

## The United Nations and the Responsibility to Protect (R2P) in International Relations

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### Abstract

The study examined the Responsibility to Protect (R2P) precept of the United Nations in the enhancement of international relations. The theoretical framework adopted was collective security that threats to lives in any State requires collective action to address. The (R2P) doctrine was espoused to check State excesses on their citizens. The work noted the successes of the implementation of the R2P in few States as Mali, Cote d'Ivoire, Libya, with slight conks. Hitches in the full realization of the R2P in other States including Sudan, South Sudan, Syria, Myanmar etc are not just on the threat to sovereignty but, to the complexities in the evolving trends in international relations. Notwithstanding, the R2P shows a collective resolve to promote some of the cardinal principles of the 1948 Universal Declaration of Fundamental Human Rights. The work recommends among others, the establishment a coherent, coordinated and joint response mechanism by All, in the spirit of co-operation and collaboration for a peaceful world.

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### **Background to the Study**

The international society has grown with increased relationships among States and so many other developments. International law evolved with the need to regulate these relationships and development, and set standards through bilateral and later multilateral diplomatic conferences. According to Inis 1971, diplomacy by conference became an integral part of world politics in the 19<sup>th</sup> century and was more than the mere multiplication of multilateral convocation, but featured the assumption of special status and responsibilities by States. The 1815 Congress of Vienna which marked the end of the Napoleonic wars, was the first attempt to create a standing conference of European powers. Many other diplomatic conferences were held between 1820 and 1885 in Europe, that brought about co-operation in communication, transport, public health and economic fields. From this Conference, Europe became a political and geographical community. The Conference established the principle of joint consultation and collective diplomatic treatment of major international issues. It laid the foundation for multilateral negotiation.

The difficulties and opportunities offered by the unprecedented international flow of commerce in goods, people, ideas, germs and social ills, created need for international unions to tackle them. So many International Unions, like the International River Commissions, International Telegraph Union, Universal Postal Union, Metric Union, Copy Right Union etc were established. For Inis 1971, the world witnessed appropriately similar and simultaneous national and international adaptations to new conditions of complexity that necessitate the redefinition of jurisdictional boundaries to correspond with the expanding territorial scope and problems, requiring solutions, as well as the redefinition of the functional responsibilities of governmental institutions to correspond with the expanding areas of matters requiring regulation. The international organisations initiated a trend towards international control of evolving subjects with international relations. While the Concert of Europe stood for compromise, and the Hague Conferences of 1899 and 1907 stood for regulation, the Public International Unions, stood for co-operation. According to Baylis and Smith 1997, all these contacts involved dialogue, collaboration, exchange, communications, recognition and similar non-belligerent relations. For Shaw 2000, these associations fulfilled an increasingly felt need for more sophisticated methods of international co-operation and regulation in an interdependence world. Concepts such as Permanent Secretaries, Periodic Conferences, Majority Voting, Weighted Voting and Proportionate Financial Contributions, introduced by these Unions, also strengthened administrative co-operations and laid the basis for contemporary international institutions.

The League of Nations created after the First World War (WWI) in 1912, was the first global comprehensive organisation. The failure of the League of Nations to avert the Second World War (WW2), led to the creation of the United Nations in 1945. Other international, regional, sub-regional and security arrangements also emerged. The formation and establishment of the United Nations (UN) to replace the League of Nations marked significant milestone in the history of international relations. According to Inis 1971, international organisations represent an attempt to adapt institutional procedure and rules of international relations to

the conditions of international interdependence. International organisation developed out of the existence of objective facts and conditions that the world must be divided into a number of States who function as independent political units, and a substantial measure of contact must exist between them. The UN came as a permanent conference of State for multilateral diplomacy and can be seen as the theatre of world politics. According to Bosco 2009, the UN is a world of international relations unto itself. It was in large measure, a product of a realistic assessment of, and response to the realm of world affairs and the structure of international relation.

