attention to terrorist activities of non-state armed groups and the impact of new technologies as challenges that need to be considered under R2P (UNGA, 2015a: 14). Evidently, states are no longer the only actors in the international system. In this vein, arguing that the impact of non-state armed groups should not be ignored, this

thesis, within the context of R2P, places its focus on terrorist organizations, which engage in atrocity crimes like genocide and war crimes. Accordingly, it seeks to answer whether or not the acts of terrorist organizations constitute a basis for the invocation of R2P?

In order to lay out this work's main contribution to the existing debates, a review of the literature is necessary. The R2P literature discusses various aspects of R2P and one of these is what R2P is in nature. Although it has been seventeen years since R2P was first introduced, there are varying opinions as to whether R2P is a principle, political rhetoric, emerging legal norm, or a moral norm.

Following the UN High Level Panel Report, A More Secure World: Our shared responsibility endorsed by then Secretary-General Kofi Annan, R2P was referred to as a "new emerging norm, one that is precious but not yet deep-rooted" (Annan, 2004: 32). In the early debates in the literature, Evans and Sahnoun (2002: 102) argue that R2P is not a part of customary international law yet, it should be regarded as *de facto* emerging norm. Similarly, with her analysis on the evolution of R2P within areas of public international law, Breau (2006: 61) argues that the notion of aggravated state responsibility will develop along with the improvement of the principle of the responsibility to protect and eventually it will turn into a binding customary international law norm. Barbour and Gorlick (2008) study R2P as a developing legal norm and discuss its narrow scope and implementation problems. On the other hand, Stahn (2007: 120) suggests that the normative point of view of the concept is uncertain thus, it has not obtained sufficient support to be considered as part of international law. It is therefore still a political catchword in many ways, rather than a legal norm. In terms of legality, the general tendency in the literature is to argue that the 2005 WSOD does not entail a legal obligation on the part of the international community for invocation of R2P in cases of mass atrocity crimes (see, Stahn, 2007: 109; Welsh and Banda, 2010: 230). Luck (2008: 5) underlines that "R2P itself does not impose new legal obligations on the international community, yet it is consistent with evolving state practice, at least since the 1990s, toward enhanced cooperation in such situations." While questioning how to make R2P an effective part of the UN, Gözen Ercan (2016: 79) argues that R2P has the potential to make an impact in terms of the positive aspect of state behavior. However, it is not binding and at the end of the day, it has become an international moral norm. Last but not least, Thakur and Weiss (2009) mentions, although giving operational meaning to the R2P is difficult, it is clear

that it came out of an idea to prevent mass atrocities and is a result of a normative progress.

Another discussion in the literature regarding conceptualization of R2P is its relationship with humanitarian intervention. While Bellamy (2010) considers R2P as a norm that has changed the humanitarian military intervention understanding, Thakur (2016: 418) draws attention to the point that both academics and policy-makers tend to use R2P synonymously with humanitarian intervention because of "intellectual hubris, laziness and incompetence." Focusing on the distinction between R2P and humanitarian intervention, Pattison (2010: 13) argues that R2P is broader in certain respects, and narrower in other respects. More precisely, the three responsibilities give R2P a broader characteristic, while the threshold criteria and the requirement of UN Security Council (UNSC) authorization for R2P action make humanitarian intervention broader in terms of its tools and practice.

In line with the above-mentioned focus, the implementation of R2P has become a part of the debates in the literature. Many scholars approach R2P with suspicion. On the one hand, Acharya (2002: 380) suggests, "R2P refines but does not resolve the dilemmas of humanitarian intervention." He continues, "by limiting its scope R2P tries to make humanitarian intervention an acceptable norm, but it does not prevent the concerns about misuse." David Vesel (2013) implies that R2P disregards existing international law rules. In addition, Ayoob (2004) reveals that R2P is a principle that legitimizes the neo-colonialist tendency of the great powers. Focarelli (2008: 202) mentions that operating the responsibility to react under the UNSC authority, allows the great powers to decide without any interference whether and where to intervene, which makes R2P open to abuse. On the other hand, Bellamy (2016) points to the fact that even in pillar three of Ban Ki-moon's three pillar strategizing, the use of force is a last resort while the first response normally contains peaceful means. Moreover, Abiew (2010) points to the difference between humanitarian intervention and R2P, and latter includes military action only in extreme cases when peaceful measures are inadequate.

Besides the normative and conceptual debates, R2P has also been discussed in relation to cases. After its introduction, R2P was tested in many cases. On grounds of examples, many scholars argue that although the international community achieved some success

with regard to upholding R2P, it has failed to protect populations in many case specific situations. For instance, De Waal (2007: 1041) reminds that UNSC did not name the situation in Darfur as genocide because naming it so should have required taking action. Bellamy and Williams (2005) assert that R2P has shown a great weakness in practice in Darfur. Regarding another case discussed in the literature, Myanmar, while Luck (2008) argues that the R2P invocation on grounds of the natural disaster in Bruma was a misapplication of R2P, Cohen (2008) argues for the necessity to invoke R2P to prevent the increase of the number of dead in the humanitarian situation in Burma. Badescu (2011: 141) reminds the limitation of four atrocity crimes of 2005 WSOD and asserts Myanmar was not an R2P situation. Moreover, in several studies UN response to Rwanda is mentioned as failure to protect and hence gave rise to the construction of the R2P norm (Luck, 2008; Widmaiera and Glanville, 2015; Gözen Ercan, 2016). In addition, the cases of Kenya (2008) and Guinea (2009) are discusses as examples wherein the collective responsibility to prevent was executed at an early stage (Gözen Ercan, 2016: 87). Libya and Syria cases are shown as the events where this emerging norm is best tested. Cronogue (2012: 125) argues that implementation of R2P in Libya caused hesitations for future interventions. Murray (2013: 227) also mentions that there was a great chance for R2P to be introduced to the world as a successful doctrine, yet the UNSC was too late to refer to the norm. Similarly, Hehir and Murray (2013, 212) argue, "NATO's intervention significantly worsened the humanitarian situation in Libya." Accordingly, they suggest that the continuation of civilian deaths during the intervention, failure to establish a stable structure in the country and the loss of impartiality of NATO forces after the military intervention made R2P questionable. Moreover, although there are many valid reasons international community failed to invoke R2P for Syria so this has led the criticism that R2P is dead (Rieff, 2011). Nuruzzaman (2013: 58) argues that R2P is dead because of the NATO's abuse in Libya and inaction in Syria proves it. Further, now this doctrine has a bleak future ahead. Nevertheless, Gifkins (2016: 160) in her article, talking about language on R2P in Security Council resolutions, argues the opposite. Unlike the general idea about R2P that it lost reliability after Libya, discourse analysis of UNSC resolutions shows it has become easier to reference R2P after 2011. Similarly, Weiss (2014: 17) posits that it would be wrong to say that R2P has died in spite of ongoing human rights

violations in Syria, and Bellamy (2012: 21) underlines that "R2P has never been more alive and relevant."

Another aspect discussed in the R2P literature is the actors. Thakur (2016) highlights, with reference to UN documents that the development of R2P is a duty of UNGA while the responsibility for its implementation belongs to the UNSC. He underlines the importance of identifying which actors have moral agency, and accordingly suggests two actors: international organizations and major and emerging powers. Silander and Wallace (2015) analyze the role and capability of the UN, NATO, the Arab League and other major international organizations to protect populations from atrocity crimes. The 2005 WSOD commissioned UNSC as an authority to invoke R2P and this led to criticism on R2P that is a norm introduced to solve the problem of abuse of the humanitarian intervention. In relation to this, Hehir (2012) says that the UN is the main actor for implementation of R2P and he points to UNSC reform for effective response to humanitarian crises. Moreover, discussing alternatives for UN reform in order for the international community to effectively uphold R2P, Gözen Ercan (2016: 178) suggests that invocation of R2P and decisions regarding use of force should be made by the UNGA instead of the UNSC. Pattison (2010: 6) discusses who should undertake humanitarian intervention in the case of serious humanitarian crises and when humanitarian intervention is justifiable. According to him, there are a few potential agents of humanitarian intervention including the UN, NATO, regional organizations and individual states, but there is no exact candidate. Pattison (2010: 245) while noting that the existing actors and mechanisms are inadequate, concludes that any actor with legitimacy at a sufficient level has the right to intervene and nowadays, NATO or a hybrid force is morally obliged to do so.

There are many works concerning the future of R2P. Gholiagha (2015: 1087) mentions that in order to prevent "future Rwandas and future Kosovos" the international community should see R2P as a starter of relevant debates. Preventing and stopping mass atrocities are not issues of sudden development, so R2P should be seen as a beginning on that path, it should be evaluated and developed. While Deng (2010) questions whether this doctrine presented anything new for the debate, Brosig (2012) argues that future development of R2P depends on the participation of big emerging powers. In a similar manner, Serrano and Weiss (2013) draw attention to the importance of North-South

dialogue with regard to the improvement of R2P. Morris (2013: 1280), based on attitudes of Russia and China towards R2P in Libya case, underlines that it is hard to say R2P earned a recognition and future of it will be challenging. Moreover, a limited number of analysis focus the UN reform, and the question of how to operationalize R2P better. For instance, Ainley (2015: 54) argues that the best way forward for R2P is avoiding claims such as to try to make the intervention acceptable, to try to make R2P legally binding, and to pursue reform proposals for the UNSC. Because these attempts will only further discomfort the skeptical states about R2P. On the other hand, there are people who think R2P can still work with a few changes. Ayoob (2010) mentions that Euro-American origin of permanent members of the UNSC should be changed and a wider participation should be provided. In addition, threat of the P5 veto causes the failure of R2P. Roff (2013) proposes the establishment of an independent Responsibility to Protect Institution (R2PI) that refer matters to the UNGA, urge the deployment of UN Rapid Reaction Force (RRF) and capable of execute arrest warrants in addition to act as a military force. Hehir (2013) recommends establishing a judicial body that works in the case of the UNSC failure to react, while Gözen Ercan (2016) elaborates on alternative "mild and radical scenarios" for UN reform.

Along the lines of this last group of analyses, this thesis also relates to the future of R2P but in a more focused manner to study an underexplored aspect. In this vein, although R2P has been widely studied in the literature, analyses have mostly been state-centric. Accordingly, this thesis discusses the invocation of R2P in cases where non-state armed groups commit atrocity crimes and the host state is ineffective in responding to those actions. To this end, it analyzes the responsibility of the international community in the case of a population suffering harm because of actions of non-state armed groups through the lens of the international community approach of the English School. Brommesson and Fernros (2008: 316) point to the shift from the traditional state-centered order to an individualized order based on human rights in connection with the shift on the perception of military intervention as a duty to protect instead of a right to protect. Hence, the English School approach would help to why understand this duty is given to the international community in the case of a state that is unwilling or unable to protect its populations from mass atrocity crimes. The English School suggests that there is still an order in anarchy (James et al, 2005: 178). Accordingly, the argument is that although there is no police

force to apply the international law, the order can be established among states on the basis of basic understandings of law, morality and cooperation. Scholars speak of an international society where conflict and consensus may exist at the same time (Dunne et al, 2013: 139). Bull (1977: 13) talks about an international society (or international community) that shares common interests and values. Based on this, Clark (2007: 23) explains that a group of states that form the international society think that they are connected to each other by a set of rules. They are somehow bound by these rules and they are obliged to work through common institutions (Bull, 1977: 13). Therefore, Hurrell (2005: 16) highlights that adherence to the rules and accepting a political order establishes legitimacy among the states forming the international community. This willingness to participate is the basis for joint actions in different issues, even if that certain issue does not serve the national interests of all participating states.

International society serves important purposes such as to protect the independence of member states, to maintain the peace between states and to sustain normative values of social life. However, a tension between international justice and international order in the approach of international society could be mentioned. Because, international order is not a fixed structure, but an automatically growing and changing system with the functioning of values and institutions. Hence, even though international order serves the purpose of protecting state sovereignty, it can change depending on time-varying conditions. Realization of R2P is on the joint action of the international community to prevent human rights violations. Since the main focus of this study concerns invoking R2P as a response to non-state armed groups' actions, the responsibility of protecting populations facing atrocity crimes by the hands of terrorist organizations belongs to the international community. For the purposes of this thesis, the international community[1] is defined as the UN, wherein the authoritative with the decision-making power is the UNSC on the basis of the 2005 WSOD.

Today's international political structure requires placing importance on the concept of justice as much as order. A thriving emphasis can be seen in the case of human rights violations by states committed against their own populations and the international

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[1] For the purposes of this thesis, the terms international community and international society is used synonymously.

reaction given to them. The international society that is composed of sovereign and independent states has a mechanism of protecting the sovereignty of each member (Little, 2000: 408). Yet, if a state is unwilling or unable to prevent a great injustice against its people, this situation gives rise to the right to intervene even if that state does not disrupt the international order. The English School theory of International Relations (IR) considers this is a humanitarian issue and argues that it should be studied through normative, historical, philosophical and legal aspects. Moreover, according to English School it is difficult to examine this matter in a scientific way, because moral values come to play in such cases. Hence, it can be seen that the English School theorists want to shed light on the moral and critical choice issues. This also relates to R2P. Gözen Ercan (2016: 3) mentions that R2P has evolved into an international moral norm. Besides, Susan Breau (2016: 61) points out that states, as major legal actors in international community, are responsible for persons living in other nations. Moreover, Wheeler and Bellamy (2008: 481) mention that human rights violations are universal issues, so when host state could not prevent a human rights violation international community is morally responsible to protect population. In sum, maybe not legally but states are morally obliged to save strangers.

Scholars of English School have two different views: Pluralist and Solidarists. A clear division between the two camps can be observed in discussions on the necessity and devastating effects of humanitarian intervention. R2P involves humanitarian military intervention as a last resort in its reaction stage. Pluralist side takes states as the main actor, not individuals. The rule of non-intervention is at the center of pluralism. Pluralists argue that regardless of their capabilities or internal regulations, states are entitled to equal rights (Dunne, 2013: 141). States have the capacity of minimum level agreement and this does not bring a legal obligation. This means that states do not enter into a form solidarity, which includes interference in the internal affairs of each other (Bull, 1966: 52). About interventionism, pluralists think that it is a practice aiming to weaken and that threatens liberal tolerance and mutual respect in the international community. However, Solidarists think that states can agreed on the basic human rights issues. Supporters of this vision claim that solidarity of states is required for safety and welfare of individuals. They find intervention justifiable even it threatens the sovereignty of state (Devlen and Özdamar, 2010: 57). One of the solidarist thinkers Nicholas Wheeler (2000) posits, "the

international community is responsible for all the people in the world. According to him, all individuals who are suffering from human rights violations are desperately in need of the intervention of the international community to be saved"

In this regard, solidarist strand of the English School allows us to focus on the R2P question from the point of the international community's responsibilities. Recently, R2P has been facing new challenges in normative and practical terms. Former Secretary-General Ban Ki-moon in his 2015 Report draws attention to the fact that mass murders take different forms, and that different types of perpetrators commit these crimes. Besides, there is the issue of declining control of states over their territory. Therefore, Ban identifies terrorist activities of non-state armed groups and the impact of new technologies are two new challenges before R2P. As demonstrated in the literature review, there is not enough study dealing with the relationship between actions of non-state armed groups and R2P.

Building on the argument that R2P's evolution is intersubjective and still continuing (Welsh, 2013: 365), this thesis discusses a complementary aspect to contribute to the academic debates on the normative evolution of the R2P norm. Accordingly, in its attempt to answer its main research question, "do the acts of non-state armed groups constitute a base to invoke R2P?", this thesis uses qualitative content analysis and comparative case studies as its main methods. The method of case study is used because it is useful to make intensive examination of a case and to support the theoretical arguments from a practical point of view. Byrman (2001: 54) argues that a comparison of cases brings reliability, validity, replicability and generalizability in a study. In the case of this thesis, revealing the similar and different aspects of the two cases serves to support the main argument. Empirical basis of the thesis is built on primary sources such as the UN Charter, 2001 ICISS Report, 2005 WSOD, Annual Secretary-General Reports on R2P, and judgments of international courts, as well as secondary sources such as books, academic articles, newspapers and magazine articles.

This work is neither interventionist nor an attempt to redefine R2P, and it has its limitations in terms of its theoretical contribution. As stated, this study aims to draw attention to the importance of the role played by non-state armed groups as perpetrators of mass atrocity crimes, and the necessary response to their actions within the framework

of R2P. Accordingly, this thesis argues that as a response to those crimes, the international community should invoke R2P, and uphold its responsibilities. To this end, the actions of ISIS in Syria and Boko Haram in Nigeria are studied as cases. These two cases are chosen not only because of their relevance, but also because of the differing international reactions against their actions, which allows to compare and contrast the international response. While there is an ongoing fight against ISIS in the context of "fight against international terrorism," ISIS and many other armed groups in Syria and Iraq continue to pose a threat to civilians and they are committing genocide, war crimes, and also crimes against humanity. They even control some territory under their rule and maintain state-like organizations. On the other hand, in Nigeria, Boko Haram—a group that has emerged from an Islamist sect, which is against western values and wants to establish a Sharia law since 2002—is determined to overthrow the existing state structure. These extremist armed groups pave the way for instability and weaken state authority. Hence, the actions of Boko Haram are transforming Nigeria into a "failed state" (Oyewole, 2013: 256). In this regard, a comparison of the cases of ISIS and Boko Haram allows to examine the responsibility of international community and the UN's position in terms of invoking R2P.

Accordingly, the analysis is structured as follows: Chapter 1 - Understanding the Responsibility to Protect, provides the historical background of R2P. Focusing on the interrelation between R2P, human rights, human security, humanitarian military intervention and use force, the conceptual framework of R2P is set. This is followed by a description of the evolution and institutionalization of the R2P norm from the 2001 ICISS Report to date. Accordingly, R2P's scope, limits and depth are discussed.

Chapter 2 - New Challenges to the Responsibility to Protect, studies the will provide information to realize that some terrorist organizations are committing atrocity crimes and some states are unable or unwilling to respond those situations. Therefore, actions of non-state armed groups should be considered enough to invoke R2P for international community to take action. In order to create this awareness chapter two will comprise two case studies namely Boko Haram in Nigeria and ISIS in Syria in terms of a need to invoke R2P. Each case will be examined separately and then a comparison between these two cases will conclude the chapter. Chapter 3, Future of Responsibility to Protect, will try to shed light on the road ahead in terms of R2P's conceptual development, incomplete

aspects, development efforts, obstacles in the functioning and reform of the UN. Moreover, chapter three will contain information about relationship between R2P and international courts as well as ideas of scholars who think R2P is an unusable dead norm as well as the ideas of scholars who think R2P will have a bright future along with a few changes. Lastly, there will be a conclusion part.

CHAPTER 1

UNDERSTANDING THE RESPONSIBILITY TO PROTECT

The ICISS introduced R2P in 2001, as "the idea that sovereign states have a responsibility to protect their populations from avoidable catastrophe–from mass murder and rape, from starvation–but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states" (ICISS, 2001: VIII). After its unanimous adoption by the UNGA, the UNSC has invoked R2P in more than 50 resolutions since 2006. Moreover, since 2009, the UNGA has held follow-up informal interactive dialogues on R2P and 127 member states have delivered statements regarding the comprehensive reports of the Secretary-General (GlobalR2P, 2017). Since it was introduced, advocates of R2P and the UN Secretary-General have been working to form a consensus on R2P, as well as to narrow the gap between conceptual progress and preventive action. In this regard, there are continuing efforts to improve the implementation of this emerging norm. Before exploring these efforts, the historical background of R2P, and turning points for its institutionalization are examined. First, the international political context/intellectual basis and the reasons as to why there arose a need to construct a new norm will be studied. Then, the evolution of R2P will be analyzed with reference to the 2001 ICISS Report and 2005 World Summit Outcome Document. Subsequently, an overview of the recent efforts to further discuss R2P within the framework of the UNGA for the purpose of enabling its better implementation will be provided.

1.1. HISTORICAL BACKGROUND OF R2P

R2P challenges the restrictive sovereignty understanding and regulates the response to mass atrocity crimes, including the conduct of humanitarian military intervention. The idea of R2P is rooted in the idea of protection of fundamental human rights, namely those "rights to which people are entitled by virtue of being human" (Heywood, 2011, 304). The roots of the modern idea of human rights could be traced back to the works of Hugo Grotious, Thomas Hobbes and John Locke (Heywood, 2011, 304). Until the late eighteenth century, such ideas were called the rights of man that was used to constrain the power of governments by characterizing citizenship autonomy (Heywood, 2011: 304). The Virginia Declaration of Rights (1776) and the French Declaration of the Rights of Man and of the Citizen (1789) shed light on the way of human rights. These thoughts

developed over time and the very first non-governmental organization (NGO) specializing on human rights, the Anti-Slavery Society was established in 1837. However, until the end of the Second World War developments regarding human rights remained on the background. The Universal Declaration of Human Rights was adopted by the UNGA in 1948. Later the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (1966) while building the contemporary human rights understanding, also made it part of hard law. Heywood (2011: 305) highlights that the 1948 Universal Declaration of Human Rights was a milestone since it ended a 300-year period in which the determining factor of international politics has been state sovereignty since the 1648 Treaty of Westphalia.