The major foundation on which the UN was laid was co-operation and collaboration, well laid out in her Charter. The UN efforts to promote and realise these noble objectives have led her into creating and adopting various mechanisms, among which is the Responsibility to Protect doctrine. The R2P creed is a UN initiative aimed at preventing and halting mass atrocity crimes against humanity and ethnic cleaning. It is an emerging norm in international relations, and provides a framework for using leading existing conflict resolution mechanisms to prevent mass atrocities. According to the International Commission on Intervention and State Sovereignty (ICISS), when State fails to fulfil its fundamental role, the responsibility to protect devolves upon member States of the international community (ICISS Report 2001). This is based on the idea that sovereignty is not a right but a responsibility built on the pillars, that a State has a responsibility to protect its population from mass atrocities, and the international community has a responsibility to assist the State fulfil its primary responsibility, and where the State fails, the international community has the responsibility to intervene.

From the evolution of the modern nation States, this thought is alien to the concept of statism which is enhanced by sovereignty. In international law, sovereignty is closely tied with State, as the absolute and unlimited authority in a State to which all persons are subject to. The impact of the doctrine has been in the relations between States who saw themselves a sovereign, and had the authority to do anything that affects their interests. However, from the 20<sup>th</sup> century, restrictions on the freedom of actions of States began to appear, introducing restrictions in the original concept of sovereignty. The progression of these restrictions from the Hague Conferences of 1899 and 1907, to the Covenant of the League of Nations, the Brian Kellog Pact of 1928, to the UN from 1945, dovetailed to the R2P doctrine of 2001 when the ICISS identified it as an emerging principle of international law. The objective of this study is to examine, analyse and ascertain the effectiveness of the UN in using this mechanism (R2P) to achieve its responsibility for the enhancement of international relations.

### **Theoretical Framework**

The theory for this study is anchored on the collective security doctrine as expressed in the United Nations institutional mechanism. The UN as the most famous international organisation represents an attempt to adapt institutional procedure and rules of international relations to the conditions of international interdependence. According to Inis 1971, international organisation developed out of the existence of objective facts or conditions that

the world must be divided into a number of States who function as independent political units, and a substantial measure of contact must exist between these subdivisions. International law grew out of the need to, not only regulate these relations, but also set common standards through bilateral and later multilateral diplomatic conferences, from the 1815 Congress of Vienna, to the League of Nations and to the United Nations. The Conferences established the principle of joint consultations and collective diplomatic treatment of major international issues built up in the doctrine of collective security.

According to Mac-Ogonor 2000, the theory rests on three basic assumptions

- i. All nations share a primary interest in maintaining peace.
- ii. Peace is indivisible and threat to peace everywhere, must be treated as the concern of all.
- iii. All members must agree in advance to react promptly and effectively against threats to peace, and must be organised in such a way to provide the procedure for collective response.

The UN Charter in its universal structure, forms the basis for the collective security doctrine, whose execution and implementation resides with the United Nations Security Council and the UN General Assembly. Collective security assumes the satisfaction of an extra ordinarily complex network of requirements which might involve the sacrifice of national interests, spelt out in the R2P concept. Chapter 7 of the UN Charter empowers the UNSC for the maintenance of peace and security. Under Article 29 in the chapter 7, the Council is empowered to establish such Subsidiary Organs, as it deems necessary for the performance of its functions. In practice, the subsidiary organs have become standing Bodies like; the Sanctions Committee, the Counter Terrorism Committee etc including the International Commission on Intervention and State Sovereignty, that innovated the Responsibility to Protect (R2P) ideology, promoting the 1948 Universal Declaration of Human Rights.

The Security Council can be seen as a political body and a legal instrument. Her resolutions are legally binding. Since the end of the Cold War, it has deployed the instruments of international law, through Courts, Tribunals and Commissions of Inquiry in new and innovative ways. According to Hurds 2007, the Security Council is the executive agency of the UN on matters of international peace and security. The Councils most tangible products are its formal Resolutions, and Presidential Statements; carefully negotiated Statements of Intent, Resolve, Concern or Action that together, make up the Councils most tangible contributions to world politics. The extent of the Councils efforts in the R2P creed in enhancing international relations is the focus of this study.

### **The United Nations**

The United Nations (UN) as the most distinguished international organisation, has enhanced international relations. The UN was established on 24<sup>th</sup> October 1945, when the Charter was ratified by the United States, the United Kingdom, France, China and the Soviet Union and by a majority of other signatories of 46 States. The Charter has continuously

attracted the attention of States, that it has about 193 States at present. The universal nature of the organisation and its primary objectives and principles are clearly captured in the preamble:

*We the people of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, the dignity and worth of the human person, and the equal rights of men and women and of nations, large and small, and to establish conditions under which justice and respect for the obligations arising from treaties...*

The sense of horror evoked by the hostilities of genocide and flagrant disregard of human rights during the war, strengthened the search for a more effective system of a common law under which the right of the human person, whether individual, or in association with his fellows could be more effectively protected. (Shearer 1994). This is the foundation of the Responsibility to Protect (R2P) doctrine. Article 1 of the UN Charter states the purposes and principles of the organisation as follows:

1. To maintain international peace and security and to that end, to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about, by peaceful means, and in conformity with the principle of justice and international law, adjustment or settlement of international disputes or situation which might lead to breach of peace.
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of people, and to take other appropriate measures to strengthen universal peace.
3. To achieve international co-operation in solving international problems of economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, creed, language or religion.
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends (Obiozor 2011).

On its establishment, the UN was organised in six divisions including:

- i. The General Assembly
- ii. The Security Council
- iii. The Economic and Social Council
- iv. The Trusteeship Council
- v. The International Court of Justice
- vi. The Secretariat

There are also a number of intergovernmental agencies connected to the UN that includes the following

- i. The International Labour Organisation (ILO)
- ii. Food and Agriculture Organisation (FAO)
- iii. The United Nations Educational, Scientific and Cultural Organisation (UNESCO)
- iv. The World Health Organisation (WHO)
- v. The World Bank encompassing, International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the Multilateral Investment Guarantee Agency (MIGA), the International Finance Corporation (IFC) etc.
- vi. The International Monetary Fund (IMF)
- vii. The Universal Postal Union (UPU), and others in Commerce, Industry, Energy and World Trade (Akinbobola 2015).

The purposes of the Charter strengthened with the establishment of agencies and mechanisms are geared towards maintaining international peace and security through suppression of acts of aggression that may threaten world peace, encouraging friendly relations among nations, protecting fundamental freedoms of all people without discrimination and achieving international co-operation in solving economic, social and cultural problems (Ojo 1998). The UN Charter introduced new controls to eliminate or reduce the use of force in the international system, safeguard against violent tactics among its members; formally endowed with a range of means to settle disputes, including, for the first time in history, establishing mechanisms for an international force fundamentally to maintain peace and security, and a council to oversee economic, and social problems. It made the promotion of human rights a principal issue in international co-operation. The governments which signed the Charter, and all others that subsequently joined, made specific commitments to promote the goals of the UN. The Charter generally established a remarkable international legal entity, both in terms of the scope of commitments undertaken by member-state regarding the Organisations capacity to act. This capacity to act is strictly in the maintains of international peace and security where the Charter endows the Security Council with supranational capabilities; spelt out in Articles 23-38.

The UN Security Council is made up 15 members, of Permanent and 10 Non-Permanent Status. The 10 non-permanent members are elected by the General Assembly for a two-year term. Each member has one vote. Decisions on matters of procedure are made by an affirmative vote of, at least 7 of the 15 members. Decisions on substantive matters also require 7 votes, including the concurring votes of all 5 Permanent Members, provided that in decisions under Chapter VI and under paragraph 3 of Article 51, a Party to a dispute shall abstain from voting. The UN Security Council has the power to make binding decisions that member governments have agreed to carry out under the terms of the Charter Articles. By Article 39, the Security Council is empowered to determine whether a situation constitutes a branch of international peace and security. Article 40 gives the Council the right to give legal binding orders to States. Articles 41 and 42, give the Council her decisional powers. Article 29 empowers the Council to create subsidiary organs that it deems necessary for the performance of her functions (BOSCO 2009). It is this Article that created the International

Commission on Intervention and State Sovereignty (ICISS) who identified the Responsibility to Protect (R2P) as an emerging principle of international law.