In fact, the core element of the Westphalian system is the sovereignty of states. After two world wars, state sovereignty was ensured with the related chapters of the UN Charter. Accordingly, Article 2(1) specifies the establishment of the Organization based on the principle of sovereign equality of all its members. The concept of state sovereignty rests on two principles: internal sovereignty and external sovereignty (Makinda, 1996: 150). Internal sovereignty means states have supremacy within their territory and any interference is forbidden. External sovereignty is based on the idea that the territorial integrity of each state is untouchable. In other words, external sovereignty gives the government of a state independence from outside authorities. States, for years, have taken their legal sovereign status for granted just because they are able to exercise power and authority over their people and territory. Nevertheless, because of its universal nature, human rights understanding hold governments responsible for protecting the rights of the individuals and it affects the foreign and domestic policies. Moreover, this is reflected in states' security policies.

The term security used to be associated solely with the survival of states before and during the Cold War. The meaning of security was considered equivalent to the territorial integrity, sovereignty and political independence of the state. Bourne (2014: 1) notes: "in common usage security relates to survival, to the protection from threats to existence, and being relatively free from harm inflicted by others." According to Wolfers (1952: 485) security means "some degree of protection of values previously acquired". Buzan and Weaver (1998) define it in a broader scope and consider it a "special type of politics in which specified developments are socially constructed threats, having existential quality

to cover values and/or assets of human collectivities and leading to call for emergency measures." During the Cold War, security mostly related to the state, national interest and territory. Besides, military interventions in these years were justified in terms of furthering the Cold War security alliances and containment (Bourne, 2014). Humanitarian motives were regarded as irrelevant and the UNSC, which is responsible for assuring global peace and security, was blocked by use of veto by the two superpowers (Hehir and Murray, 2013: 17). There were two opposed groups under the leadership of the United States (US) and the Soviet Union. NATO and the Warsaw Pact worked as security umbrellas but essentially the US and the Soviet Union were guaranteeing the security of the group of states, which remained in their own alliances. The end of the Cold War created space for rethinking security away from the state and the military. After the collapse of the Soviet Union, new questions emerged, which mainly concerned human rights, sovereignty and security. The scope of the security understanding has broadened. Accordingly, Buzan identifies five sectors: military, political, economic, societal and environmental (cited in Bourne, 2014: 12). Therefore, in the post-Cold War era, the security understanding has transformed. From a state-centered national security understanding, there has been a shift towards the individual as referent object.

In this context, the notion of human security has gained importance, along with which humanitarian incentives began to be deemed important. In fact, in 1992, for the first time then UN Secretary-General Boutros Boutros Ghali used the term human security in his "An Agenda for Peace." The most important development that constituted the basis of the new security understanding was arguably the establishment of the United Nations Development Programme (UNDP) in 1994. Most discussions of human security came with UNDP (Bourne, 2014: 181). It drew a framework for human-centered approach and emphasized seven dimensions of security: economic, food, health, environment, personal, community, political securities. It could be said that UNDP led to the opening of a threshold. Before that, international politics was defined by the notion of national interest. Power struggle among states was the main element of politics and individual concerns were ruled out. Besides, these developments caused significant changes in humanitarian intervention understanding too. Essentially, humanitarian interventions carried out until that time had different purposes and humanitarian side of it was always the topic of discussion. Therefore, it could be said that the post-Cold War era brought the issue of

human rights and humanitarian intervention to the fore. Those improving human rights ideas and changing human security understanding affected the views on humanitarian intervention and use of force.

Humanitarian intervention has an important part of the development of human rights debates because in theory, it contains a noble purpose, but in practice, cases indicate that it has been used as a tool by great powers to pursue their national interests. Although humanitarian intervention has one certain purpose, it has different definitions. According to Collins, "it refers to the use of military force by external actors for humanitarian purposes, usually against the wishes of the host government" (Collins, 2007: 360). Finnemore (2003: 53) defines it as "placing troops across borders in order to protect foreign nationals from human violence." According to Badescu (2011: 9), it can be defined as "using armed force in another state in order to rescue civilians from human rights violations, and a state, a group of states, or an international organization can perform this action." Holzgrefe and Keohane (2003: 18) describe humanitarian intervention as "the involvement of a state or group of states in territory of another state by using force or the threat of force without obtaining permission for purpose of saving individuals who are exposed of human rights violations." According to Pattison (2010: 27), "humanitarian intervention is using military force by a third state to prevent, reduce or to halt the individuals' suffering or loss of life." Consequently, the common point of all definitions is humanitarian interventions' purpose that is "saving strangers" (Wheeler, 2000).

Due to its forceful nature, legality of humanitarian intervention has been a frequently debated issue. The reason why humanitarian intervention has been subjected to criticisms is the concerns about its misuse and illegal use of force. Article 2(4) of the UN Charter (1945: 3) establishes that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." While Article 41 allows the UNSC to "decide what measures not involving the use of armed force can be taken (including complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations)", Article 42 allows the UNSC to "assess the situation and take up the forceful actions necessary to maintain or restore international peace and

security in cases where measures adopted under Article 41 are deemed inadequate." (UN Charter, 1945: 3). These measures include (but are not limited to) demonstrations, blockade, and other military operations by air, sea, or land forces by the members of the UN. Another exception to the prohibition of the threat and the use of force is defined under Article 51. It recognizes the inherent right of individual or collective self-defense According to it, if an armed attack occurs against a Member of the UN, that member is allowed to use force until the UNSC takes the necessary measures. The measures taken should immediately be reported to the UNSC and not violate the authority of the Security Council, which is responsible for ensuring peace and security. Nevertheless, apart from the exceptions any use of armed force is considered as illegal and a threat to the peace, breach of the peace or act of aggression according to UN Charter (Article 39). However, great powers have failed to comply with these rules in cases where their own interests at stake.

Modern type of humanitarian intervention was supposed to bring a different understanding about general conception of use of force since it only aims to stop the atrocities and to protect fundamental human rights in theory. However, the international community conducted controversial humanitarian interventions especially during the 1990s; worries about the use of force have been justified, while inaction in other cases have also been criticized. In fact, a very important impetus in the emergence of the R2P has been the crimes committed in the civil wars of Rwanda and Kosovo. The UN was too late to intervene in Rwanda to prevent human rights violations caused by the civil war between the Hutu and Tutsi populations. Approximately one million people were killed at the end of the genocide and nearly three million people had to leave the country. Several studies cite the inaction of the international community on Rwandan genocide as "failure to protect" (see for instance, Pattison, 2010; Wheeler, 2000). In addition, the unauthorized intervention in Kosovo is also a reason for the emergence of R2P. Tensions in Kosovo escalated into a war in June 1998 between Albanians and Serbians. Tito's death, Milosevic's election of president, removal of Kosovo's autonomy, establishment of Kosovo Liberation Army (KLA) and its actions; excessive use of force of Serbian police and Yugoslav army eventually caused NATO's intervention in the region (O'Donnell, 2014: 565). The UNSC's hands were tied up because of the vetoes by Russia and China, yet NATO powers conducted an independent action. This received many criticisms as

being unlawful because there was no UNSC authorization. Besides, there was no reduction in the number of deaths after intervention. Therefore, it could be said that the Kosovo crisis flamed the debate on the concept of humanitarian intervention. Hence, controversies on humanitarian intervention showed the necessity to bring a regulation in this area.

After all, the universalization of human rights protection, changing security understanding in a way to include the human security aspect and pro-humanitarian intervention approaches paved the way for the conceptualization of R2P at the beginning of the 21st century.

1.2. EVOLUTION OF AN EMERGING NORM

Then Secretary-General Kofi Annan, in the Millennium Report of 2000, asked the following question "…if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica–to gross and systematic violations of human rights that affect every precept of our common humanity?" (Annan, 2000: 48) and revealed a need for new search in order to stop human rights violations. Following this, with the initiative of the Canadian government, the ICISS was founded in 2000 under the co-chairmanship of Gareth Evans and Mohamed Sahnoun, and the Report on the Responsibility to Protect was published in 2001. Then, with the initiatives of then Secretary-General Annan and R2P proponents, a consensus on R2P was established under the 2005 UN World Summit. Hence, the milestone for R2P as an emerging norm came. The following sections provide a detailed overview of the 2001 ICISS Report and the 2005 WSOD in order to understand the institutionalization of R2P and its scope. After that, the reports of the Secretary-General on R2P, and the three pillars strategizing are studied more broadly.

1.2.1. The 2001 ICISS Report

The Report of International Commission on Intervention and State Sovereignty is one of the most important stages in the historical process of R2P. In 2001, ICISS published a report and claimed that a responsibility to provide security was connatural within the notion of sovereignty and in developing practices and standards of human rights and human security. Briefly, the Report of ICISS claimed that "states have the primary

responsibility to protect their own people. However, in the case of a population suffering harms as a result of a conflict, and the state is unwilling or unable to stop it, the principle of non-intervention leads to the international responsibility to protect."

The ICISS Report elaborates on three key principles: first, sovereignty and protection of citizens are complementary, meaning that sovereignty brings responsibility; second, the responsibility to protect is more important than territorial sovereignty and non-intervention when a state is unwilling or unable to protect its citizens; third, the international community carries the responsibility to prevent, react and rebuild (Falk and Skinner, 2016: 494).

The ICISS Report clarifies that problematic military interventions after the Cold War and particularly 9/11 affected the debates on humanitarian intervention. Since R2P comprises of three central responsibilities, and also aims to encourage states to fulfill their responsibilities to protect human rights of their citizens and to inspire states to realize that sovereignty entails responsibility, it is broader than humanitarian intervention (Pattison, 2010: 13). Therefore, it is introduced to solve the main problems about humanitarian intervention like legality, process and the possible misuse of it by introducing certain rules in the light of international law. Accordingly, the main point of the report is noted as to build a consensus around the idea that states are obliged to protect their populations and change is needed in the understanding of sovereignty. Sovereignty brings responsibility and if a state fails to protect its population, then international community has to act to protect people suffering from mass atrocities (which were limited to four atrocity crimes: genocide, war crimes, crimes against humanity and ethnic cleansing later in 2005 World Summit Outcome Document). ICISS Report mentions the lack of intervention in Rwanda and wants to clarify the fact that if applied correctly, humanitarian intervention does not violate sovereignty. Hence, various criteria have been established.

The process of R2P is defined through three elements: to prevent, to react and to rebuild. The ICISS Report identified prevention as the most important dimension of the responsibility to protect because it is a proof of the humanistic dimension of this emerging norm and the attempt to prevent misuse. Besides, effective prevention efforts costs less than intervention and peacebuilding (Brown and Rosecrance, 1999). This way, preventive measures could be adopted before tensions increase and require military intervention.

Early warning and analysis is key for the prevention stage (ICISS, 2001: 21). Moreover, the ICISS Report defines preventive measures as political and diplomatic measures, economic measures, and legal measures. Political and diplomatic measures include "direct involvement of the UN Secretary-General, fact-finding missions, friend groups, eminent persons commissions, dialogue and mediation through good offices, international appeals, and non-official second track dialogue and problem-solving workshops." Besides, "political and diplomatic direct prevention might encompass the threat or application of political sanctions, diplomatic isolation, suspension of organization membership, travel and asset restrictions on targeted persons, naming and shaming, and other such actions." Economic direct prevention measures may include "positive inducements such as new investment promises, guarantee of more positive exchange terms as well as coercive measures such as threats of trade and financial sanctions; withdrawal of investment; threats to withdraw IMF or World Bank support; and the curtailment of aid and other assistance." Legal measures could be offers of mediation, or arbitration, or adjudication, appointment of observers to monitor compliance with human rights standards, and to help relieve communities or groups who feels themselves in danger, and the establishment of special tribunals (ICISS, 2001: 24). Lastly, although it is a remote, more limited and undesirable way, prevention might contain military measures including standoff reconnaissance, employment of a certain preventive force like UNPREDEP in Macedonia or the threat to use force. In addition, the threat to seek or apply international legal sanctions are other preventive measures. Thus, referring cases to the International Criminal Court (ICC) is among the measures to prevent atrocity crimes being committed and it is mentioned that Geneva Conventions and Additional Protocols creates a dissuasive character. Last but not least, effective conflict prevention is dependent on the fact that different actors work together in a harmonized strategy.

Responsibility to react might contain coercive measures like sanctions and international prosecution, and in extreme cases military intervention for humanitarian purposes (ICISS, 2001: 29). The ICISS report proposes just cause threshold alongside precautionary criteria in order to decide whether or not to intervene. These are right authority, just cause, right intention, last resort, proportional means and reasonable prospects for success. Right authority is about who is the responsible authority to decide the military intervention.

Weiss and Hubert (2001: 139) mention that right authority rests with the sovereign state since the introduction of prohibition on the use of force in 1945. However, globalization and accordingly the understanding of R2P requires change in the sovereign system so states gave up some of their rights to Permanent Five Members (P5) of the UNSC and the P5 are appointed as the executive authority. The ICISS Report stipulates that the UNSC authorization should be sought in all cases of military intervention, yet in case the UNSC rejects a proposal or fails to act, the authorization should be sought from the UNGA through an Emergency Special Session under the "Uniting for Peace" procedure; or from regional organizations under Chapter VIII of the UN Charter (ICISS, 2001: XIII). According to just cause, humanitarian intervention could be justified in two sets of circumstances: "large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or large scale 'ethnic cleansing,' actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape" (ICISS, 2001: 32). Besides, six conscience-shocking situations are defined to understand what these two circumstances contain. "The first is the actions defined within the framework of the 1948 Genocide Convention that involve large scale threatened or actual loss of life" (ICISS, 2001: 33). Second, regardless of whether the genocide is intentional or not, or whether it is in the state's action, the threat or formation of large-scale loss of life. The third is "different manifestations of 'ethnic cleansing' including the systematic killing of members of a particular group in order to diminish or eliminate their presence in a particular area; the systematic physical removal of members of a particular group from a particular geographical area; acts of terror designed to force people to flee; and the systematic rape for political purposes of women of a particular group" (ICISS, 2001: 33). The fourth includes crimes against humanity and violation of war rules, including massive death or ethnic cleansing as defined in the Geneva Conventions and Additional Protocols. The fifth is the situation of failed state, thus the population is exposed to mass hunger or civil war; and the sixth concerns situations in which the state cannot deal with or seek assistance of international community due to significant loss of life resulting from an irresistible natural or environmental disaster.

The third criterion for intervention is right intention. It is about the aim of the intervention. The primary focus has to be stopping the mass atrocity and putting an end to the suffering

of the people (ICISS, 2001: 35). Following, the Report identifies some ways to ensure right intention criteria is satisfied. One of them is to have the military intervention in a collective manner with common thought instead of a single country. Another is to clarify who is in the best interest of the intervention and getting the support of the people. Likewise, to win over positive return from other countries in the region has the same prescription. Another criterion is last resort. It requires that military intervention could only take place after exhaustion of all diplomatic and peaceful means, so it must be the last resort to apply. In other words, all measures should be discharged in order to put a military intervention into force (ICISS, 2001: 36). According to proportional means, in terms of the scale, duration and intensity, the use of force in humanitarian interventions should be minimal, provided that the humanitarian goal is assured. The aim here is to limit the negative political influence of intervention, and thus, to persuade international public opinion that the intervention is being carried out in accordance with international humanitarian law (Bourne, 2014: 213). The last criterion is reasonable prospects, which relates to reasonable chance of success. It means that the cost of the intervention and its risks must make sense.

The responsibility to rebuild is related to post-intervention situations. It is introduced to be initiated after reaction stage that means it is about rebuilding state capacity when the intervention becomes successful. In other words, rebuilding stage includes recovery, reconstruction and reconciliation after the military intervention is performed (ICISS, 2001: xi). The aim here is to help to build a persistent peace and to promote a working governance and sustainable development (Gözen Ercan, 2016: 22). The ICISS Report (2001: 39) argues that reconciliation could be best accomplished through joint reconstruction efforts of parties to conflict, such as "to work together to rebuild their community or to create reasonable living and job conditions at new settlements." "Repairing infrastructure, at rebuilding housing, at planting and harvesting, and cooperating in other productive activities are best examples of reconstruction efforts." Besides, external support should be encouraging this cooperation, but nothing more. Moreover, "disarmament, demobilization and reintegration of local security forces and ensuring reintegration around national armed forces; establishment of a non-corrupt or properly functioning judicial system; return of refugees; encouraging economic growth,

and the recreation of markets and sustainable development" are other important things to pay attention during post intervention phase (ICISS, 2001: 41).

1.2.2. The 2005 World Summit Outcome Document

The ICISS report, since it came in the aftermath of 9/11, could not receive immediate support from the West. Three years later, in Secretary-General's Report of the High-level Panel on Threats, Challenges and Change, R2P found itself a place on the UNGA's agenda for the first time. In 2004, Annan mentioned R2P in his report, "A more secure world: Our shared responsibility." Accordingly, the institutionalization of R2P under the framework of the UN has started. Annan in his 2004 report included the R2P and just war criteria (Falk and Skinner, 2016: 494). He placed R2P under the "Collective Security and the Use of Force" part and noted that the principle of non-intervention in internal affairs is not a valid reason to remain silent on human rights and violations of international law, hence argued that the international community has the responsibility to protect people from mass violations of human rights when governments are weak or reluctant to protect their own citizens (Annan, 2004: 65). Annan embraced all three elements of responsibility (UNGA, 2005: 39). Accordingly, it was suggested that the UNSC is responsible to authorize action including use of force under Chapter VII of the UN Charter. Annan also mentioned guidelines similar to the ICISS criteria—namely the seriousness of threat, proper purpose, last resort, proportional means and balance of consequences (Annan, 2004: 61). It can be said that Annan's 2004 report created more discussion platform for R2P under the UN framework (Gözen Ercan, 2016: 60). Kofi Annan in his next report, "In larger freedom: towards development, security and human rights for all" was yet another step for the discussion of R2P under the UN agenda. In order to draw attention to the difference between humanitarian intervention and R2P Annan, this time R2P was placed under the section of "freedom to live in dignity" instead of "collective security and use of force" (Evans, 2008: 46).

The continuing efforts of the UN Secretary-General and other R2P advocates made R2P a part of the 2005 WSOD (A/RES/60/1). Consequently, in 2005, R2P was unanimously adopted by the heads of government. Under this document, the scope of the R2P was defined in two subsequent paragraphs. Paragraph 138 is built on the sovereignty as responsibility understanding. According to it, "all states have the responsibility to protect

their citizens and international community should encourage and help states to exercise this responsibility" (UNGA, 2005, 30). In addition, Paragraph 139 talks about prevention not as a responsibility of the individual state but also as a responsibility of the international community namely the UN and specifically the UNSC. Moreover, Paragraph 139 enables a justification of the humanitarian intervention in the cases of four atrocity crimes (UNGA, 2005, 30). WSOD carries on the ICISS Report's understanding of responsibility. Yet, unlike the ICISS Report, WSOD limits the atrocity crimes that can invoke R2P to genocide, war crimes, crimes against humanity and ethnic cleansing (hereinafter referred to as mass atrocity crimes). Also paragraphs 138 and 139 concern the responsibilities to prevent and to react, but not the responsibility to rebuild. There is only a mention of the latter with regard to the Peacebuilding Commission separately under paragraphs 97 and 105, which is assigned to carry out post-conflict peacebuilding operations. Moreover, different from the ICISS Report, there is no mention about "Uniting for Peace" procedure in Paragraph 139. So, the UNSC is taken as the sole authority to adopt appropriate means on a case-by-case basis in accordance with Chapters VI and VIII, or VII of the Charter. Therefore, it is possible to observe that the R2P of the ICISS Report is broader than that of the WSOD. Accordingly, Thomas Weiss (2008: 750) calls this revisited version R2P-lite, especially since the authority of the UNGA is left out and the use of force is solely left to the UNSC without being bound to certain criteria. In sum, though with certain limitations, with the WSOD, the Responsibility to Protect understanding has officially entered into agenda of UN, member states and therefore international community.