### **The Responsibility to Protect (R2P) Doctrine**

The ideas behind the Responsibility to Protect (R2P) doctrine was an initiative of the International Commission on Intervention and State Sovereignty (ICISS) established in 2001. The doctrine is a budding norm and principle founded on the notion that the sovereignty attached to States is not a right, but a responsibility. The doctrine focuses on preventing and halting crimes categorised under Mass Atrocity by the United Nations, including genocide, war crimes, crimes against humanity and ethnic cleansing. The three pillars which the concept (R2P) is founded upon, according to the ICISS are:

1. A State has a responsibility to protect her population from mass atrocities
2. The international community has a responsibility to assist the State fulfil its primary responsibility.
3. If the State fails to protect her citizens from mass atrocities, and peaceful measures have failed, the international community has the responsibility to intervene through coercive measures, such as economic sanctions; military intervention is considered to be the last resort. (Badescu 2010).

The R2P doctrine is an emerging norm in international relation. R2P provides a framework for using already existing conflicting resolution mechanisms such as mediation, early warning, economic sanctioning, the UN Charter chapter VII powers etc, to prevent mass atrocities. Civil Society Organisation, States, Regional Organisations and International Institutions generally, all have a role to play in the R2P process. For the international community, R2P is a norm, not a law embodied in international law. The authority to employ the last resort and intervene militarily rests solely with the United Nations Security Council (UNSC) and the General Assembly.

The Canadian government established the ICISS in Sept 2000, but in Feb 2001, at the third Round Table Meeting, the phrase “Responsibility to Protect” was coined as a way to avoid the “right to intervene”, or “obligation to intervene” idea, and yet keep a degree of duty to act to resolve humanitarian crisis. (Haines and Georges 2010 207-235 The African Union in its Charter in 2002 supported the idea of R2P in her declaration that the “protection of human and people's right” would be its principal objective. The Union had the right to intervene in a member State, pursuant to a decision of the Assembly in respect of grave circumstances such as, war crimes, genocide and crimes against humanity. In her Report released in December 2001, on the R2P, the ICISS magnified the idea of State sovereignty as a responsibility and the need for States that constitute the UN to understand that they possess the responsibility to prevent mass atrocities. Political, economic, social measures and diplomatic engagements were to be employed. R2P included efforts to rebuild, by bringing security and justices to the victim population and by finding the root cause of the mass atrocities (Gareth and Sahnoun 2001).

This view by ICISS was also echoed by the African Union (AU), emphasizing the need for the UN to understand their principal responsibility to protect the civilian populace in crisis situations and in a case where the State concerned cannot do so. The AU Charter emphasized as one of its principal objectives within member States, to intervene in crisis, following the authorization by the General Assembly, in order to stop war crimes, crimes against humanity and genocide. The Ezulwini consensus of the AU, on international relations and reform of the UN, also adopted the R2P as an instrument for the prevention of mass atrocities in international relations. The United Nations World Summit of 2005 also unanimously accepted the R2P doctrine. In April 2006, the UNSC formalised its support for the R2P in Resolution 1974. By January 2009, the UN Secretary General, Banki-Moon released a report; Implement the Responsibility to Protect, to the UN General Assembly that led to Resolution A/RES/63/308 that supported the R2P precept. With all these, the R2P has come up as a solution to the arguments on the rights of States to intervene on humanitarian grounds and the rights of victims to survive.

### **The Responsibility to Protect (R2P) in the international system**

The R2P, as earlier stated was an initiative of the International Commission on intervention and State sovereignty (ICISS); one of the subsidiary organs of the United Nations Security Council (UNSC) focused on preventing and halting four crimes. These crimes are categorised under the umbrella term of Mass Atrocity crimes by the UN and includes genocide, war crimes, crimes against humanity and ethnic cleansing, Paragraphs 138 and 139 of the 2005 World Summit expounded on the scope of Responsibility to Protect, clearly identifying whom (nations, regional and international community), and what (the four mass atrocities crimes) the concept applies to.

According to Paragraph 138

*“Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes including their incitement, through appropriate and necessary means. We accept that responsibility, and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the UN in establishing an early warning capability”.*

Paragraph 139 equally States.