1.3. IMPLEMENTING R2P

Ban Ki-moon, when he was appointed in 2007 as the UN Secretary-General, stated that he wants to operate R2P as a functioning norm. To this end, first Francis Deng was appointed as the UN Special Adviser on the Prevention of Genocide. Later, Edward C. Luck was appointed as the Special Adviser responsible for the conceptual, political and institutional development of the responsibility to protect. In 2008, Luck presented a report named "The United Nations and the Responsibility to Protect," and in this report, he makes recommendations to advance R2P. The report begins by recalling the efforts of the former UN Secretary-General Kofi Annan and reminding that the UN Secretary-General Ban Ki-moon has pledged to operationalize R2P (Luck, 2008, 1). Luck admits that

Rwanda, Cambodia, and Srebrenica were the failure of the international community. Therefore, he says that he and his colleagues will spend more time to develop this norm. He mentions that, for him, interagency cooperation, strengthening good governance and effective public administration are key issues. In addition, he says "in order to make R2P functioning within the UN system member states should do more than just agreeing upon the goals, they should endeavor to achieve them (Luck, 2008, 1)." In this vein, it is possible to observe that further steps were necessary to make R2P a part of the practice.

From the first day, Ban Ki-moon has been a strong supporter of R2P. In his July 2008 Speech in Berlin, while underlining that "R2P is not a revised form of humanitarian intervention", he also expressed his personal commitment to turn R2P into a functioning system. To this end, since 2009, he released annual reports. On 12 January 2009, Ban Ki-moon published his first report on R2P's implementation. This Report put forth detailed criteria regarding the implementation of R2P. The main aim of this report is to determine how to use R2P efficiently. In order to do that he came up with the three pillars strategizing: state responsibility, international assistance and capacity building, and timely and decisive response. In the report, he underlines that no strategy in his three pillars is superior to the others, and that they are not sequenced. He emphasizes that an understanding that the first two pillars are related to prevention and the third pillar is related to reacting may be right but missing. Because dividing lines among those pillars are not so clear in practice. In fact, pillar one, which concerns the actions of individual states might involve elements of response, such as to suppress provocative rhetoric that targets a minority group or disrupting flow of arms, which potentially used to commit mass atrocity crimes. In addition, international assistance under pillar two relating to R2P can also be a pillar three action. To better understand the implementation of R2P, it helps to look at each pillar in more detail.

1.3.1. Understanding the Responsibility of Individual States

R2P takes that as a requirement of sovereignty individual states are obliged to protect their own populations. Ban Ki-moon, in the first pillar of his three-pillars strategy for R2P's implementation, emphasizes this responsibility. According to pillar one, "state bears the main responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and from their incitement" (UNGA, 2009:

8). With the words of Ban, "… responsibility lies first and foremost with the state. It derives from both the nature of state sovereignty and from the pre-existing and continuing legal obligations of states" (UNGA, 2009: 9). In addition, when talking about the responsibility of individual states Ban Ki-moon says, "...prevention begins at home and the protection of populations is a defining attribute of sovereignty and statehood in the twenty-first century" (UNGA, 2009: 14). As part of state responsibility, he first calls for respect for human rights. Besides, he urges states to "become parties to the relevant international instruments on human rights, international humanitarian law and refugee law, as well as to the Rome Statute of the International Criminal Court" (UNGA, 2009: 17). While pointing that states can improve the criminal justice system, he also mentions that if the principles relating to the responsibility to protect work for a state, others should not hesitate to implement those norms for their own country. Because respect for human rights should be a part of each culture, and states must reach on common values and standards on human rights (UNGA, 2009: 12).

Ban indicates that periodic risk assessment is required in both fragile and seemingly healthy societies in the entire world because human right violations are everyone's concern and we are all at risk, so we need to help each other. Lastly, he emphasizes fostering individual responsibility. A state is composed of individuals and improving the education level of individuals can decrease the traumas that a state suffers. States that have endured such traumas, civil society and international organizations can establish transnational networks of survivors, so their stories become peer to other people of the world (UNGA, 2009: 27).

Drawing on Paragraph 138, pillar one responsibilities of individual states are described in the 2009 Report as inspiring the values including respecting human rights and being inclusive; building institutions which make it easier to protect while strengthening the rule of law and ensuring that impunity is not accepted; also states should seek technical assistance from neighbors', the UN and NGOs. According to Ban Ki-moon, implementation of R2P may vary from region to region because each region has its own values. Although R2P is a universal principle, it should not be ignored that there are institutional and cultural differences among different regions of the world. Therefore, states have to respect the differences and act accordingly because protection is the common core concern.

Following the 2009 Report, Secretary-General's 2010 Report mentions the importance of collaboration and information sharing among states, as well as regional or sub-regional arrangements, independent experts or civil society groups for prevention and protection. Moreover, the 2011 Report emphasizes the role of regional and sub-regional bodies, such as the Economic Community of West African States (ECOWAS), the African Union (AU) and the Organization for Security and Cooperation in Europe (OSCE). Ban underlines that "the ultimate goal is to have states institutionalize and societies internalize these principles in a purposeful and sustainable manner" (UNGA, 2011a: 11). According to him, the individual level is important because individuals have the moral responsibility to protect. He continues, "Beyond the legal responsibilities of the state, individuals have a moral responsibility to protect" (UNGA, 2011a: 13). Accordingly, the report refers also to helping neighbors, and the necessity of individual responsibility to internalize the principles of R2P (Gözen Ercan, 2016: 72).

While the 2012 Report mostly deals with pillar three responsibilities, it also refers to the failure of individual states, in terms of meeting their responsibilities and obligations under international law (UNGA, 2012a: 2). Ban focuses his 2013 report completely on state responsibility, with an emphasis on prevention and pillar one responsibilities. He starts with reminding the 2005 WSOD and his previous reports. Then, he dwells on the "responsibility of states to protect their populations by preventing genocide, war crimes, ethnic cleansing and crimes against humanity, as well as their incitement." He underlines that prevention is the most important element of R2P and if a state meets its responsibility to protect its population, many crises could be avoided. He refers to political will and leadership as the most important requirements for state responsibility. Then, he emphasizes structural and operational measures to diminish the possibility of emergence of atrocity crimes including building national resilience, promoting and protecting human rights, adopting targeted measures to prevent atrocity crimes, and building partnerships for prevention (UNGA, 2013: 8-15). In addition, he offers several recommendations to states, for instance acting collectively, following the requirements of international legal instruments, establishing national mechanisms responsible for atrocity prevention, and participating the evolution process of R2P to make it a living reality for all people. Moreover, in his 2013 Report, he reminds that "R2P is consistent with existing obligations under international human rights, humanitarian and refugee law, which are

binding on all States," as well as a moral responsibility (UNGA, 2013: 7). He argues that his 2013 Report provides an assessment of the origins of the emergence of the atrocity crimes, and analyzes the possible measures to prevent them. After that, he continues with the efforts to increase national prevention capacity. He mentions the efforts of the Special Adviser on the Responsibility to Protect, UN Member States and regional and sub-regional organizations, non-governmental organizations and civil society organizations. When he talks about the assessment of risk factors, he firstly draws attention to the history of the countries and says that atrocity crimes are the result of a process. No crime would suddenly occur. Therefore, he emphasizes that countries at risk of genocide or other atrocity crimes have either discrimination or other human rights violations in their background (UNGA, 2013: 17). According to him, any kind of discrimination including political discrimination, social discrimination such as denial of citizenship, economic discrimination such as unequal access to economic opportunities, and gender discrimination are risks that might give rise to human rights violations and atrocity crimes because it leads a division within society. Also targeting a community within society whether political, economic, military or religious, is one risk factor for atrocity crimes. Besides, proliferation of arms and existence of an armed group within a state is another risk factor. Additionally, certain actions like growing support to militia groups by a state could lead to the emergence of these atrocity crimes and government's lack of capacity to prevent these crimes should be evaluated carefully. For instance, the rule of law should be strengthened. Another risk factor for atrocity crimes is the commission of acts that could be elements of atrocity crimes such as inhumane treatment, arbitrary displacement or forcible transfer of children (UNGA, 2013: 12-29).

Regarding policy options for atrocity prevention, there are many entry points and policy options that could be used because not a single incident has the power to start genocide or crimes against humanity. For example, if a state or international community were able to stop discrimination or hate speech in a country, it can prevent the escalation of a potential conflict. As Ban Ki-moon says, "Genocide in Rwanda did not start with massacres in churches." Hence, collection of early warning signs is highly important. While Ban places importance on preventive responsibilities, his three-pillar strategy allocates equal importance on the responsibility of the international community.

1.3.2. Understanding the Responsibility of the International Community

Ban refers to Paragraphs 138 and 139, when he talks about the responsibility of international community as a second pillar of his implementation strategy of R2P. According to this, the international community could help states in four ways: "to encourage states to fulfill their pillar one responsibilities (para. 138), helping them to accomplish this responsibility (para. 138), to help them to construct their ability to secure their own people (para. 139), and assisting states under stress before crises and conflicts break out (para. 139)" (UNGA, 2009: 27). In his 2009 Report, Ban asserts that at the point when a national political authority in a state is fragile, isolated or uncertain about how to rule, and does not have the ability to protect its population effectively, the responsibility of the international community to assist states arises (UNGA, 2009: 29).

Ban reminds that "Prevention is a key ingredient for a successful strategy for the responsibility to protect." According to him, "international assistance and capacity-building can be provided through cooperation of member states, regional and sub-regional arrangements, civil society and the private sector, as well as the institutional strengths and comparative advantages of the UN system" (UNGA, 2009: 9). He argues that "encouragement takes a big part here and it could be expressed through dialogue, education and training on human rights and humanitarian standards and norms." For instance, the UNSC adopted Resolution 1612 in 2005, and high-level dialogue was established by the Special Representative of the Secretary-General for Children and Armed Conflict and UNICEF on child protection issues. Their efforts helped children in Côte d'Ivoire, Southern Sudan and Sri Lanka to cut loose its ties with armed groups. In addition, Office of the United Nations High Commissioner for Human Rights (OHCHR) has helped some important developments all around the world. Such assistance led societies to overcome human rights violations and to boost motivation for institutional change (UNGA, 2009: 33). Presence of the UN in multiple conflicts has helped to protect lots of women and children such as in northern Uganda, Eastern and Central Africa and in parts of the Sudan. Besides, in addition to the efforts of the UN, the works of the regional and sub-regional groups are considered as responsibility of international community. Ban notes "helping to build the civilian capacities of regional and sub-regional organizations to prevent crimes and violations relating to the responsibility to protect could be a wise investment" (UNGA, 2009: 38). Moreover, according to him, the

essential issue is to advance in assistance programmes that would move states away from atrocity crimes (UNGA, 2009: 44). Yet, more research is needed. In this regard, Ban identifies five capacities designated by the practice of development assistance: "conflict-sensitive development analysis, indigenous mediation capacity, consensus and dialogue, local dispute resolution capacity, and capacity to replicate capacity" (UNGA, 2009: 20).

Subsequent to the 2009 report, Ban talks about the responsibility of the international community in other reports too. In his 2010 report, he refers to the Srebrenica massacre and remarks that if the international community was able to provide a more robust and faster response lives could have been saved (UNGA, 2010: 3). Moreover, his 2011 report contains a part entitled "International assistance and capacity building." In this part, he mentions the difference between structural and operational prevention. In this vein, regional and sub-regional arrangements can be considered as added values to strengthen the structural-prevention component of the second pillar. In order to prevent mass atrocities international actors should pay more attention to information provided by local actors, especially from civil society. Although the reports of 2012 and 2013 are mostly about state responsibility and timely and decisive response, they hold on to the importance of engagement of the international community through assistance or action, when national authorities manifestly fail to protect their populations. Pillar two responsibilities—namely international assistance and capacity building—are not subject to strict international rules like pillar three of timely and decisive response, as it is more related to moral duty. Ban Ki-moon in his 2014 report mentions the spirit of pillar two as sovereign equality, collective responsibility, determining common principles of assistance, and partnership. He emphasizes the common principles of assistance in order to utilize collective responsibility. These principles are "to ensure national ownership, to build mutual commitment, to do no harm, to prioritize prevention, and to retrain flexibility" (UNGA, 2014a: 12-27). In this respect, suggested forms of assistance for states by the former Secretary-General are encouragement, capacity-building, and assisting states for the protection of their populations. For example, it could be said that in the cases of Kenya (2008) and Guinea (2009) collective responsibility to prevent was executed at an early stage (Gözen Ercan, 2016: 87). Therefore, they could be given as successful examples of the international community fulfilling its responsibility to protect. Moreover, Ban considers the reaction of the international community to the situation in Kenya as "the

first time both regional actors and the United Nations viewed the crisis in part from the perspective of the responsibility to protect" (UNGA, 2009: 51).

Yet, the responsibility of international community has been the subject of debate. Ban Ki-moon himself, in his 2015 Report, questions the international community's inability to respond effectively to the continuing crisis in the Syrian Arab Republic. He also accuses the international community for failing to invest sufficient resources on dialogue and preventive diplomacy. Besides, in his 2016 Report he expresses his concerns over the international community's lack of emphasis for protection of populations from atrocity crimes.

1.3.3. Timely and Decisive Response to Human Sufferings

Ban-Ki moon, in his 2009 report, identifies timely and decisive response to human sufferings as a last step of his three-pillar strategy and provides a detailed road map for intervention. He says: "A reasoned, calibrated and timely response could involve any of the broad range of tools available to the United Nations and its partners. These would include pacific measures under Chapter VI of the Charter, coercive ones under Chapter VII and/or collaboration with regional and sub-regional arrangements under Chapter VIII" (UNGA, 2009, 9). More or less, from 2009 to 2016, all Secretary-General Reports contain some information about the timely and decisive response. In fact, Ban Ki-moon's 2009 Report emphasizes that international community should be focusing on saving lives, not on to intervene with arbitrary and political decisions (UNGA, 2009: 22).

The 2010 Report of the Secretary-General mentions the importance of the involvement of regional and sub-regional organizations concerning early warning, assessment and timely and decisive response (UNGA, 2010: 5). In his 2011 Report, Ban once more devotes a separate title for the topic and calls on the UNSC to take more responsibility, and refers to the examples of Darfur, Kenya, Kyrgyzstan, Ivory Coast, Yemen and Syria. He also emphasizes the importance of information sharing as well as early and flexible response, and emphasizes that there is a need for a more comprehensive debate on the development of this issue (UNGA, 2011a: 9-10). The 2012 Report is entitled "Responsibility to Protect: timely and decisive response." In this report, Ban underlines the uniqueness of each situation. According to him, the international community should act by taking into account the specific conditions of events, without selectivity, and with

a better understanding of the interrelationships and interconnectedness of the three pillars. He mentions that using measures identified in Chapters VI, VII and VIII of the Charter to help protecting populations from the four atrocity crimes and human rights violations is critical. Ban underlines that Chapter VI provides for effective non-coercive responses, including negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means (UNGA, 2012a: 22). For him, a good pillar three response strategy depends on the level of the international community's contact with society and the government under pillar two. In terms of an overall strategy, Ban identifies five lessons learned from former events:

> each case must be assessed on its own value, double standards and selectivity should be avoided, three pillars should be more integrated with each other, preventive and responsive measures needs to be balanced for each situation, and the role of regional and sub-regional organizations in helping United Nations is critical for implementing the responsibility to protect (UNGA, 2012a: 6).

In addition, Ban draws attention to the role of the ICC. He underlines that the threat of referrals to the ICC serves a preventive purpose (UNGA, 2012a: 9). Although the 2013 and 2014 reports could not bring innovation and development on this issue, the 2015 Report examines it under a separate title. The main point here is to change the perception that the third pillar is only related to the use of force. Moreover, it is mentioned that timely and decisive response, like in Libya case, is important to deal with urgent threats, but it will not work without committed participations and the sustained international assistance (UNGA, 2015a). Lastly, in the latest report on R2P before delivering the duty of UN Secretary-General to António Guterres, Ban Ki-moon underscores three steps to strengthen the international community's capacity for timely and decisive response in his 2016 Report. Firstly, the international community should not hesitate to interfere with human rights violations. Second, member states should use all peaceful tools for civilian protection before evaluating the military intervention option. Third, states should not ignore obvious facts on the ground, take into account different views and undertake early and decisive intervention (UNGA, 2016a). Current UN Secretary-General António Guterres, in his first annual report on R2P dated 10 August 2017, emphasizes the gap between states' commitment to R2P in theory and reality since populations continue to be exposed to the risk of mass atrocity crimes. He renders that legal, moral, and political

accountability are key to the prevention of mass atrocities and the implementation of R2P (UNGA-UNSC, 2017: 10).

All in all, the introduction of a three-pillar strategy has been one of the turning points in the short history of R2P. This strategy aims to successfully implement R2P, therefore shows the commitment to use R2P as intended. The first pillar, mentioning state responsibility, is designed to stop atrocities before they occur. The second pillar defines the responsibility of international community in the way of encouraging countries to protect their own populations. This could be accomplished through providing financial and humanitarian assistance and reporting incidents of atrocity crimes to the UN. Pillar three defines further responsibility of international community to take timely and decisive action to protect populations within a state when that state has failed to do so. The third pillar can provide the basis for international intervention. Hence it has become the most debated pillar. However, it is a relevant part of R2P since it involves response mechanisms along with prevention mechanisms. Lastly, as Ban has repeatedly underlined, the three pillars are not necessarily activated one after another. Instead, they work in a mutually reinforcing manner.

CHAPTER 2

NEW CHALLENGES TO R2P

R2P has a supreme task, which is protecting populations from mass atrocity crimes. It provides an understanding that the international community is responsible for all people, while giving states the main responsibility for protecting their own populations. Nicholas Wheeler (2000) mentions that the international community is responsible for all the people in the world. Therefore, all individuals who are suffering from human rights violations are desperately in need of the involvement of the international community to be rescued. In other words, the international community is responsible for "saving strangers." Moreover, Wheeler and Bellamy (2008: 481) argue that human rights violations constitute a universal issue, so this should be enough to activate the responsibility of the international community because intervention in this matter is a moral responsibility. On the other hand, some scholars (see, for instance Ayoob, 2002: Chandler: 2002: Rieff, 2002) posit that the international community could not be responsible for violations of human rights in another country. R2P involves humanitarian intervention and it contains risking a state's soldiers' lives for saving foreigners with a great deal of money spent. Besides, states tend to act for their national interests, so the reason can never be just human endeavor. Because nobody risks their nationals to save strangers. This chapter approaches R2P in the context of the fulfilment of the responsibilities of individual states and the international community. It analyzes the successes and failures of this emerging norm in Libya case. Afterwards, actions of terrorist organizations, which are regarded as a missing aspect of R2P in analyses, are studied in detail through the case studies on Boko Haram in Nigeria and the ISIS in Syria.

2.1. R2P IN ACTION

Without doubt, past examples of interventions are full of inconsistencies. Although R2P contains early measures, it could not stop discussions about humanitarian intervention. In fact, the most explicitly referred case of R2P appears to be Libya. As a response to the rising conflicts between the forces of Muammar al Gaddafi and the rebellion movement, the UNSC adopted Resolution 1970 (2011) recalling the Libyan authorities' responsibility to protect its population, imposing sanctions including travel bans and arms embargo. The Resolution also referred the situation in Libya to the ICC. However,

Gaddafi responded violently, and his forces killed dozens of protesters so developments in Libya required more severe measures (O'Donnell, 2014: 566). The UNSC then passed Resolution 1973 and authorized the establishment of a no-fly zone over Libya as well as safe areas, and determined that the current situation in Libya constituted "a threat to international peace and security." Moreover, Resolution 1973 (2011) referred to take all necessary measures, so this opened the way for authorization of military intervention. Subsequently, the NATO-led intervention began. Gaddafi was removed from power and killed by dissident groups on 20 October 2011. Ultimately, the civil war resulted with the victory of the National Transition Council of Libya. However, the post-Gaddafi era has been one marred with chaos and instability with three rival governments. R2P was invoked prior to the Libya operation. The UNSC's resolutions 1970 and 1973 authorized NATO for economic and military measures. In light of the timely and decisive response, Libya is often mentioned as an example of successful R2P implementation. Evans (2014: 20) mentions that in terms of the early response, Libya was a perfect implementation of R2P. In fact, if the UNSC would have shown such attitude in the 1990s those who died in Srebrenica and Rwanda could still be alive today.

However, some argue that R2P's admissibility has been compromised because of the misuse in Libya; so, the international community has been reluctant to invoke R2P in Syria (Cronogue, 2012: 145; Taylor, 2012; Kuperman, 2013: 192; Hehir and Murray: 2013; Najem et all, 2016: 447; Tourinho et all, 2016: 136). From an R2P point of view, there was success in terms of prevention and reaction. Detecting early human rights violations, the UN authorized NATO intervention without wasting time in an attempt to put an end to persecution. This aspect relates to successful implementation. However, in terms of the way the intervention of carried out, and problems with regard to rebuilding order within the Libyan stayed, arguably NATO stretched the terms, went beyond the mandate of the UN and violated the principle of national sovereignty (Brockmeier et all, 2016: 114). In this regard, concerning the actual implementation, it is possible to argue that R2P has had more failure stories than success stories. For example, in Darfur case the European Union (EU) and NATO emphasized that the main responsibility to act belongs to the AU, which is an important organization for the region. However, the AU has complained about the lack of resources and limited capacity. However, we have experienced many times that the UN has acted on its own, not in support of the regional

power. Here, we can conclude that the UN is reluctant to intervene in difficult problems in Africa. Although R2P has been established in order to regulate the concept of intervention in theory, it has shown great weaknesses in practice as in the case of Darfur (Bellamy and Williams, 2006; Flint and Waal, 2008; Gözen Ercan, 2016). Zimbabwe was another example wherein the international community demonstrated a failure to implement R2P. Therefore, given that R2P's success stories have not only been limited but also controversial, it can be argued that past examples have reduced the likelihood that it will be implemented in the future. Despite the issues related to implementation, R2P also has conceptual limitations. In the ongoing war in Syria, while states are militarily active on the territory of a sovereign state in the name a fight against terrorism, the R2P aspect is not finding enough attention. In this regard, it helps to focus on the underexplored aspect of terrorism within the context of R2P.

2.2. A MISSING ASPECT: TERRORISM

Apart from discussions about its success and failure, currently, R2P is facing with new challenges. Former Secretary-General Ban Ki-moon in his 2015 SG Report draws attention to the fact that mass murders take different forms and they are committed by different types of perpetrators. Besides, international community is endeavoring to deal with the outcomes of declining state control over its territory. Therefore, Ban introduced two new challenges to R2P's present state. He indicated that terrorist activities of non-state armed groups and the impact of new technologies are new challenges for R2P to adjust itself.

Moreover, in his 2016 report, Ban expresses that although he is fully committed to improve the R2P norm, the international community lacks focus for protection of populations from atrocity crimes. He reminds his World Humanitarian Summit report and notes: "Today we face a more challenging context, in which some States and non-State actors routinely threaten populations and make calculated decisions to disregard their legal obligations and protection responsibilities" (UNGA, 2016a: 2). The Report contains more emphasis on non-state actors than any of his previous reports. There are six paragraphs referring to the non-state actors as a factor in R2P. Non-state armed groups are seen as a new challenge since the 9/11 attacks. Paragraph 9 of the 2016 Report demonstrates that "violent extremists represent a powerful threat to established

international norms related to the protection of populations from atrocity crimes and take advantage of situations of instability to consolidate their influence" (UNGA, 2016a: 3). Besides, countries like Nigeria, Iraq, and Somalia who suffer from atrocity crimes because of actions of non-state armed groups are facing with forced displacement. In addition, Ban points to the effect of the improvement of new technologies on spread of violence and terror. This improvement allows groups to commit atrocity crimes across national borders, so these extremists reach the capacity to harm the civilian population (UNGA, 2016a: 4).

Therefore, terrorism appears to be an aspect that needs to be considered under R2P too. As terrorist organizations changed their forms of action, this requires the readjustment of the R2P norm. States are no longer only actors who are responsible for atrocity crimes. Technological progress and interdependence has changed the international system. Terrorist organizations are now challenging the power of states, and some are even able to control state territories as in the case of the ISIS.

It could be said that, today, the prominent threat to international peace and security comes from terrorism. As the concept of terrorism changed, different definitions and ways of prevention had to be developed. Yet, consideration of terrorism as a potential threat to international peace and security is not completely new. Measures to eliminate international terrorism were included in the agenda of UNGA in 1972, and this was one of the early contributory UN documents concerning international terrorism. They were adopted against increasing and shape-shifting terrorist incidents. In 1994, the UNGA approved the "Declaration on Measures to Eliminate International Terrorism" with Resolution 49/60. According to this, terrorism poses a threat to international peace and security, so the UN member states should respond to situations that threaten territorial integrity and state security. Besides, states must fulfill their obligations under the Charter of the UN and should not be involved in any terrorist activity.

In essence, terrorism can be eliminated through strengthening of international cooperation and progressive development of international law. The UNSC, as the main UN body to protect international peace and security, could invoke R2P to protect people from violent terrorist actions. In fact, the 2005 WSOD condemns terrorism and determines that it is one of the most serious threats to international peace and security. There is a call for the

international community to assist states in development of national and regional capacities for combating terrorism within the framework of international law and human rights norms. Therefore, the scale and cruelty of the activities of non-state armed groups are now making a global impact. Terrorist organizations are committing crimes up to the level of genocide and crimes against humanity. Since these two crimes are determined as reasons to invoke R2P, it must be seen that these crimes are not committed only by the states. Non-state armed groups are perpetrators of those crimes too, so reminding states their responsibility to protect their populations from actions of terrorist organizations and in the case of a state that is unable to deal with that issue, applying preventive and reactive measures under R2P could be an effective way to fight terrorism and prevent mass atrocity crimes.

After all, together with globalization, national borders have become less concrete. New actors have emerged, and there is increased interdependence. National security is no longer the sole security perception. While interstate wars have become infrequent, ethnic conflicts, terrorism, cases of failed states and migration became focal points. Today's terrorist organizations commit crimes with huge amount of civilian deaths. The rise of non-state actors, and growing number of weak states introduced us with a new phenomenon: "terrorism as genocide" (Whiteside, 2015: 232). R2P as an important human rights development of the recent years must be improved in the light of these developments. To make a case in point, the following sections analyze the actions of Boko Haram in Nigeria and the Islamic State in Syria (ISIS) as situations requiring international R2P action.

2.3. NIGERIA

Since the end of the Second World War, states have tried to build up a stable, peaceful and secure international environment. The establishment of the UN and developments on human rights could be cited as signs of improvement. Regardless of these, non-state actors have become important actors of the international system as well. Besides, the understanding of war has changed and wars between sovereign states have been replaced with regional and intra-state ethnic conflicts (Huntington: 1996). For instance, after the 9/11 attacks, the international community waged war on terror under the leadership of the US. Interestingly, Africa has mostly been the war front for their fight against terrorism.

Aghedo and Osumah (2012: 856) outline low living standards, unemployment, low levels of education, growing poverty, disregard of core human security priorities, and poor leadership as some of the reasons for this development. Pursuant to these, uprisings and terrorist activities take shape in the region. Owing to these developments, the international community ought to increasingly adopt a number of measures in order to prevent the deterioration of international peace and order.

Nigeria is one of the countries that deals with conflicts that date back to its colonial era. It is a West African country whose neighbors are Benin, Niger, Chad and Cameroon. It is Africa's most populous country with a population of approximately 190 million. Nigeria is a Federal Republic with secular rule. It comprises of 36 states and a Federal Capital Territory. The country has over 350 ethnic nationalities. Many military coups have been experienced since independence in Nigeria. The main source of income for the government of the country is its oil reserves, which are concentrated mostly in the southern part of the country. In 1960, Nigeria declared its independence, conflicts however, continued. North-south and Muslim-Christian distinctions caused violence in the country. There are serious differences between northern and southern parts due to the level of welfare and the multiplicity of corruption (Elden, 2014: 419). For many years, in Nigeria, civilians have been threatened by Boko Haram's extremist actions and recurring violence in the "middle belt" and Niger Delta regions. Although operations of the Nigerian army and the regional Multinational Joint Task Force (MNJTF) against Boko Haram militants have achieved considerable success, Boko Haram still holds significant territory. Besides this Boko Haram continues its attacks in Northern Nigeria and the wider Lake Chad Basin region. According to the 2017 Report of UN Office for the Coordination of Humanitarian Affairs (OCHA), Boko Haram has kidnapped thousands of civilians. The conflict and humanitarian crisis affects not just Nigeria but also neighboring Cameroon, Chad and Niger. There are nearly 2 million internally displaced people (IDPs) in Adamawa, Borno and Yobe, 3.4 million people in need of nutrition assistance of whom about 450,000 suffer from acute malnutrition. Besides, 5.8 million people are also in need of food assistance in north-east Nigeria (OCHA, 2017: 9).

Moreover, while Nigerian government confronts Boko Haram, inter-communal clashes between semi-nomadic herdsmen and settled farming communities have flamed in recent times. According to Reports of Nigeria National Emergency Management Agency

(NEMA), since September 2016 hundreds of people have been killed in the state of Kaduna in the north-west of Nigeria. With regard to Nigeria's "middle belt" and Niger Delta regions, the main causes of the clash are burglary and grazing. In fact, there is evidence that 376 people have so far lost their lives with a further 102 people injured and 2,308 houses also becoming non-residential due to the conflicts. As of January 2017, 21.808 people are said to have been displaced because of these conflicts (Daily Trust, 2017). The Nigerian government has thus far been unable to holistically solve the problem between nomadic and settled communities. As a result of this, the number of deaths continues to increase with some broadcast organizations in the country accusing Muslim cattle herders as perpetrators. Besides, the failure to solve the problem puts more civilians at risk. Essentially, Boko Haram constitutes a major threat to civilians in Nigeria and the international community could take action to prevent further civilian deaths.

2.3.1. Boko Haram

Boko Haram was founded in Nigeria in 2002. Their intention is to operate as an Islamist sect employing the full use of Sharia law. They are influenced by the Wahhabi Movement. The group's full name is '*Jama¯'atu Ahlis Sunnah La¯dda'awatih wal-Jihad'*, or 'People Committed to the Propagation of the Prophet's Teachings and Jihad'. The group is also given different names such as *'Ahlulsunna wai'jama'ah hijra'*, 'Nigerian Taliban and Yusufiyyah Sect' (Aghedo and Osumah, 2012: 858). The name Boko Haram, means "western education is forbidden." Elden (2014: 415) indicates that regarding the relationship between the meaning of the name and actions of this terrorist sect "westernization is forbidden" makes more sense. The roots of this terrorist sect could be traced back to the Shabaab Muslim Youth Organization, which was founded in 1995 under the leadership of Abubakar Lawan who was later replaced by Mohammed Yusuf in 1999. He was strictly opposed to western values. He is on record to have indicated in an interview that "the earth was flat, and rain was not caused by evaporation from the ground" (Walker, 2012: 7). Unemployment, corruption and competition between political leaders were seen as important by-products of western education, so the sect was determined to overthrow the existing state structure and replace it with a Sharia state (Oyewole, 2013: 256).

Boko Haram is concentrated in northeast Nigeria, but its influence could also be felt on a national scale. Their terrorist activities mainly take place in Kano, Bauchi, Yobe, Borno and Plateau. The Global Terrorism Index ranked Boko Haram as the world's deadliest terror group in 2015. They have established a "state within a state" and the Nigerian government appears desperate and ineffective so far (Walker, 2012: 3). Since its founding, this Wahhabi Salafist affiliated group has killed more than 20,000 people and displaced more than 2 million people from their homes. Research indicates that the motivation of this terrorist organization is to transform Nigeria into an Islamic state, riddance of western education, elimination of democracy, termination of bad leadership, and reduction of poverty (Aghedo and Osumah, 2012: 860). The finance of Boko Haram depends on thefts, bank robberies, support from Salafist contacts in Saudi Arabia, and donations from wealthy northern Nigerians, etc. (Walker, 2012: 3; Elden, 2014: 416).

Boko Haram employs outrageous tactics such as the examples of beating up some women in 2003 in Yobe State, and burning down a police station in same year. Also, in 2004, the sect organized an attack on a police station in Borno State. Moreover, they were held responsible for attacks on Christian villages in 2005 in Bulama. In 2007, a popular cleric, Sheikh Ja'afar Mahmoud Adam, who criticized Boko Haram's ideology, was murdered. In July 2009, the group again attacked police stations in Bauchi and Yobe (. Subsequently, Mohammed Yusuf was arrested and killed. Prior to mid-2010, it was said that the group withdrew and received training, hence, they were less active (Walker, 2012: 4). Afterwards, they emerged with changed patters of engagement under the leadership of Abubakar Shekau which included assassinations. They executed two bomb attacks on Christmas Eve and New Year's Eve in 2010 in Abuja State which is the capital of Nigeria. The bombing of a UN building in Abuja in 2011, as well as the kidnapping of 276 schoolgirls from Chibok in April 2014 could be invoked as the group's most acclaimed acts. These incidents led to increased international recognition prompting reactions both at the national and international levels. Other Boko Haram terrorist attacks also include, an attack on April 2011 on Independent National Electoral Commission in Niger State, April 2014 Nyana bombing in Nasarawa State, attacks in Cameroon in December 2015, January 2015 Baga massacre, and January 2016 Dalori.

Although Boko Haram is said to be against Western values, Walker (2012: 7) draws attention to the group's use of mobile phones, video cameras, DVDs, YouTube, chemical

explosives, automatic weapons, and cars; ironically, they do not completely reject the modern world. They have scattered settlements, and they use different forms of attacks. This makes it difficult in terms of applying counter measures. The Nigerian government has chosen to apply hard counter-terrorism measures including a military response. State of emergencies have been declared a few times and the Nigerian military has been engaged in war against Boko Haram. However, major military operations have not solved the problem but rather made it worse (Oyewole, 2013: 258). In general, Nigerian government forces were accused of using too much violence against terrorists. The video footage that Amnesty International released on 5 August 2014, captioned as "Nigeria: gruesome footage implicates military in war crimes," provided evidence of war crimes committed by Boko Haram, but also showed that Boko Haram militias are being subjected to violent repression by members of the Nigerian military and the "Civilian Joint Task Force" (CJTF)—the state-sponsored militias. This repression included killing of the members of the terrorist organization as well as many civilians who were simply in the wrong place at the wrong time. This situation raised red flags in terms of support for measures initiated to end Boko Haram violence. Report of the Prosecutor to ICC in 2012 also mentioned that Boko Haram members were tortured by security forces. Moreover, heavy military measures had caused considerable restriction of the rights of some Nigerian citizens who are living around Boko Haram areas. Oyewole (2013: 258) argues that Nigerians are uncomfortable with the strict war on terror because they believe that the government was using excessive power not only in its battle against terrorism but in protest, elections and other public matters. Report of Amnesty International, dated 3 June 2015, also specifies, "more than 7,000 civilians have died. Besides, more than 1,200 people were unlawfully killed in military custody between 2011 and 2015 prompting calls for senior members of Nigerian military to be investigated for war crimes." On the other hand, a different measure which involved negotiations between the government and Boko Haram that would lead to a cease-fire was tried in 2011 and 2012 but failed.

While, the terrorist organization's expectations of establishing a sharia state and its cell-like structure make the situation even more complicated, different opinions stemming from the multi-headed structure of the group and the lack of an interlocutor who will engage different parties have prevented the problem from being solved irrespective of available suggestions (Walker, 2012: 12).

It is argued that Nigeria is very close to being a "failed state." Boko Haram controls certain territories in the country. They have their own ruling system, religious policy and regulations. Civilian deaths in the country as a result of their activities have so far not been prevented wholly, their relative successes have been attributed to the weakness of Nigeria's security operations (Aghedo and Osumah, 2012: 863).

Owing to these, it could be argued that international response could be required for the country. In 2011, the US House of Representatives Committee on Homeland Security (2011: 4) described Boko Haram as an "emerging threat to U.S. interests and the U.S. homeland." In 2012, the US named Abubakar Shekau, Khalid al-Barnawi, and Abubakar Adam Kambar as Specially Designated Global Terrorists. In addition, the United Kingdom's Home Office added Boko Haram to its list of prohibited terrorist organizations in 2013. In addition, the US designated Boko Haram as a terrorist organization in 2013 with the UN and the EU also recognizing Boko Haram and Al-Qaeda partnership in 2014 (Campbell, 2014: 3). On May 2013, a joint international task force was set up to launch a campaign against Boko Haram by Cameroon, Niger and Nigeria under the auspices of the Lake Chad Commission. There has also been the Joint Gulf of Guinea Commission created by Nigeria, Cameroon and Benin to contribute to the campaign against Boko Haram. On May 2014, Cameroon gave Nigeria permission to enter their airspace in their war against Boko Haram militants. It could however, be argued that these partnerships have not been forged on humanitarian grounds but on security ones, an example would be that of border security between the two countries.

Nigeria is a state party to the Rome Statute and has been a member of the ICC since 2001.With authority derived therefrom, the Office of the Prosecutor (OTP) of the ICC has started to run preliminary investigations for terrorist activities of Boko Haram in Nigeria since November 2010 (Quadri et al, 2015: 97). Article 15 Paragraph 1 and Paragraph 2 of the Rome Statute allows the Prosecutor to "open an investigation relating to crimes falling within the Court's jurisdiction." The Office is obliged to determine whether the investigation for a situation meets the legal criteria set by the Rome Statute (ICC, 2013: 4). Article 15 Paragraph 3 and Paragraph 5 provide the authority to submit the investigation to the Pre-Trial Chamber, and if the Pre-Trial Chamber decides that there is reasonable basis to proceed with an investigation, then the case enters the jurisdiction of the Court (Quadri et al, 2015: 101). The Prosecutor of the ICC, Fatou Bensouda, in her

2012 Report on Preliminary Examination Activities determines that since July 2009, Boko Haram has "committed acts constituting crimes against humanity like murder under article 7(1)(a) and persecution under article 7(1)(h) of the Rome Statute" (ICC, 2012: 20). Furthermore, in her report dated 5 August 2013, Bensouda remarks that Boko Haram's attacks in Nigeria could be considered as possible crimes against humanity (ICC, 2013: 13). Her 2014 Report determines that "acts of murder allegedly committed by Boko Haram constituting crimes against humanity may also qualify as war crimes if committed in the context of the armed conflict." The report also mentions the commitment to focus on alleged war crimes committed by Boko Haram (ICC, 2014: 45). Her subsequent report in 2015 gives voice to concerns about Boko Haram's control of territories including Borno, northern Adamawa and eastern Yobe States (ICC, 2015: 44). In this report, her office identifies eight potential cases involving the commission of crimes against humanity and war crimes. Six of them are regarding crimes conducted by Boko Haram and two of them by the Nigerian Security Forces. The Report claims that Boko Haram's killing of civilians by stating that they are non-believers might be the first case for the ICC. A second indictment could also originate from Boko Haram's actions such as abductions, imprisonment of civilians and threats. A third potential could also be about Boko Haram's attacks on schools that they argue are grounds for western values. A fourth case relates to participation of children under the age of 15 in Boko Haram, essentially child soldiers. Attacks against women and girls could generate the subject of a fifth potential case. A sixth could be about bombings and destruction of religious buildings. Last two potential cases could be related to the responses of Nigerian Security Forces including the excessive use of force. The seventh potential case could be about collective arrest, torture, and execution of individuals who are suspected of being Boko Haram members. This is an example of the abuse of power. Civilian deaths in the operations of security forces are the cause of the eighth potential case. After all, in the Report on Preliminary Examination Activities, dated 14 November 2016, the process is summarized and states that the office will continue to evaluate the admissibility of these eight possible cases.

In addition to the efforts of the ICC, many NGOs made the determination that people in Nigeria need the interference of international community. For example, according to the 2012 Report of Human Rights Watch, "the attacks on Christians in northern and central

Nigeria appear to be part of a systematic plan of violence and intimidation" (HRW, 2012: 44). Moreover, on 14 April 2015 a letter sent to the ICC by Global Justice Center hinged on a possible consideration of Boko Haram actions as genocide. Many of the UN and the AU documents have also issued concerns regarding the plight of Boko Haram-affected areas. The Report of the UN High Commissioner for Human Rights, dated 9 December 2015, outlines human rights violations and abuses committed by Boko Haram (UNGA, 2015b). The Resolution adopted by the Human Rights Council to the UNGA (A/HRC/RES/S-23/1), dated 21 May 2015, also expresses the UN's concerns about the actions of Boko Haram and calls for collective action to defeat terror. The declaration of the AU, on 31 January 2015, at the twenty-fourth Ordinary Session of the Assembly of African Union Heads of State and Government "welcomed and supported the efforts deployed by Member States of the Lake Chad Basin Commission and the Republic of Benin for having agreed to deploy national contingents and establish a Joint Military Staff Headquarters for the conduct of military operations against the Boko Haram terrorist group." Moreover, with this declaration, the AU urged member states and international players to support cross-border military operations against Boko Haram. Subsequently, the AU at its twenty-fifth Ordinary Session stressed its deep concern for increasing Boko Haram attacks in Nigeria. With regard to the fight against Boko Haram, the aims of the Lake Chad Basin Commission (LCBC), which was founded on 22 May 1964 by Cameroon, Niger, Nigeria and Chad, was reconsidered. LCBC is an intergovernmental organization that aims to organize and control the natural resources in the basin. Yet, the role of the commission that is management and exploitation of Lake Chad changed into coordinating regional security actions because of an insecure economic environment created by terrorism. Increasing Boko Haram violence made LCBC's change of goals necessary because affected countries needed a political forum to cooperate in the fight against terrorism. Galeazzi (2017: 3) claims: "The LCBC provided a cross-regional entry-point and the necessary legal framework to host cooperation and channel funds for a MNJTF between Nigeria, Cameroon, Niger, Chad and Benin." At this point, it should be indicated that in order to end the Boko Haram insurgency the MNJTF was founded by Benin, Cameroon, Chad, Niger, and Nigeria. Since 1994, they have carried out counter-terrorism operations. In February 2015, the AU authorized the mobilization of a multinational force to fight with Boko Haram in the northeast Nigeria and northern

Cameroon (Salkida, 2015). Although this weakened Boko Haram and helped the Nigerian government to recover substantial territory once held by this armed extremist group, they are still a strong actor in the region.

Moreover, the AU's Peace and Security Council (AUPSC) has condemned Boko Haram attacks on innocent civilians in many of its statements. For instance, the Communique of the 639th PSC meeting on Boko Haram Terrorist Group, dated 29 November 2016, supports the MNJTF efforts to combat Boko Haram and urges the international community to continue their support towards this direction. Furthermore, since 2013, the UN Secretary-General has published seven reports on human rights violations caused by Boko Haram. The UN Secretary-General, in his latest report concerning the issue, dated 7 September 2017, mentions that although the MNJTF and the national armies of Cameroon, Chad, the Niger and Nigeria achieved considerable gains in the fight against Boko Haram, the terrorist group continues to pose a significant threat to civilian populations in Nigeria, Cameroon, the Niger and Chad. The report expresses concern over Boko Haram's violent attacks in Maiduguri and Magumeri area of Nigeria's Borno State. Further, the report exposes that "some 10.7 million people across the Lake Chad Basin Region currently need humanitarian assistance, including 8.5 million in Nigeria. Some 5.6 million children also need life-saving assistance and 2.7 million children need psychosocial support." Further, the report talks about military operations and financial support for regional actors and encourages international community to contribute to these efforts (UNSC, 2017: 2).

Likewise, the UN has endorsed its strong commitment to the sovereignty, independence, unity and territorial integrity of Cameroon, Chad, Niger and Nigeria on many occasions. The UNSC, on 22 May 2014, added Boko Haram to Al-Qaida Sanctions Committee that includes individuals and entities subject to targeted financial sanctions and arms embargo. In addition, on 26 June 2014, the UNSC's Al-Qaida Sanctions Committee approved the addition of Abubakar Mohammed Shekau, the leader of Boko Haram to its list. UNSC Resolution 2349 (2017) also mentioned the UN's full support for populations suffering from violence by terrorist groups. With this resolution, the UNSC condemned large-scale displacement, organized crime and the risk of famine in North-East Nigeria caused by Boko Haram attacks. This resolution is important because it includes the UN's commitment to fight terrorism and recognizes the threat posed by Boko Haram and ISIS.

Most importantly, this resolution expresses the UN's concerns about the protection of civilians affected by terrorism in the region and reminds "the primary responsibility of member States to protect civilian populations on their territories, in accordance with their obligations under international law." Moreover, it calls upon regional actors, the UN member states and relevant entities like UNOCA, UNOWAS, and the United Nations Office to the African Union (UNOAU) to support each other and ensure that any measures taken to counter terrorism comply with all their obligations under international law.

On 6 July 2017, UN Committee on the Rights of the Child in its concluding observations on the combined third to fifth periodic reports on Cameroon called out Boko Haram's abduction of children and their appalling use of children, especially girls, as suicide bombers. Further, on 21 July 2017, UN Committee on the Elimination of Discrimination against Women published concluding observations on the combined seventh and eighth periodic reports on Nigeria. According to this report, Boko Haram was a big obstacle to the establishment of women's rights in the country. Boko Haram insurgents have committed crimes such as rape, sexual slavery, forced marriage, impregnation and denying children their right to education.

Some western powers have so far provided financial assistance, military training, and support for the strengthening of state institutions. However, in 2013, the US deployed 300 soldiers in the region to counter Boko Haram which allegedly led to the further militarization of the conflict (Thurston, 2016: 27). As indicated earlier, apart from Boko Haram, Nigerian security forces have also been accused of abusing their authority and violating human rights in their attempt to combat the Boko Haram menace. Arguably, it is this development that has withheld strong international community involvement in the conflict difficult as they do not want to be perceived as supporters of human rights violations. Besides, there is a chance that the Muslim majority will perceive any interference of international community in the north of Nigeria as an attack on Islam (Campbell, 2014: 3). However, the actions of Boko Haram aim to destroy the Christian community. This terrorist organization is forcing people to religiously convert, and these are actions that could be cited as examples of genocide and crimes against humanity. In support of efforts to increase the welfare of the country, taking the religious dimension of the issue into account would be a wise policy option. It may be too late for the accomplishment of preventive R2P action, but since R2P is not just about military

intervention, other options regarding Chapter VI which includes peaceful means such as mediation, arbitration, judicial settlement, and resort to regional agencies could be policy options for the UNSC. In addition, under certain circumstances—meaning in a specified time interval and without overlooking the values of the region—humanitarian military intervention could be a viable option in terms of solutions. At present, the Nigerian government remains ill-equipped and unable to maintain peace in the region. Hence, this situation also poses a threat to international peace and security.

Boko Haram therefore arises a terrorist network with the intention to eliminate any group of people against their cause. Nigeria has a weak state structure, and so far has failed to stop the atrocities carried out by Boko Haram. In terms of responses, the mode in which the Nigerian military has engaged Boko Haram has proven to be a bad counter terrorism measure. It could be argued that the Nigerian government is better off in spending its money and time in developing the country. The international community could also be more involved in the conflict as there have been numerous human rights violations in Nigeria. Significantly, the actions of Boko Haram should be put into the category of crimes against humanity as this makes a case for the invocation of the international community's responsibility to protect.

In March 2015, Boko Haram announced its allegiance to ISIS and changed its official name to *Wilayat Gharb Afriqiya* meaning province of ISIS in Africa. Moreover, in August 2016, Abu Musab al-Barnawi was assigned as the new leader of the group by ISIS. On the other hand, when Muhammadu Buhari won Nigeria's March 2015 elections and became the President, he claimed in December 2016 that the group was completely defeated. This was surprising as Boko Haram has a very expansionist structure, which makes its outright defeat complex. It has developed branches and headquarters with different names, thus, saying it is completely defeated is deceptive. In fact, the latest reports indicate that the terrorist organization still operates. Besides, they have adopted the tactic of using children they kidnap as suicide bombers, for instance, the widely known kidnappings that happened in Chibok. Three years after the kidnappings, Michelle Obama, then First Lady of the United States added her voice to a campaign named Bring Back Our Girls alluding to the kidnapped Chibok girls; this has generated an international impact and awareness. In light of the above, this thesis argues that R2P should be invoked in the case of Nigeria by way of the international community taking a joint action—

through means that would provide a proportionate response and prevent further collateral damage—to ensure an enduring solution.

2.4. SYRIA

The ongoing civil war in Syria has caused many military and civilian casualties. Reports indicate that both government forces and rebel forces have committed crimes against humanity and war crimes. Since the Syrian crisis began in 2011, the conflict between the government forces and armed opposition groups has turned into a civil war that killed over 465,000 people. According to the UN Refugee Agency (UNHCR), "as of April 2018, at least 6.6 million IDPs - the largest number of people displaced by any conflict in the world" (UNHCR, 2017). "Over 13 million Syrians remain in dire need of humanitarian assistance with nearly 3 million people in hard-to-reach and besieged areas" (UNHCR, 2017). In addition, crisis in Syria caused a huge refugee problem. According to UNCHR data, the number of registered Syrian refugees reached more than 5 million as of 2018. The Islamic State has also been very effective in the region especially since 2014 and they are committing war crimes and crimes against humanity. Given all these developments, Syria demonstrates a possible R2P case.

The foundation of the current Syrian regime could be traced back to the Ba'ath Party that came to power through a coup in March 1963. Subsequently in 1970, Hafez al-Assad gained complete control of the party. Ever since, Syria has experienced political and religious tensions mostly born of rivalry between the ruling Alawite minority and the Sunni Muslim majority respectively. In 2000, Bashar al-Assad came to power after the death of his father. Bashar al-Assad was expected to usher in new reforms (Perthes, 2004). However, he failed to bring in new political and economic reforms that would benefit the majority of Syrians. Alawite minority mostly benefited from the reforms; due to this, the non-Alawaite part of the Syrian population started to grumble (Hoeling, 2015: 27). These sentiments coupled with the Arab Spring, fueled a rebel movement against the Assad regime.

It began with peaceful demonstrations; however, this was met with repressive tactics by government forces, which led to escalation. Hence, at the end of March 2011, it developed into a full-blown conflict between the army of Bashar al-Assad on one side and rebels including the National Council of Syria and the Free Syrian Army on the other side. The

conflict subsequently escalated into a civil war with numerous human rights violations. There has also been evidence that points to the use of chemical weapons. Moreover, the UN Human rights Council established an independent International Commission of Inquiry (CoI) in 2011 to investigate human rights violations in Syria. CoI has since published annual reports about the human rights situation in Syria.

According to a report presented by the Council in Geneva, on 28 November 2011, crimes against humanity were committed in different locations in Syria including arbitrary arrest, enforced disappearance, torture, sexual violence, as well as violations of children's rights (UNGA, 2011b: 8). In addition, CoI's 2012 Report put forth that the situation in the country had thoroughly deteriorated. The findings of the Commission indicated that, "government forces and the Shabbiha had committed crimes against humanity which included murder and torture; war crimes and gross violations of international human rights law and international humanitarian law also outlined by the Commission's findings involved unlawful killings, arbitrary arrests and detentions, sexual violence, indiscriminate attacks, pillaging and destruction of properties." The commission revealed that, "government forces and Shabbiha members were responsible for the killings in Al-Houla (UNGA, 2012b: 10)." Furthermore, CoI's 2013 Report highlights that the conflicts were increasingly sectarian, and the behavior of the groups involved were more radicalized and militarized. The 2014 Report of CoI on the Syrian Arab Republic continued to expose government forces committing gross violations of human rights and war crimes including murder. Government forces have also been cited to have used chlorine gas, an illegal weapon (UNGA, 2014b: 19). Another significance of this report is the mention of massacres and war crimes committed by non-state armed groups. Since the main contribution of this work is to argue that actions of non-state armed groups should be considered as a reason to invoke R2P, the 2014 CoI report stands out as one of the official documents that supports this assertion. According to the Report, the region also faces a battle between government forces and anti-government armed groups including Kurdish People's Protection Units (YPG) and the Al-Qaida affiliated Jabhat al-Nusra. Besides there is ISIS, which is "increasingly battling anti-government armed groups, including Jabhat al-Nusra, Kurdish armed groups, and, to a lesser extent, government forces." There is evidence that ISIS, in particular, has forcibly recruited civilians and carried out many executions, using the Sharia law to justify some of these

killings. The report concludes that in perpetrating those killings in Al-Bza'a, Ar Raqqah and eastern Aleppo, ISIS has committed murder that is a crime against humanity (UNGA, 2014b: 8). The 2015 CoI Report (UNGA, 2015c: 1) stresses the lack of action and emphasizes that "there is a need for concerted and sustained international action to find a political solution to the conflict otherwise grave violations of human rights will continue." Like former reports, it also mentions actions of other terrorist groups that are causing human rights violations. Besides, there is the mention of YPG having established a de facto administration in the Kurdish regions of northern Syria. Jabhat Al-Nusra continues to make extensive use of car bombs and suicides while ISIS controls extensive territory in both Syria and Iraq. They have been involved in destroying Christian churches and Shia shrines in their areas of control. The 2016 CoI Report however, argues that although civilian deaths and human rights violations continue the cessation of hostilities agreement that came into effect on 27 February 2016 could bring hope to those seeking a path towards political resolution of the conflict. This has given some sense of hope. Nevertheless, indiscriminate and disproportionate attacks on civilians have not stopped. Approximately 600,000 people are under siege, with fears growing for those living in Aleppo city; an urgent solution is therefore required (UNGA, 2016b: 1).

As outlined in the CoI reports, there are some non-state actors including Shabiha and the Islamic State who are also committing war crimes and violating International Humanitarian Law. Ultimately, Syria constitutes an undisputed case for R2P. The negative unfolding of events prompted states in October 2011 to bring a draft resolution to the UNSC to "condemn grave and systematic human rights violations in Syria" (UNSC, 2011). This failed resolution called on Syrian authorities to put an end to the use of force against civilians, and to ensure the protection of human rights including respect for freedom of expression. The draft also called for the release of all political prisoners and peaceful demonstrators. However, it was vetoed by Russia and China. Besides Brazil, India, Lebanon and South Africa used abstention votes. Since then, Russia has used its veto twelve times against draft resolutions that hinges on the Syrian conflict. Apart from the UN, regional actors have not been able to resolve the issue either. The League of Arab States on the other hand have suspended Syria's membership since 12 November 2011.

In other efforts, former UN Secretary-General Kofi Annan was appointed as Joint Special Envoy for the UN and the League of Arab States on 23 February 2012. Annan set forth a

six-point peace plan. It included commitment to all parties to work with the Envoy in stopping armed violence and working with the UN to protect civilians and stabilize the country. Other aims included making sure that everyone and every region received humanitarian assistance, ensuring that the unjustly detained persons were released, ensuring free movement and a non-discriminatory visa policy for journalists across the country and also being respectful to the freedom of association (Annan, 2012). With Resolution 2042 (2012), the UNSC authorized a team to monitor the cessation of armed violence in Syria. The team included 30 unarmed military observers whose job was "to liaise with the parties and begin reporting on the implementation of full cessation of armed violence in all its forms by all parties." However, Annan's plan failed to end the violence. Subsequently, the United Nations Supervision Mission in Syria (UNSMIS) was established by UNSC Resolution 2043. This Resolution condemns human rights violations that were committed by Syrian authorities. It indicates support for the deployment of 300 unarmed observers as part of UNSMIS efforts to end the conflict. UNSMIS operations focused in and around Aleppo, Damascus, Deir-ez-Zor, Hama, Homs, Idlib, Deraa and Tartus. The Mission's mandate was to monitor a cessation of armed violence in all its forms by all parties and to also oversee and support the full implementation of the Envoy's six-point proposal (UNSC, 2012). However, because of the failure to stop violence and increasing hostilities, the Mission suspended its normal operations on 15 June and eventually, UNSMIS' mandate ended on 19 August 2012. At the end of July 2012, the number of deaths increased, tens of thousands of civilians were displaced and sought refuge in neighboring countries. In the face no decisive action from the UNSC, Annan announced his resignation from the UN-Arab League Joint Special Envoy. Then, Lakhdar Brahimi was appointed as the new Joint Arab League-United Nations Special Representative for Syria. However, he also faced difficulties in establishing the necessary relations to end the violence (ICRtoP, 2017). Hence, he resigned on 13 May 2014. In July 2014, Staffan de Mistura was chosen to replace Lakhdar Brahimi as the international mediator to seek an end to Syria's civil war. Despite this, he would serve only as a UN envoy, not the joint UN-Arab League envoy. With Resolution 2191(2014), the UNSC expressed its full support for Mr. Staffan de Mistura and he is still in office at the time of writing (UNSC, 2014: 4).

The use of chemical weapons against civilians in 2013 brought the Syrian conflict into a new dimension. There is precise evidence of use of chemical weapons in the Ghouta area of Damascus. According to UN inspectors, government forces killed over 1,400 people in this attack. The UN Secretary-General on 16 September 2013 stated that the attack was a war crime and a grave violation of the 1925 Protocol and other rules of customary international law. In fact, any use of chemical weapons is a breach of international law under the 1925 Geneva Protocol or Chemical Weapons Convention that entered into force on 29 April 1997. With Resolution 2118 (2013), the UNSC tasked the Organization for the Prohibition of Chemical Weapons (OPCW) to ensure the "destruction of the Syrian Arab Republic's chemical weapons program." The Assad regime said they have complied with Resolution 2118 and destroyed most of their chemical weapons facilities. Yet, according to reports by Human Rights Watch, "Syrian airstrikes continued to target civilian areas including homes, markets, schools, and hospitals, using wide-area explosives, barrel bombs, cluster munitions, and flammable incendiary weapons" (HRW, 2017). Besides, according to Amnesty International (2017: 351), "government forces cut civilians' access to medical care and basic humanitarian needs and starvation has been used as tactic to plague civilians in Eastern Ghouta, Mouadhamiyah al-Sham, Madaya, Daraya and eastern Aleppo."

The Organization for the Prohibition of Chemical Weapons Fact-Finding Mission (OPCW FFM) has released 16 reports since 2014. Their latest report dated 29 June 2017 (S/1510/2017), specified that sarin or a sarin-like substance found was in their field research so this points to the use of chemical weapons. UNSC Resolution 2209 (2015) and Resolution 2235 (2015) further expressed the UN's concern on the use of toxic chemicals as a weapon while stating their support for OPCW's work. However, on 24 October 2017, Russia vetoed a draft resolution that would have renewed the mandate of the OPCW-JIM.

Further, in terms of the UN response, the Secretary-General's Office has published 92 reports regarding the humanitarian situation in Syria since July 2012. Besides, Presidential Statements of 3 August 2011 (S/PRST/2011/16), 21 March 2012 (S/PRST/2012/6), 5 April 2012 (S/PRST/2012/10), 2 October 2013 (S/PRST/2013/15), 24 April 2015 (S/PRST/2015/10) and 17 August 2015 (S/PRST/2015/15) condemned the widespread violations of human rights and the use of force against populations by the

Syrian authorities; expressed commitment to territorial integrity, sovereignty and independence of Syria and the stop of civilian deaths in the region.

Moreover, UNSC Resolution 2139 (2014) asked for all parties to take all appropriate steps to protect civilians including members of ethnic, religious and confessional communities and reminded Syrian authorities that they have the primary responsibility to protect their population. In July 2014, the UNSC passed Resolution 2165. It determined that the situation was worsening in Syria and that it constituted a threat to peace and security in the region. Accordingly, it decided to establish a monitoring mechanism under the authority of the UN Secretary-General, with the consent of neighbor countries of Syria, to monitor humanitarian aid shipments. Then, UNSC Resolution 2191 (2014) renewed the decisions of paragraphs two and three of Resolution 2165 (2014), encouraging humanitarian agencies and their implementing partners to expand the delivery of humanitarian assistance to reach all people in need in Syria (UNSC, 2014: 2). UNSC Resolution 2332 (2016) and Resolution 2286 (2016) reminded Syrian authorities that they have the primary responsibility to protect their population. Moreover, the "International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law" committed in the Syrian Arab Republic (IIIM) was established by the UNGA on 21 December 2016 with Resolution 71/248 to encourage investigations and prosecution of those responsible for the atrocities. In addition, the UN Human Rights Council has so far adopted 23 resolutions since the beginning of events in Syria. The Resolution adopted by the Human Rights Council on 29 September 2017 (A/HRC/RES/36/20) welcomed the establishment of the IIIM and demanded that the Syrian authorities met their responsibility to protect the Syrian population.

It should be mentioned that there have been initiatives to achieve peace between the Assad regime and rebel forces. Although there have been short-term cease-fires, all of the attempts have been inconclusive. Kofi Annan came up with the six-point peace plan on March 2012, as mentioned above. He also held an action group conference on 30 June 2012 in Geneva, which later came to be known as the Geneva I Conference. Lakhdar Brahimi after his appointment as the new the UN-Arab League special representative for Syria also called for the conflict to stop in the Islamic festival of Eid al-Adha. Geneva II Conference was also held on 22-31 January 2014 with efforts by Lakhdar Brahimi "to

bring both sides to the table." The International Syria Support Group (ISSG) was subsequently established during Vienna peace talks for Syria that began in October 2015. Essentially, UNSC Resolution 2254 (2015) encouraged ISSG's transitional plan; however, differences remained among major powers on who to consider as representatives of the opposition as well as the future of Assad (Reuters, 2015). Geneva III was arranged on January 2016 and Geneva IV talks took place between 23 February-3 March 2017. However, the concerned parties refused to sit in the same room hence, negotiations were conducted separately with no worthwhile result achieved. Since December 2016, Astana peace talks have also been taking place. In the fifth round of the peace talks, which took place on October 2017, there was the establishment of four "de-escalation zones" under the guarantee of Russia, Turkey and Iran with states agreeing that a political solution should be pursued under UNSC Resolution 2254. China, Russia and Iran were among the countries that supported the Assad regime (Human Rights Watch, 2014). Whereas, some states, in particular, the US, France and the United Kingdom believed that the Assad regime had to end. The League of Arab States (LAS) also suspended Syria's membership on 12 November 2011. The League is also on record to have supported sanctions on Syria and backed the attempts to resolve the conflict by the Joint Special Envoy (Hoeling, 2015: 33). The European Union (EU) imposed economic sanctions on the Syrian regime. Besides, Special Advisers of the Secretary-General on the Prevention of Genocide and on the Responsibility to Protect expressed concern over the Assad regime's indiscriminate attacks on civilians and breaches of international human rights and humanitarian law.

It can therefore be argued that, large-scale killings against specific groups, the use of chemical weapons, torture, kidnappings, abductions, forced disappearances, and other human rights abuses prove that there are both crimes against humanity and war crimes in Syria. Therefore, R2P can be invoked in accordance with Paragraphs 138 and 139 of the WSOD. Although the UNSC reminded Syrian authorities several times that they have the primary responsibility to protect their population, the international community have failed to take more steps in finding a solution to the conflict due to a number of reasons. Moreover, other actors have played a critical role. ISIS stands out as a significant terrorist group in Syria who have committed human rights violations. The next section analyzes

the emergence of ISIS in the region and how its actions could be seen as a reason to invoke R2P.

2.4.1. The Islamic State

The Islamic State of Iraq and the Levant, also known as IS, ISIS, ISIL, or Daesh was born out of the ashes of Al-Qaeda in Iraq. It is a Salafi jihadist militant group aiming to establish a state under Sharia law. Its current leader is Abu Bakr al-Baghdadi and they have been organizing deadly attacks since 2013. Originally, this terrorist organization was founded in 1999 by al-Zarqawi in the name of *Jama'at al-Tawhid wal-Jihad*. In 2004, the group declared allegiance to Al-Qaeda and was renamed as Al-Qaeda in Iraq (Pool, 2004: 4). Subsequently, with the combination of other similar groups, the group took the name of Mutayibeen Coalition (2006) and then Islamic State of Iraq (2006-2013). When al-Zarqawi was killed, Abu Ayyub al-Masri replaced him and after his death in 2010 Abu Abdullah al-Rashid al-Baghdadi was appointed as the leader. Eventually, the group changed its name to the Islamic State of Iraq and Syria (ISIS) in 2013. After al-Masri, Abu Bakr al-Baghdadi took charge as the leader and has occupied this position since April 2010. In 2014, ISIS organized many deadly attacks and seized many lands including Mosul, Tikrit and Raqqa. On 29 June, they announced the formation of a caliphate, asked all Muslims to declare their allegiance to this new caliphate and started calling themselves the Islamic State. Since then, ISIS have claimed responsibility for many mortal attacks including beheading of a CNN worker, Alan Henning, burning alive of Jordanian pilot, Moaz al Kasasbeh, attacking the Bardo museum, mosque bombings in Yemen, releasing a video of executing Christians, attacking the office of French satirical newspaper Charlie Hebdo in Paris, suicide bombings and more (Wilson Center Home, 2016). ISIS is a group that makes no distinction between soldiers and civilians. They have been engaged in killings of Christians, Alawites, Shiites and moderate Sunnis. They also do not recognize any rights for women.

In the case of Syria, as tensions escalated, the presence of ISIS in the region became more apparent. The Assad regime therefore had to fight with jihadist groups while also struggling with a civil war, so Assad's authority has weakened while the regime has increasingly lost control over Syrian territory. The government has seemed apathetic and unable to prevent large-scale loss of lives caused by ISIS. Yet, there is also rebel-on-rebel

fighting in Syria and for some, this relieves Assad's battles and gives him time to recover. Since 2013, there has been a conflict between ISIS militants and the Free Syrian Army (FSA) with Al-Nursa joining FSA's fight against ISIS in January 2014. Numerous international organizations including Amnesty International have blamed ISIS for violations of human rights, attacks on certain groups and carrying out ethnic cleansing (Amnesty International, 2014). Since 2014, ISIS has come to control a great deal of territory in Syria and carried out crimes against humanity, including mass killings and sexual enslavement in areas under their control.

The Syrian Observatory for Human Rights (SOHR) declared that ISIS has killed at least 3,700 civilians in Syria since June 2014. Additionally, Longo (2016: 909) draws attention to secondary effects of violence. The lack of access to food, water and health services have compelled individuals to leave their homes. They are thus trapped between the Assad regime and ISIS's control areas leading to an increase in mortality. Sadly, it is difficult to know the number of people who have fallen victims to such situations and lost their lives in the process. The UN through its many resolutions have accused ISIS as being responsible for human rights abuses and war crimes. For instance, UNSC Resolution 2161 (2014) emphasizes that terrorism constitutes a serious threat to international peace and security and all states must take necessary measures to counter it. Measures encouraged to be used in countering terrorism include freezing of assets, travel ban, arms embargo and trade restrictions. With Resolution 2170 (2014), the UNSC further expressed its concern for ISIS's and Al Nusrah Front's control of some lands in Iraq and Syria; they again condemned human right violations committed by ISIS. Resolution 2178 (2014) also signified that the threat posed by terrorists had increased as they were establishing safe havens in some territories. To counter these terrorist organizations, member states must take measures collaboratively with respect to human rights and fundamental freedoms. With Resolution 2191 (2014), the UNSC reiterated concerns indicated in Resolution 2165 which expressed their willingness to send humanitarian aid across borders. The UNSC also reaffirmed its commitment to the sovereignty, independence, unity and territorial integrity of Syria. Besides, Resolution 2191 demonstrated the UNSC's concern for lack of effective implementations of its resolutions regarding the abolishment of human rights violations and termination of all forms of violence. Moreover, the resolution called

attention to the fact that the presence of ISIS and ANF in the region contributed to the displacement of hundreds of thousands of people.

The UN had raised this issue in 2015 too. UNSC Resolution 2199 (2015) underlined the importance of financial sanctions in disrupting ISIS and condemned all direct or indirect trade with ISIS particularly relating to oil, oil products, electronics and arms. Thereafter, UNSC Resolution 2214 (2015) expressed increasing concern about the threat posed by ISIS in the Middle East. Afterwards, Resolution 2249 (2015) mentioned ISIS as constituting a "global and unprecedented threat to international peace and security." It also argued that

> lack of political solution in Syria would make the situation worse so there was the need to implement the Geneva Communiqué of 30 June 2012 endorsed as Annex II of Resolution 2118 (2013), the Joint Statement on the outcome of the multilateral talks on Syria in Vienna of 30 October 2015 and the Statement of the International Syria Support Group (ISSG) of 14 November 2015.

Lastly, this Resolution condemned the Sousse, Ankara, Sinaï, Beirut and Paris attacks perpetrated by ISIS and called all member states to take all necessary measures to counter ISIS against their aggressive actions involving human rights violations. Afterwards, UNSC Resolution 2253 (2015) was released and continued to demonstrate the UNSC's concerns relating to the presence of ISIS in Iraq and Syria and its interest in solving the problem. With this, UNSC encouraged all members to participate actively in maintaining and updating the ISIS and Al-Qaida Sanctions List designated in Resolution 2161 (2014).

Similar to Resolution 2161, Resolution 2253 encourages states to apply measures including travel ban, asset freezing and embargo to block the mode of operation of such non-governmental organizations' recruitments and financial developments. UNSC Resolution 2258 (2015) once again reiterated that Syrian authorities have the primary responsibility to protect the Syrian population from gross human rights violations. The resolution stressed the fact that "urgent humanitarian assistance, including medical assistance, was required by more than 13.5 million people in Syria –of whom 6.5 million were internally displaced; 4.5 million were living in hard-to-reach areas, including Palestinian refugees, and 393,700 civilians were trapped in besieged areas. There are more than 4.2 million refugees, including more than 3.2 million women and children, who have fled Syria as a result of ongoing violence." In addition, violent extremists and

terrorist groups including ISIS and ANF are illegally controlling certain territories in Syria, committing crimes such as torture, kidnappings, abductions, hostage taking and forced disappearances and hindering the effective delivery of humanitarian assistance. The Resolutions so far has demanded and encouraged that all parties to the armed conflict in Syria must protect civilians in accordance with the obligations of international law.

ISIS has claimed responsibility for many violent crimes. Most importantly, they were blamed to have been responsible for two sulfur-mustard attacks in Syria in 2016, upon which John Kerry remarked: "ISIS is committing genocide in Syria and Iraq" (Guardian, 2016). While the international community saw actions of ISIS as the clearest possible case for invoking R2P (Longo, 2016:895), efforts by the UNSC fell short in trying to eliminate the terrorist organization. Significantly, the UNSC's draft resolutions have on many occasions been blocked by the vetoes of Russia and China.

Despite these, some resolutions—including UNSC Resolutions 2319 and 2322 adopted in 2016—condemned ISIS actions and urged the international community to work jointly to end the problem. 2017 was the year the UN became most active about the threat of ISIS in Syria. With Resolution 2347 (2017), the UNSC draw attention to the destruction of cultural heritage by terrorist groups. Further, the resolution referred to an ICC decision, which had "for the first time convicted a defendant for war crimes of intentionally directing attacks against religious buildings and historic monuments." It also emphasized that ISIS constituted one of the most serious threats to international peace and security and urged member states to apply effective measures at the legislative and operational levels to counter ISIS. UNSC Resolution 2354 (2017) further underlined that there was an urgent need to globally counter terrorist acts of ISIS and Al-Qaeda. The Resolution again requested the Counter Terrorism Committee to present a proposal to the Security Council for a "comprehensive international framework" to effectively block ways, in accordance with international law, that ISIS, Al-Qaeda, and similar organizations use, motivate and recruit others to conduct terrorist acts. The Resolution also outlines a document titled, the "Comprehensive International Framework to Counter Terrorist Narratives." This document (S/2017/375) recommends guidelines and good practices to effectively counter terrorist actions of ISIS, Al-Qaeda and associated organizations with Resolution 2354 stressing that member states and all relevant UN entities must follow

guidelines while implementing the Comprehensive International Framework. According to the Counter-Terrorism Committee

> the comprehensive international framework to counter terrorist narratives includes three core elements: legal and law enforcement measures in accordance with obligations under international law, including international human rights law, and relevant Security Council resolutions and in furtherance of General Assembly resolutions; public-private partnerships; and the development of counter-narratives.

Based on these, Resolution 2354 offered some guidelines. These include the fact that in countering terrorist narratives the UN must take principles of sovereignty, territorial integrity and political independence of all states into account. Also, member states have the primary responsibility to fight against violent terrorist acts.

Other resolutions released in 2017 regarding ISIS were Resolution 2368 (2017), Resolution 2370 (2017), Resolution 2379 (2017) and Resolution 2395 (2017). With these resolutions, the UNSC reiterated that ISIS and Al-Qaeda's violent extremist acts which aimed to kill innocent civilians, destroy property, and undermine stability posed a threat to international peace and security. The UNSC on its part has therefore recognized the need to take measures in accordance with the UN Charter and international law to combat terrorism. However, they are unable to implement the necessary steps.

Overall, since 2014 ISIS militants have conducted large-scale war crimes and ethnic cleansing against Iraqi and Syrian people. They used Raqqa as their stronghold and advanced toward Kobani, thereby gaining access to control a long stretch of the Turkey-Syria border (ICRtoP, 2015). People in the region had to leave their homes and take refuge in Turkey since the size of the massacre grew. The UN Special Advisors on the Prevention of Genocide and the Responsibility to Protect, with a joint statement on 10 October 2014, urged regional and global actors to take "concerted and coordinated action...to ensure protection of the civilian population and avert the possibility of further atrocity crimes." Thus, although there were certain evidences showing human rights violations, the international community remained motionless because of Russia's veto. Still, regarding the case of international responses to ISIS attacks, the US led coalition including Turkey, Saudi Arabia, Qatar, France, Britain, Germany, Italy, Spain, Australia, Hungary, Egypt, Jordan, Bahrain and Lebanon conducted airstrikes against ISIS militants in Syria for the first time on 22 September 2014 (ICRtoP, 2017) and since then have been fighting to

clear the region from ISIS. Besides, since September 2015 Russian airstrikes have targeted opposition forces although Russia claims that their operations focus on ISIS (GlobalR2P, 2017). In connection with this, there are people who argue that the international fight against ISIS caused a distraction for the Assad regime's human rights abuses (ICRtoP, 2015). It could thus be said that the international community's focus has been to remove ISIS from the region. This shifted international attention to combatting ISIS, and reduced the focus on the Assad regime and the intricacies of the Syrian problem as a whole. Bellamy (2014) argues that such a strategy helps Assad in buying time to recover. In support of this, recent events have showed that Assad forces have reclaimed significant territories, including Ar-Raqqa and Deir-Ezzour, from ISIS which has been weakened by airstrikes. Moreover, some say that these airstrikes are essentially illegal because the UNSC has not authorized them. Besides, they are not acts of self-defense as ISIS does not pose a direct threat to neither the US nor Russia, which are two of the leading countries initiating airstrikes (Bellamy, 2014).

On documents against counter-terrorism, there has been the submitted annual reports to the UNGA of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. Aside from this, on 14 April 2014, the Secretary-General's Report entitled "Activities of the United Nations system in implementing the United Nations Global Counter-Terrorism Strategy" was published. Resolutions adopted by the UNGA, dated 13 June 2014 and 15 June 2017 respectively issued the UN global counter-terrorism strategy. Thus, it could be said that the UN has been well aware of the problem of terrorism. In the case of Syria, the problem of terrorism has been so serious that they controlled large portions of territory. Eventually, it could be argued that the situation in Syria and the presence of ISIS has required R2P action for a while, because of the nature of the crimes committed. The reason is, R2P establishes a responsibility to protect Syrians from ISIS. R2P action would give rise to international community's active effort to free Iraqi and Syrian citizens from ISIS (Bellamy, 2015). While some argue that the threat posed by ISIS is the problem of counter-terrorism, not R2P, Bellamy (2015) posits that this view overlooks the fact that terrorism is itself often a crime against humanity. Besides, describing an issue in terms of counter-terrorism does not necessarily mean that it is not also a challenge to R2P. ISIS is committing crimes against humanity, hence the need to invoke R2P.

Teimouri (2015) also argues that any humanitarian military intervention against ISIS can do more harm than good if it is conducted before establishing an agreed and responsible international community mechanism. This mechanism is necessary to guarantee all parties, including interveners, are held accountable for their actions. He goes on to argue that a humanitarian intervention against ISIS will not be impartial, so should any of the conflicting sides benefit from this intervention it would make the intervention problematic. It is important to conduct an intervention based on neutrality and intervening parties should be careful so as not to repeat the same mistakes encountered during the Libyan conflict that subsequently resulted in a worse state of affairs post-intervention. In addition, based on the 2005 WSOD, countries like the US stated that the option of unilateral intervention is also possible, but there has been uncertainty surrounding the question as to whether this option is a responsible one in accordance with international law. Hence, the punishment of a violation through a unilateral military intervention is incompatible with the founding principles the R2P.

Clearly, due to the reasons stated above Syria constitutes an R2P case. However, the international community has been too slow to intervene and still has not decided as to whether it will intervene or not. According to Evans (2014: 24) the best solution now appears to be a diplomatic solution mediated by the US and Russia. Although Ban Ki-moon's 2015 Secretary-General Report introduced terrorist activities of non-state armed groups as a new challenge to R2P the situation does not have any legal validity or case that previously applied. Bellamy (2015) calls it the "unfinished conceptual business of R2P." Simply, R2P is not just a norm about intervention. The situation in Syria may be a failure for the prevention stage, yet the reaction stage still remains and could prevent further deaths. More generally, some have argued that it is not the norm that has failed but rather the UNSC. This is because, although western states are willing to intervene, Russian vetoes have so far blocked them and any R2P action requires the UNSC authorization, hence, the weakness of R2P as a norm is exposed here.

2.5. A COMPARISON

When comparing these two cases one of the most definite common point appears to be lack of commitment. Unwillingness of international actors to act in Syria and Nigeria caused increases in the number of civilian deaths and decrease in confidence towards

R2P. Although there is concrete evidence in terms of the use of chemical weapons in Syria and inter-communal clashes in the middle belt region of Nigeria—with both causing many civilian deaths—states are still unable to decide on a joint action to prevent further deaths.

In the cases of both Syria and Nigeria, there is the presence of terrorist organizations. ISIS in Syria and Boko Haram in Nigeria are committing mass atrocities. Since its foundation, Boko Haram has killed more than 20,000 people and displaced more than 2 million people from their homes. In addition, ISIS has killed more than 3700 civilians since June 2014 and taken control of certain territories. Both countries are considered as being close to a failed state situation. In their modes of operations, both ISIS and Boko Haram take advantage of technological improvements. They publish YouTube videos to show their barbaric assassinations with the aim of creating an atmosphere of fear. Moreover, they both use advanced weapons in their actions.

In contrast to ISIS, Boko Haram is more of a local terrorist organization. They are mainly carrying out their actions in and around Nigeria. Conversely ISIS, though it most effectively acts in Iraq and Syria, is carrying out its actions all over the world. In fact, people have experienced several mass shootings and suicide bombings in Germany, England, France and other countries. Therefore, it could be argued that actions of ISIS in Syria has come to draw more attention and action from the international community. In fact, with Resolutions 2139 (2014), 2258 (2015) and 2286 (2016), the UNSC reminded Syrian authorities that they have the primary responsibility to protect their population while there was no similar action for Nigeria. Irrespective of this, the international community has stayed inactive in both cases from an R2P point of view.

In the case of the R2P framework, the fact that terrorist organizations or non-state armed groups have committed mass atrocities including genocide in these countries could be cited as a reason for invoking the R2P. It is too late with regard to the prevention stage for both countries, however, the reaction stage of the R2P could help prevent further deaths and displacements. In terms of a cost-benefit analysis, it could be said that if a humanitarian military intervention is to take place, the costs of an international operation should be taken into account carefully. This could be done through measuring monetary value, civilian and military casualties, equipment use, potential physical damage, and the

political implications (Start, 2016: 70). Yet, a UNSC sanctioned use of force in Syria is politically very hard to achieve compared to the possibility for Nigeria, due to the fact that geographically, Syria is located in a more critical region. Both Russia and the US want to have significant say in the future of the Middle East. On the other hand, an intervention in Nigeria would arguably find less international objection.

Lastly, the failure to invoke R2P for Syria and Nigeria is seen as a failure of the UN system instead of the R2P itself. Because most of the efforts regarding invocation of R2P remain inconclusive due to the veto power of P5 members of the UNSC. Moreover, even if the P5 did not cast veto, many decisions were blocked with the veto threat. Therefore, in order to achieve progress in terms of R2P's effective implementation, current problems regarding practice processes need to be resolved. UN reform appears to be the first option for R2P's successful implementation.

In light of these findings, Chapter 3 explores the future of R2P by examining the proposals for its normative development.

CHAPTER 3

FUTURE OF R2P

Seventeen years have passed since R2P was first introduced, but the debates about humanitarian intervention and state sovereignty vis-à-vis R2P have not yet ended, due to the misguided interpretation of R2P as an extension of the humanitarian intervention understanding. Therefore, it is difficult to project the success of R2P. It could be argued that the international community has failed to uphold its responsibility in terms of atrocity prevention. As discussed in the previous chapter, the Syrian regime on its part have committed crimes against humanity against its own people. Furthermore, terrorist activities of ISIS in Syria and Boko Haram in Nigeria require severe counter-measures. However, the international community failed in its response to these humanitarian crises. Even after the first introduction of R2P, there have been many examples where states have acted arbitrarily. This demonstrates that great power policy is still active and taking place instead of consideration for human rights (Murray, 2013: 223). However, R2P is not only a norm or doctrine about military intervention. In fact, the ICISS Report introduces the understanding of sovereignty as forming the heart of R2P. According to this, states have the primary responsibility to protect their populations; it is when they are unable or unwilling to do so that the responsibility passes onto the international community. Military intervention could be authorized by the UNSC in extreme cases and only if the conditions of just war theory are fulfilled. Many said that R2P was dead after the UN's inaction in Syria. The reason was that while reasonable prospects for undertaking a successful military intervention has been doubtful since government forces were too strong, and there was a high risk of increasing civilian deaths, there was no preventive action through peaceful measures either, despite the evidence regarding the use of chemical weapons in Syria. Draft resolutions vetoed in the UNSC put to question the intentions of the great powers, as well as R2P's viability as an international norm.

In the aftermath of the controversial Libya intervention, the UN's inaction in Syria reignited the debates on R2P with some arguing that the international community would not be able to invoke R2P again. However, there are people who still believe that the R2P has brighter prospects as an evolving norm. In addition, the debate between those who hold the view that the norm is dead and those who say it could still be useful is a sign that

the norm can still function because discussions keep the norm alive. About the future of this norm, most arguments take place in terms of the obstacles in implementing R2P when a situation requires so. Many cite the Libyan case as being a barrier in the effective implementation for subsequent cases. Besides, many thinks that the veto power of the P5 prevents the use of R2P as any of the P5 can block its invocation. Owing to some of these reasons there are a number of people who want to see the UN system changed. In this vein, this chapter discusses the future of R2P. In doing so, different opinions as to why R2P has not been used more effectively is discussed. It would tap into both sides of the argument; those who argue about the demise of R2P and those who claim it could be more relevant for going forward.

As to the way forward, the aspect of UN reform is also taken into consideration. In this part, existing proposals such as the removal of the right to veto or the enlargement of the UNSC are evaluated. This is followed by a discussion of the three initiatives that were introduced in relation to the practice of R2P, namely Responsibility While Protecting (RwP), the Code of Conduct, and Rights up Front Initiative. The relations between R2P and international courts including the International Court of Justice (ICJ) and the ICC are considered as complimentary ways in helping the implementation of R2P. Lastly, reasonable estimates of the future of the norm are presented.

3.1. DEBATES ON THE CONTRIBUTION OF R2P

R2P has received many criticisms since its first introduction. There were fears that it would be used as a means to pursue the imperialistic goals of the great powers (Shawki, 2011). In practice, Russia put forth the understandings of territorial integrity, non-interference, and sovereignty as reasons to veto draft UNSC resolutions considering any sort of reaction in Syria. While it can be observed that the Russian adherence to these basic notions was in line with the protection of its own interests, such dichotomy allows us to argue that any value or doctrine is open to abusive use. Thakur (2013) argues that behind the noble principles regulating intervention, the justifications for interventions merely act as "cloaks for hegemonic interests."

Another criticism is about R2P's status. It has not developed into international humanitarian law and is therefore not binding. States and the international community could easily choose not to implement R2P even if there is a mass atrocity happening in a

country. In relation to this, lack of commitment is a vital issue. The unwillingness of international actors to act have prevented R2P from functioning successfully. Hehir (2017: 350) goes on to show "a lack of emphasis on pillar three" as one of the reasons for R2P's inability to develop. According to him, "absence of support for military response undermines the idea that R2P is making progress." Besides, he indicates that states act according to cost benefit analyses and national interest. Hence, the future of R2P is not so bright. Accordingly, another issue with R2P concerns the justification of intervention. A military intervention could be justified in other ways than R2P. For example, although R2P was introduced as a regulatory norm of military intervention, the US used the "war on terror" discourse to justify its intervention in Iraq in 2003. Thus, it would have been easier if there was only one norm that justified the intervention.

Some argue that R2P's implementation in Libya caused hesitations for future interventions (Cronogue, 2012: 125). In fact, disruptions in the aftermath of the Libyan crisis led states to reform R2P. The global context during Libya intervention was contentious. Some countries thought intervention was necessary while others questioned the use of force and post-intervention actions (Tourinho, 2016: 139). For example, Adler-Nissen and Pouliot (2014: 901) remind that while the US wanted to take immediate measures in Libya, Russia was skeptical about the intervention. With all its controversies, the Libyan case has turned into an example of the potential negative impacts of R2P's implementation. For instance, Hehir and Murray (2013, 212) observe that "NATO's intervention significantly worsened the humanitarian situation in Libya." The most important argument of those against R2P is that the norm would be exploited by the great powers; Libya confirmed their suspicions even though it was initially shown as the example of a timely and decisive implementation of R2P in its short history. Murray (2013: 227) argues that there was a great chance for R2P to be introduced to the world as a successful doctrine; however, the continuation of civilian deaths during the intervention, failure to establish a stable structure in the country and the loss of the impartiality of NATO forces during intervention and its aftermath made the intervention and the norm questionable.

While debating the contribution of R2P, the obstacles before R2P's invocation and proper functioning need to be mentioned. In order to ensure effective implementation of R2P, there is need for reformation. Consequently, even though there are people who have lost

hope in this emerging norm, others believe that it can turn out to be a functioning norm. The most important proposal for these changes however, is to introduce changes into the UN system. The following section deals with how a UN reform could make R2P more functional.

3.2. THE QUESTION OF UN REFORM

Adams (2015) argues that the UN currently is a 20th century organization trying to solve 21st century's problems. It was created according to post-war conditions and its most important task was to maintain and preserve international peace. Since the aim was not to face another world war after 1945, states started to deal with other problems to improve humanity. Especially after the Cold War, security gained a larger scope. Along with such transformation, emphasis was also placed on human security and human rights. This enlargement also reflected in the issues seen as threats to international peace and security. Unfortunately, the UN Charter and the UN system have been unable to catch up with these changes. Therefore, the idea that is put forth in this section is either changing the UNSC's system or revising the UN Charter would be the best option to modernize the UN, thus, helping norms of international law as well as other norms such as R2P do their job better.

In the current system, the UNSC is tasked with the maintenance and/or preservation of international peace and security. It has fifteen members. Five of them are permanent members and have the veto power. There are ten non-permanent members, which are determined every two years by elections held in the UNGA. Under Paragraph 139 of the WSOD, the UNSC is the only authority that can invoke and undertake R2P action in the name of the international community. Nevertheless, it is important to remind that the ICISS presented different options of authority for invoking R2P in its Report. In fact, when mentioning the role of the UNSC, the report noted: "there are many reasons for being dissatisfied with the role that the Security Council has played so far." However, the 2005 WSOD appointed the UNSC as the sole authority. This action received many criticisms since it was perceived as blocking R2P's progress. This is because in the case of a veto, the international community would remain silent against human rights violations. In terms of R2P, the deadlock in implementation most importantly stems from the veto ability of the P5.

According to Trijsburg (2009: 15), the UNSC could not be determined as the right authority that just war theory seeks. It is not an impartial institution and it is not functioning as it should. This is due to the fact that P5 states abuse R2P since they act in accordance with their internal politics and their national interest. Hehir (2012: 50) refers to the UNSC as the "perennial problem" affecting the progress of R2P. Simpson (2004: 68) considers the UN system and the veto power of the P5 as "legalized hegemony."

The reason why humanitarian intervention has been subjected to debates is because of the fear of misuse. Many states are afraid that great powers, using intervention as an excuse, are continuing their exploitation policies. Especially, because of their colonial experiences, many African and Asian countries are doubtful about Western justifications for intervention and abuse of R2P. Therefore, although it completely aims to stop mass human rights violations, together with Russia and China, they have insisted on UN authorization as a prerequisite for intervention (Badescu, 2007: 55). The interesting situation at this point is that these countries were already aware of the consequences of the UNSC system and veto power during the establishment of the UN. Moreover, they were present when the UNSC was given exceptional authorities. It therefore appears as though the maintenance of international order, peace and security are the motives for allowing these exceptions (Badescu, 2007: 55). Both permanent members of the UNSC and developing countries had a shared interest in the existing balance of power. The self-defense condition which is stated in Article 51 may have eliminated the idea of the possibility of misuse in the minds of members outside the UNSC. After all, the UN was the organization built by the winners of the Second World War and those countries assumed a level of influence on the newly established order. Within the framework of R2P, in order to change the understanding of abuse, the 2001 ICISS report pointed out that the UNSC has the right authority to pursue a military intervention and requested P5 members not to apply their veto right if the majority wants to act in a certain direction where their vital state interests were not involved. The report however, left an open door to operate R2P in situations wherein the UNSC fails.[2]

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[2] According to the Report, "If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are:
I. consideration of the matter by the General Assembly in Emergency Special Session under the "Uniting for Peace" procedure; and

In 1965, reform discussions for the UNSC resulted in an increase in non-permanent members (Krisch, 2006: 4). Yet, this did not change much as they still did not obtain the veto power. The most important decisions are always taken by the P5 behind closed doors. During Cold War, there were no decisions at all because of the bipolar system. After the 1990s, the UNSC was able to undertake common actions, but the intentions were always debated. According to Trijsburg (2009: 7), the UN has been dysfunctional in preventing and ending mass atrocities, however, the more frightening scenario is that it has rather facilitated states to execute and support mass atrocities.

There are two arguments about the dysfunction of the UNSC. First, the P5 always pursue their national interests. Second, because there are quite a number of dictatorial regimes all over the world, they do not care much about concepts like individual security or human rights (Trijsburg, 2009: 7). Another criticism about the UN system and the veto right is that it contradicts Article 2(1) of the UN Charter, which reads that "The Organization is based on the principle of the sovereign equality of all its members." The fact that there are five permanent members in the Security Council and that the veto right gives them the power to refuse all draft resolutions demonstrate that the decisions are taken in a one-sided manner. In other words, the UN appears to be representing the ideas of certain countries instead of being representative of the whole. This system is in contravention with the principle of sovereign equality, is a main cause for inaction in most of the R2P situations.

Furthermore, the capacity and capabilities of the UN are important (Gözen Ercan, 2016: 112). This means that, the UN does not have a regular source of income other than financial support of member states. Besides, it does not have a standing army. Therefore, protection of noble concepts such as human rights are not depended on anything other than the capacity provided by the state. In fact, when talking about the UN peacekeeping mission in Sierra Leone, former Secretary-General Kofi Annan (2000) remarked: "The UN can be as effective and strong as the governments want it to be." R2P is not a binding norm so it is up to states whether they take action or not. Nevertheless, Breau (2016: 61) points to the fact that international law of state responsibility is closely linked to the two

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II. action within area of jurisdiction by regional or sub-regional organizations under Chapter VIII of the Charter, subject to their seeking subsequent authorization from the Security Council" (ICISS, 2011, p.xiii).

important elements of R2P. First, according to R2P, the primary duty of states is to protect their own citizens. Second, states as the main legal actors in the international community, are responsible for persons living in other nations. In other words, although not legally, states are morally obliged to save strangers. These two elements also take place in customary international law and in the articles on State Responsibility drafted by the International Law Commission and recommended to the international community by the UNGA in 2002. Also, Trijsburg (2009: 15) states that "R2P upholds the idea that morally right decisions should be taken." Therefore, moral impartiality is required to implement R2P in a better way.

As previously mentioned, R2P is not entirely a norm related to military intervention. As suggested by the ICISS, it has three elements: to prevent, to react and to rebuild. Problems regarding the authorization of humanitarian intervention have also become related to R2P, so currently it is difficult for R2P to fulfill its original purpose, which is to intervene in humanitarian crises. In other words, it could be said that suggestions for solving humanitarian intervention could also help solve problems related to R2P. In order to do that, different suggestions have been put forward.

First, in order to stop debates about the great powers pursuing their own interests thereby abusing the R2P, decisions regarding how to invoke R2P must be made through a new decision-making mechanism. This mechanism must consist of ideas from more than five states with a broader sense of representation across the whole world. Ayoob (2010) argues that the Euro-American origin of permanent members of the UNSC should be changed to a wider participation. Besides, adding new members to the UNSC could be another solution. However, in that case it would be argued whether those new comers should have veto rights or not. Moreover, one of the most important problems of R2P is that it is not binding on states. The 2001 ICISS Report and paragraphs 138 and 139 of the 2005 World Summit Outcome Document describes when and how to invoke the norm, but these are not necessarily binding documents, so they lack the legal basis to impose sanctions or punishments on non-implementing states. The signing of a binding international treaty on R2P implementation could also be a solution. This might prevent the unsteady policies of the UNSC. On the other hand, Hehir (2017: 341) argues that recognizing R2P as a legal norm or conferring a binding effect on it would not necessarily change the behavior of states. International law contains many legal principles, but they still are violated by

states. Over the years, people have witnessed violations of sovereignty, self-defense or prohibition of use of force. Due to these, R2P as a binding norm would not be more effective than existing binding norms. Officially enforcing sanctions would bring more deterrence and have more shaming powers that means states would think twice when conducting relations with other states that do not comply with the rules R2P requires.

Other proposals for UN reform and legitimization of intervention is forming a new body within the UN that only deals with military intervention or in the case of military intervention readjusting UNSC system where votes of 2/3 majority of fifteen members would be enough to take decision (Gilman, 2017: 32). In fact, a similar approach was recognized in 2001. The ICISS Report mentioned that urgent situations consisting many civilian deaths could be referred to the UNGA in an Emergency Special Session under the "Uniting for Peace" procedure. The other option could be giving the authority to conduct a military action to a regional or sub-regional organization under the jurisdiction of UN Charter Chapter VIII. This action will still need UNSC approval, but it increases the possibility of involving the international community (International Commission CFR, 2001). Another reform proposal for the UN is removing UNSC's jurisdiction in the case of intervention. Ayoob (2010: 136) argues that establishing a 'Humanitarian Council' within the UN to deal with decisions of humanitarian military interventions instead of UNSC could be the way forward. Similarly, Gilman (2017: 33) mentions establishing a Humanitarian Response Council within the UN that is responsible for monitoring critical situations around the world that may require humanitarian intervention. Besides, according to Badescu (2007: 53), there is a consensus that UN authorization obstructs the protection of basic human rights in internal conflicts. Hence, establishing a new legal framework could be one of the solutions. Also, a new structure could be arranged altogether to deal with only humanitarian issues. Hehir (2012: 210) recommends establishing a judicial body that works in the case of the UNSC failure to react. Further, he suggests the establishment of a standing UN army to conduct a quick reaction to human rights violations. Roff (2013) proposes the establishment of an independent Responsibility to Protect Institution (R2PI) that refers matters to the UNGA, urges the deployment of UN Rapid Reaction Force (RRF) and executes arrest warrants in addition to acting as a military force. While some discuss the possibility of carrying out an

intervention without the UNSC authorization,[3] Gözen Ercan (2016: 178) suggests that R2P and decisions regarding use of force should be made by General Assembly instead of Security Council.

After all, it could be argued that what is problematic is not necessarily R2P but the UN system. This is because R2P does not have any binding effect on states and has not become part of customary international law. In order to invoke R2P, joint action of the international community is required but this has been hard to achieve over the years. The question rather is non-implementation than bad implementation. Some have argued that the fact there has been no world war since the founding of the UN shows that the system has been successful. Others have questioned the logic of changing this system. Although the UN has failed in preventing a number of conflicts, it is not unheard of in proposing possible reforms to make it work better. However, no one can assess how successful this proposed new system would be, also, the coordination of any alternative system would be too difficult (Krisch, 2006: 14). Moreover, any reform proposal has to be presented to the UNSC for approval, specifically to the P5. In other words, the ensuring the willingness of the P5 to change the UN system is a must.

In order to identify the tasks ahead, it helps to provide an overview of what has already been discussed under the roof of the UN. In relation to the practice of R2P by the UN, there initiatives have been introduced. These are Responsibility while Protecting (RwP), Code of Conduct, and the Human Rights Up Front initiatives.

3.2.1. Responsibility While Protecting (RWP)

After the Libya intervention, R2P received numerous criticisms. One of the major criticisms was that it could not stop the misuse of humanitarian intervention. In the Libyan case, the UNSC invoked R2P and authorized NATO forces to enforce a no-fly zone for the purpose of the protection of civilians. In light of the questions regarding the limits of

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[3] As to how an intervention should be carried out, there are different suggestions: Hoffman (1992: 41) suggests the signing of a treaty that and establishing a secretariat that would arrange intervention based on humanitarian grounds. Authorizing humanitarian military intervention with a treaty or using force without UN authorization can be seen as the dilemma of developing countries. They are the ones who suffer most from interventions and indeed the most likely hosts of future military interventions. They are therefore very critical on issues surrounding sovereignty and usually claim must have priority in expressing their right of consent. A different point of view about this issue comes from a view presented by the British government that interventions should be held without UN authorization in the cases when UN is paralyzed because of blockage through the veto power system (Booth, 2013).

NATO's mandate and its partiality in the case of Libya, Brazil launched a proposal entitled "Responsibility While Protecting: Elements for the Development and Promotion of a Concept" on 9 November 2011. Although some perceived RwP as an effort to create an alternative to R2P, it was rather a contribution to it because it proposes a solution to some of the alleged problems of R2P (Wright, 2012: 2; Quinton-Brown, 2013: 63). Also, despite the fact that RwP came in the aftermath of the Libyan intervention, it does not necessarily mean that it is motivated by actions in Libya. It revives broader questions about security and humanitarian interventions. In the broadest sense, RwP contributes to the debate of establishing a set of guidelines for the UNSC in the case of an R2P-based intervention. These guidelines are to focus on two issues: limiting the use of force, and the strict chronological sequencing of R2P's three pillars (Kenkel, 2016). In other words, RwP wants to establish strict criteria for the use of force in order to make sure that an intervention is conducted only for humanitarian purposes (Wright, 2012: 1).

The concept offers nine policy suggestions to consider, they could be categorized under three groups. First, there is the need to improve preventive and non-coercive measures in the implementation of R2P. With this, there is an emphasis on capacity building to prevent crises as much as possible. It urges that compelling measures be subject to political and diplomatic strategies. Second, similar to the ICISS report, Brazil's proposal emphasizes a set of criteria for military intervention. Accordingly, military intervention must be used as a last resort, and terminated within reasonable time, and it should comply with the objectives set out in international law. Besides, the use of force must be authorized by the UNSC and in exceptional cases by the UNGA in accordance with the Uniting for Peace Resolution. Lastly, the proposal calls for the establishment of a monitoring and review mechanism for evaluation of the mandate of the Security Council (UNGA-SC, 2011; Tourinho et. all, 2016: 138).

Ban Ki-moon in his 2012 Report defined the basis of RwP as "doing the right thing, in the right place, at the right time and for the right reasons (UNGA, 2012a: 14)." Essentially, the first responses to RwP were very positive. Groups such as the Union of South American Nations (UNASUR), the Arab League, and the South Atlantic Peace and Cooperation Zone (ZOPACAS) became prominent supporters of this initiative (Gözen Ercan, 2016: 120). Yet, P3 countries namely France, the UK and the US were skeptical about RwP since they thought it was introduced to criticize the Libya intervention. For

instance, France thought that RwP was nothing but a tool to complicate the life of the P5 (Tourinho et. all, 2016: 140). Another criticism came from German UN Ambassador Peter Witting in 2012. Germany raised their concerns and questioned how RwP was related to early and timely response. According to this view, RwP rather limits the scope for timely and decisive response to mass atrocities, so this situation will reduce the use of R2P. Moreover, another argument of RwP dissenters is that it is a "Trojan horse", aiming to limit Western states' autonomy and delay intervention (Quinton-Brown, 2013: 66). Besides, RwP was criticized as bringing very little addition if any to R2P debates. This view says the Brazilian proposal repeats provisions already existing in the 2001 ICISS Report.

Brazil has been one of the countries that has given importance to the R2P since its first introduction. The reason why they came up with RwP was because of a desire to improve R2P. Another reason however, was that it wanted to be recognized as a global power. Brazil has applied non-interventionist policies for years. However, their rising power status, as well as efforts to get a chair at the UNSC led them be a supporter of R2P. In fact, contributing to the R2P which was advancing towards becoming a global norm was important in this direction as they wanted to be known as a norm entrepreneur. Moreover, global powers often come to the forefront with their commitment to democracy and human rights. Therefore, Brazil wanted to show that they were a democratic country committed to human rights (Benner, 2013: 3). During the Libyan crisis in 2011, Brazil was a non-permanent member of the UNSC. They abstained from Resolution 1973, which was the foundation for the determination to take all necessary measures. Moreover, Brazil chose to abstain one more time for a resolution regarding the condemnation of human rights abuses in Syria. This was heavily criticized, but on 3 August 2012 they voted in favor of the UNGA Resolution 66/253B and condemned human rights violations in Syria. This situation increased the interest in RwP. However, especially after its term as a non-permanent member ended, Brazil did not put much effort into pushing the concept forward, so the emerging RwP coalition could not be enlarged (Benner, 2013: 8). Although it attracted the attention of Northern and Southern countries and shaped R2P discussions for a while, it could not be the solution to make R2P a better functioning norm because it focused on the manner of implementation rather than ensuring the implementation itself (Gözen Ercan, 2016: 121). Moreover, it was considered as too

restrictive and due to Brazil's lack of experience in norm entrepreneurship it could not offer new ideas in subsequent times (Kenkel, 2016).

3.2.2. Code of Conduct

As discussed previously, the failure of the UNSC to protect civilians mostly stems from the use or threat of veto. What is interesting is that while most R2P opponents refer to coercive R2P measures as a violation of the principle of sovereign equality, the veto right itself—which is the most prominent factor preventing the invocation of the R2P—could also be considered as a violation of the principle of sovereign equality (Fassbender, 2004: 351). It means that the existence of the veto power is violating the principle of equality of states because some states are granted with special rights, which makes them superior to other states.

The 2001 ICISS Report called the P5 for restraint on veto through 'Code of Conduct' in cases of humanitarian crises. Then Secretary-General Kofi Annan in his High Level Panel Report brought this idea again on the agenda in 2004. Former Secretary-General Ban Ki-moon also commented on it in his 2009, 2015 and 2016 reports and recommended the UNSC to voluntarily refrain from using the veto in mass atrocity crimes. In addition, in 2013, French Foreign Minister Fabius ignited a debate on voluntary restraint of the veto in R2P situations. Later, French President Hollande in his speech at the General Debate of the 68th Session on 24 September 2013, criticized the inaction of the UNSC on Syria and underlined the fact that veto right of P5 was the cause of the problem. He remarked: "the most serious threat of all was inaction; the worst decision was no decision; and the worst danger was to see no danger. Every time the United Nations did not act, peace suffered." Accordingly, he called for a "code of good conduct" that relied on the mutual commitment of the P5 to temporarily leave aside their veto rights when a mass atrocity is being committed (ICRtoP, 2014).

According to the French proposition, a code of conduct could work in practice in case a referral of a situation is made to the Secretary-General by at least fifty members of the UNGA. Once the Secretary-General detects the commitment of one of the four atrocity crimes, the code of conduct would enter into force (UNA-UK, n.d.). Besides, the French side argued that this proposition, coming in the wake of inaction in Syria, could help in many ways, for instance, it will increase the legitimacy and maintain reliability of the

UNSC in terms of being a constructive negotiating power; and also direct the will of the international community to prioritize the protection of human life; and lastly, to prevent member states from becoming prisoners of their own principled positions. However, in practice the applicability of restraining the veto is controversial, because it is based on a voluntary renunciation of the veto by P5 members themselves. Besides, national interests may always prevent the display of good faith among the P5 countries.

Nevertheless, the 2009 UNSG report on implementing R2P supported the suggestion for restraining the veto in cases of mass atrocities. Besides, French diplomats continued their work in this direction. In 2015, they launched a "Political Declaration on suspension of veto powers in cases of mass atrocity" and as of June 2017, the Political Declaration has come to be supported by 96 member states (Globalr2p, 2018). Similarly, in this respect, The Small Five initiative (S5), led by Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland came up with a resolution in the UNGA on the transparency of the UNSC. Basically, they asked P5 states to explain why the veto has been employed or considered in each situation. However, this resolution was withdrawn later due to pressure from the P5 (UNA-UK, n.d.). In expanding upon this failed work, the Accountability, Coherence and Transparency (ACT) Group was introduced by 21 countries in 2013. They called upon all members of the UNSC not to vote against any draft resolution that intends to prevent or halt mass atrocities. On 23 October 2015, the Foreign Minister of Liechtenstein officially launched the Code of Conduct and as of April 2018, 114 member states and 2 observers had signed the Code of Conduct (Globalr2p, 2018).

3.2.3. Human Rights Up Front

It is well known that former Secretary-General Kofi Annan was very interested in improving human rights. Ban Ki-moon, who came as a successor, followed by the initiatives of Annan, and repeatedly draw attention to instances when the UNSC failed to act regarding human right violations. Thus, as a more concrete step, he started 'Human Rights Up Front (HRUF)' initiative in September 2013 in order to strengthen the efforts involving the prevention of human rights violations within the UN system. The main purpose of the initiative is to provide cultural change within the UN system, by raising awareness among staff and UN entities for broader responsibility in support of the UN

Charter and overall UN mandates (Gilmour, 2014: 240). It could thus be said that the action plan was announced to ensure that the UN prioritizes the protection of civilian and human rights issues.

The root of this initiative is the UN's failure to respond to the long-running civil war in Sri Lanka. HRUF was launched to avoid such failures in the future. It requires actions such as the development of early warning systems and crisis management, flow of true information among members, improving communication and raising awareness (Kurtz, 2015: 15). Basically, Rights Up Front seeks to prevent human rights abuses before they reach the level of mass atrocities, so it emphasizes timely reporting and early warning. In the case of the occurrence of mass atrocities, the UN's main priority must be the protection of civilians. In order to do that the action is planned through six main areas.

The first is to place the idea of human rights at the base of the Organization in order to make sure that all staff members are aware of their own and the Organization's obligations. The second action is to provide member states with the flow of information about people who are subject to serious violations of human rights and humanitarian law. The third area is to ensure coherent action strategies and strengthen the capacity of the UN System to respond in a harmonious manner. The fourth action focuses on facilitating early and coordinated action by developing communication between the Headquarters and the field. The fifth action plan is about strengthening the UN's human rights capacity through advancing the coordination among its human rights entities. The last action plan aims to develop a common UN system for information management on serious human rights and humanitarian law violations ("Human Rights Up Front" Initiative, 2013).

Ban Ki-moon also mentioned the Human Rights Up Front initiative in his UNSG reports as an "effort to increase the preventive capacity of UN in the case of serious violations of international human rights and humanitarian law and to better mobilize member states' political support" (UNGA-UNSC, 2015: 16). Since this initiative aims to improve the UN on the protection of civilians and prevention of mass atrocities, it has potential to consolidate R2P. However, as Gözen Ercan (2016: 124) argues, it does not require a radical formal change and compared to the aforementioned initiatives it is rather a long-term effort.

3.3. R2P AND INTERNATIONAL COURTS

One of the main problems of R2P is that it is not a binding international law norm. It means, states could not be punished in the case of failure to invoke R2P. In order to make R2P an effective norm, legal mechanisms need to be strengthened to direct states to fulfill their responsibilities. Therefore, the relationship between R2P and international courts such as the ICJ and the ICC becomes important.

Established in 1945 by the UN Charter, the ICJ is the principal judicial organ of the UN. It resolves the issues between member states and gives advisory opinions. According to Article 93 of the UN Charter, all UN member states are parties to the ICJ. Besides, non-member states can also become parties to the Statute of the ICJ on conditions determined by the UNGA upon the recommendation of the UNSC. Moreover, Article 94 of the UN Charter reads, "Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party." However, the jurisdiction of the Court is based on the consent of parties according to Article 36 of the Statute of the ICJ. Therefore, it does not have automatic jurisdiction. However, an ICJ with automatic jurisdiction over R2P cases could be useful for better implementation of R2P in terms of punishment and deterrence against perpetrators (Gözen Ercan, 2016: 93).

The ICC has power to exercise jurisdiction over individuals for the most serious crimes, namely genocide, war crimes and crimes against humanity. Any state party to the Rome Statute automatically becomes a member of the ICC. The Rome Statute was adopted in 1998 and entered into force in 2002, so the ICC started its official operations in 2002. Its jurisdiction depends on certain conditions. ICC could act only if individual states or UNSC refer a case to the court and in the case national courts are unable or unwilling to deal with the issue. This principle is termed as complementary in Rome Statute. When the UNSC refer a case to the ICC, all UN member states are obliged to collaborate because the court's decisions are binding on all of the members. From R2P's point of view, Ainley mentions (2015: 37) that although they are not formally linked ICC and R2P are two of the most important developments of human rights in recent years. The 2001 ICISS Report welcomed the Rome Statue and defined referral to ICC as one of the measures taken under the responsibility to prevent element. As mentioned before, with the limitation of the WSOD, the UNSC could only invoke R2P in the case of four atrocity crimes. Apart from

ethnic cleansing the other three atrocity crimes also described as crimes under the ICC's jurisdiction are genocide, war crimes and crimes against humanity are. In relation to this, former Secretary-General Ban Ki-moon stressed that regardless of their treaty obligations states were already prohibited to commit atrocity crimes under customary international law. Also, although ethnic cleansing is not defined as a distinct crime under international criminal law, it has the analogous combination of acts that could constitute genocide, war crimes and crimes against humanity (UNGA-SC, 2013: 3). Besides, in his 2009 Report he mentioned the benefit of an advanced relationship between ICC and R2P. Ban said when states fail to prevent their populations from specific crimes, the international community should remind them that they might be referred to the ICC to be prosecuted (UNGA, 2009: 23). Acharya (2013) states the relationship between R2P and ICC and considers it as a step to "strengthen global diffusion of the norm." Moreover, ICC's Chief Prosecutor, Fatou Bensouda said: "The Court should be seen as a tool in the R2P toolbox." According to Gözen Ercan (2016: 137), ICC could assist R2P in two ways: first, determination, which implies, unveiling that a certain state has failed to protect its population from genocide, war crimes, crimes against humanity and ethnic cleansing; second, enforcement, meaning paving a way to take measures in stopping those crimes by detecting individual perpetrators as guilty.

In terms of the cases, it is said that Libya gave R2P a bad name. The UN referred the case to ICC with Resolution 1970 correctly, but NATO exceeded its authority after the reaction stage and this reflected on the question of Syria. Moreover, the international community's actions were criticized with being selective when they choose to invoke R2P (Ainley, 2015: 41). The discussion surrounding this is the same when UNSC refer cases to ICC. Therefore, both R2P and ICC are criticized as being a tool for great powers. In order to see how effective ICC is we could look at Libya and Darfur cases. Ainley argues (2015: 44) that "none of the ICC arrests in Darfur and Libya were executed, and there is no provision for automatic travel bans or asset freezes for those against whom the court has issued arrest warrants." It shows that ICC is at least as problematic as R2P. Therefore, commitment to ICC is necessary from the international community in order to meet its responsibility to protect function.

In short, prosecuting the leaders of states who are responsible for mass murders at the ICC could create a deterrent effect for the future. As Fatou Bensouda said, this might

cause the states to think twice when they are unwilling to protect their populations from same crimes (ICRtoP, 2012). Therefore, developing the relationship between R2P and ICC in a complementary way could help the functioning of R2P. It would be a naive expectation to assume that states will act in favor of human rights through their own moral motives, unless there is punishment, sanction or deterrence it will not work. Even if a state does act with moral motives and save civilians from violations of human rights in one case, it may not show the same behavior for another. Therefore, turning R2P into a legal norm would be significant in ensuring that states act in the face of human right violations.

Strengthening international courts like the ICJ and the ICC could help to limit reluctance of states to invoke the R2P in cases where mass atrocities happen. States act more responsibly if they know there would be legal consequences of their actions such as inaction for human rights violations, false invocation of R2P or extending mandate and losing impartiality during R2P-type action. In other words, R2P would function better if international courts ensure legal measures. In order to secure this, establishing an influential and impartial institution for implementation would be a good idea (Gözen Ercan, 2016: 135). This is because, in terms of rules and regulations, international law and R2P have many, but convincing states to adhere to them is the problem. Furthermore, protecting human rights is already a common obligation for individual states. The Geneva Convention and the Rome Statute currently present a legal machinery to prevent atrocities like genocide, war crimes and crimes against humanity. However, ensuring compliance from the international community should be the matter of utmost importance. This is because, the 2005 WSOD does not define any legal obligation for states to invoke R2P in case of atrocities. Yet, in order to make R2P a widely recognized norm developing the legal dimension is an important step.

3.4. WHAT IS NEXT FOR R2P?

Irrespective of its relative successes, failures and problems of implementation, R2P has been relative norm over the last seventeen years. There are both positive and negative opinions surrounding the debate about the future of this norm. As one of the pessimists, Pavone (2017) argues that after the international community's failure to invoke R2P in the case of Syria the norm's credibility is at an all-time low. Hehir (2017: 342) adds that

there is a sense that R2P will function better in time, however, the future of the norm remains questionable. He says: "Of the fifty-eight resolutions passed that refer to R2P, only five even acknowledge the existence of Pillar III, the external responsibility of the international community. The rest refer to R2P only in the context of the host state's responsibility." Further, he underlines that the P5 are using R2P to justify their inaction by deflecting responsibility towards others. In other words, these states are entering a dead-end road saying that inaction stems from the use of veto of the other members. However, it is arguable whether states use veto because of their respect to sovereign equality or their national interests. Consequently, these discussions are putting R2P into a negative pattern of development. Rieff (2011) argues that since the international community failed to invoke R2P for Syria, it is hard to invoke it for other cases, so it is dead. Nuruzzaman (2013: 58) also argues that R2P is dead because of NATO's abuse in Libya and inaction in Syria proves it while Murray (2013: 228) notes, R2P was noble, yet it was understandable to deny its usefulness. All these opinions demonstrate that the doctrine has a bleak future ahead.

However, there are also optimistic views about R2P's future. Gholiagha (2015: 1087) mentions that in order to prevent "future Rwandas and future Kosovos," the international community should view R2P as a starter for relevant debates. Moreover, according to Welsh et. al. (2002: 494) the concepts of sovereignty and intervention should be seen as complementary instead of contradictory. There was a need for reshaping the concept of sovereignty and R2P made it. Therefore, it a useful norm. Dunne (2013: 520) argues that the introduction of R2P reduced the possibility of non-intervention in the case of mass atrocities. R2P helped to raise awareness about mass atrocities and in the future, it will be more difficult to condone human rights violations. According to Gifkins (2016: 160), "unlike the general idea about R2P that it lost its reliability after Libya, the discourse of the UNSC resolutions shows it that it has become easier to reference R2P after 2011." Besides, Weiss (2014: 17) indicates that "it would be wrong to say that R2P has died in spite of ongoing human rights violations in Syria." Similarly, Bellamy (2012: 21) underlines that "R2P has never been more alive and relevant." Former Secretary-General Ban Ki-moon's dedication to R2P is another reason to be optimistic about its future. In 2011 Report, he remarks that "debates now are about how to implement the responsibility to protect. No government questions the principle."

Evans (2014) is optimistic about the future of R2P too, and he presents three reasons for this. First, there is a definite consensus on the principles that R2P brings. Everyone believes that there should be the prevention of mass atrocities through humanitarian interventions. Every state also agrees that sovereignty brings responsibility. Second, although there is no complete implementation of R2P other than Libya, the UNSC has referred to this emerging norm many times. The reference made to cases such as Yemen, Libya, Mali, Sudan, South Sudan and the Central African Republic shows the relevance of R2P in terms of the UN's commitment. Third, despite the inaction for Syria there is a new dynamic in the UNSC that would over time enable consensus. RwP is an example for this as states are trying to find ways to develop R2P. Even, the problem of veto powers has become a much-discussed topic in the recent years.

Referring to the examples of the UNSC resolutions mentioning R2P—as in the cases of Côte d' Ivoire (Resolution 1975), South Sudan (Resolution 1996), Yemen (Resolution 2014), and Darfur (Resolution 1706)—Adams (2014) states that R2P is a norm that is used regularly with a room for development. While acknowledging that the Libya mission was a "mission creep," quoting Edward Luck, he says that "R2P is the fastest developing international norm in history." In fact, he adds that R2P is no longer just a moral abstraction, but also one of the most important parts of the debates about the measures to be taken to prevent civilian deaths. Lastly, Start (2016: 82) mentions the difficulty of international norms to be accepted by everyone. She says, "in order for international norms to develop, a great amount of time and persistent energy is required." For example, it took many years to accept democracy as the dominant system of governance in world and it still has room for improvement. Concepts such as sovereignty and human rights, which are central to R2P, could be improved through the successful implementation of R2P. Development of a stable liberal democracy went through phases and struggles. Similarly, cases like Libya and Syria are struggles of R2P. Consequently, "R2P will gain from those endeavors and end up as a strong international norm" (Start, 2016: 82).

Clearly, the 2005 WSOD limited R2P in many ways. However, this may be the reason R2P has not become an operative norm. It was introduced with a broader mandate in the 2001 ICISS Report and to apply R2P as first introduced (including the rebuilding stage and Uniting for Peace procedure) may be the solution to ensure its timely use. The best option to make R2P more applicable in a timely and decisive manner is by preventing the

use of veto in the UNSC decisions designated to end mass atrocities. Otherwise, it cannot go beyond a moral norm as it does not have any binding effect. After all, as the case studies of Syria and Nigeria has showed, there are many obstacles to overcome before R2P can be invoked as a fully functioning norm. The steps needed to achieve this are however, not impossible.

CONCLUSION

This thesis aimed to reveal a need to improve R2P. The first development in this direction is seen as bringing new regulations for the actions of non-state armed groups. In fact, the ICISS Report mentions the importance of assisting victims of terrorism and international community's assistance to combat terrorism. The importance of recognition is referred to in international cooperation to fight against terrorism in accordance with international law (UNGA, 2005: 22). The 2005 WSOD gave place to terrorism from Paragraph 81 to Paragraph 91. Moreover, within the context of R2P, Ban Ki-moon in his 2015 Report introduced terrorist activities of non-state armed groups and the impact of new technologies as two new challenges for R2P to adjust itself.

Together with the globalization and development of technology the number of actors in the international system has increased. There are companies and NGOs that have the larger economies than many states. They have major implications for decision-making processes that affect the international system. Moreover, terrorist organizations now are able to access to weapons more easily. They changed their forms of actions. The aim of terrorist organizations, which used to be revolting against states and creating climate of fear among citizens has changed to establishing their own states. There are some terrorist organizations, who rule their own territory, establish trade relations and fund themselves. Therefore, international community has to change the way it responds to these non-state armed groups. There are even evidences that some non-state armed groups are committing war crimes, crimes against humanity and even genocide. Since these crimes are determined as mass atrocity crimes that could be a reason to invoke R2P at 2005 WSOD, whether it is an act of state or terrorist organization, international community should give the necessary response.

In order to demonstrate the situation mentioned above, Nigeria and Syria were chosen as case studies due to the activities of terrorist groups such as Boko Haram and ISIS, which are committing atrocities crimes. Uprisings and terrorist activities easily occur in the African region because of low living conditions, high unemployment rate, low levels of education, growing poverty, ignoring of basic human security priorities, and poor leadership. Nigeria is one of those countries, which is trying to deal with many issues including terrorism. Boko Haram is forcing people to religious conversion, it is abducting

women and little girls from schools, and controlling certain territories in the region. Nigeria is very close to a "failed state" situation and the government is unable to respond against Boko Haram actions.

Moreover, in Syria, ISIS organized many deadly attacks and seized many lands. There are evidences that they are committing genocide, so the UNSC should invoke R2P in order to save populations. They are a group that kill every soldiers and civilians without a distinction. Assad regime in Syria is struggling with civil war since 2011 so government's authority has weakened. The UN, with many resolutions, has held ISIS responsible for human rights abuses and war crimes. Nevertheless, despite an ongoing war under the banner of the fight against terrorism, there are no concrete steps taken by the international community to stop the mass atrocities in an effective under the framework of R2P. However, it is arguable whether this inaction stems from the failure of R2P or failure of the UN system, particularly the UNSC.

In this regard, at a time when R2P's future is being discussed it is important to see R2P from a perspective that has so far been disregarded. It is argued that the veto right of the P5 has been blocking R2P's progress. For example, although there are some efforts to end the Syrian conflict, Russian vetoes has led to inaction by the UN, therefore the situation got worse in the absence of an international commitment to take early action. This case has reignited debates on whether the UNSC is the right authority to invoke R2P or not. Therefore, there are some reform proposals for UN such as establishing a new decision-making mechanism, adding new members to UNSC, removing the UNSC's jurisdiction in the case of intervention, establishment of a standing UN army, readjusting UNSC system, and authorizing UNGA for the decisions regarding use of force and R2P. Moreover, in relation to the practice of R2P, three initiatives have been introduced: Responsibility while Protecting (RwP), Code of Conduct, and the Human Rights Up Front initiatives. However, it is difficult to say that they have been successful to make R2P a better functioning norm.

Considering all reform proposals, this thesis argues that, while the legal mechanisms should be strengthened to ensure that states are protecting their populations, there is also need for making the responsibility of the international community a legally binding one,

so that inaction in the face of mass atrocities would have consequences for those blocking timely and decisive protection for populations.

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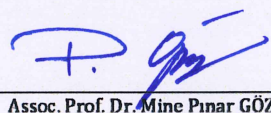
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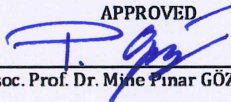
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APPENDIX 1. Ethics Board Waiver Form

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1. Does not perform experimentation on animals or people.
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I respectfully submit this for approval.

28.06.2018

Date and Signature

Name Surname: Çağlar AÇIKYILDIZ

Student No: N14220276

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Status: ☒ MA   ☐ Ph.D.   ☐ Combined MA/ Ph.D.

ADVISER COMMENTS AND APPROVAL

Assoc. Prof. Dr. Mine Pınar GÖZEN ERCAN

APPENDIX 2. Originality Report

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Assoc. Prof. Dr. Mine Pınar GÖZEN ERCAN