*“The international community, through the UN, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with chapters VI and VIII of the UN charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter,*

*including chapter VII, on a case by case basis and in cooperation with relevant regional organisations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out” (2005 World Summit Outcome Document).*

The UNSC in April 2006, with Resolution 1674 (2006), S/RES/1674 (2006), restated the provisions of paragraphs 138 and 139 and this officially inferred their support for the R2P. The next major development in the R2P came in Jan 2009, when the UN Secretary-General Ban Ki-moon released a Report called Implementing the R2P. His Report engendered a debate in the General Assembly, and in July 2009, which was the first time since 2005 that the UN General Assembly converged to discuss the R2P. Ninety-four Member States spoke. While some were in support of the R2P principle, some major concerns were voiced by others. Discussions went on the implementation of the principle globally when the need arises in crisis situations. The need for regional organisations to play a strong role in the implementation of the principle was also deliberated. Also, the significance of early warning mechanisms within the UN, and the need for a better clarification on the roles to be played by the Organs of the UN in implementing the R2P, were also considered (GC R2P Report 2009).

One outcome of the debates, was the first Resolution referencing the R2P, adopted by the General Assembly. The Resolution (A/Res/63/308 showed that the international community had not forgotten about the concept of the R2P and it decided “to continue its consideration of the R2P. In the ICISS Report on R2P, six criteria were specified for any form of military intervention to be justifiable as the last resort of extraordinary measure of intervention. They are the six pillars of the traditional just war theory (ICISS Report 2001). It was on this strength that the UNSC on 26 February 2011, unanimously adapted resolution 1970 on the Libyan crisis, where explicit reference was made to the R2P condemning what it called the gross and systematic violation of human rights in the strife-torn Libya. The Security Council called for an end to the violence, reiterating the Libyan authority's responsibility to protect its population, and consequently imposed a series of international sanctions. The Council also decided to refer the situation to the International Criminal Court (ICC).

In Resolution 1973, adopted on 17 March 2011, the Security Council demanded an immediate ceasefire in Libya, calling for an end to ongoing attacks against civilians, which it said, might constitute crimes against humanity. It authorised member States to take “all necessary measures” to protect civilians under threat of attack in the country without any

external presence of any form on any part of Libyan territory. A few days later, NATO, claiming to be acting on the Resolution, started launching air attacks on Gaddafi's forces.

Similarly, in response to the escalating post-election violence against the population of Cote d'Ivoire in late 2010 and early 2011, the UNSC on 30 March 2011, unanimously adopted Resolution 1975 condemning the gross human rights violations committed by supporters of both ex-president Laurent Gbagbo and President Ouattara. The Resolution cited the primary responsibility of each State to protect civilians and called for the immediate transfer of power to President Ouattara, the Victor of the election, and reaffirmed that the UN Operation in Cote d'Ivoire (UNOCI) could use "all necessary means to protect life and property. By 4<sup>th</sup> April, military operations began and the UNOCI was able to remove power from President Gbagbo. He subsequently faced the ICC in the Hague and was charged of crimes against humanity. The UNSC adopted RESOLUTION 2062 ON 26 July 2012, renewing the mandate of the UNOCI until 31 July 2013 ([www.un.org](http://www.un.org)).

Also, in furtherance of the enhancement of the R2P, on July 2011, the Security Council in Resolution 1996, established a UN Peacekeeping Mission in South Sudan (UNMISS), to among other responsibilities, advise and assist the government in fulfilling its responsibility to protect civilians. South Sudan officially became an independent State on July 2021, the climax of a process made possible by a 2005 Peace Deal that ended the long civil war. In December 2013, fighting between pro and anti-government forces began, causing the displacement of over seven hundred thousand. Three months later, the Security Council, on behalf of the UN, reaffirmed its unwavering support for UNMISS, whose mission was to protect civilians and foreign nationals in South Sudan, as well as to facilitate assistance to populations in need, and also conducted human rights monitoring and investigation, among other tasks.

Also on 21 October 2011, UNSC Resolution 2014 condemned human rights violations by the Yemeni authorities and encouraged an inclusive Yemeni led political process of transition of power, including the holding of early presidential elections. The Resolution explicitly emphasized the Yemeni Government's "primary responsibility to protect its population.

For Syria, both the General Assembly and the Human Rights Council have strongly condemned the continued "widespread and systematic human rights violation and demanded that the government ceased all violence, and protect its people. The High Commissioner for Human Rights recommended referring the situation in Syria to the ICC and urged the Security Council to assume its responsibility to protect the population of Syria.

In the Central African Republic (CAR), the UNSC adopted Resolution 2012, on 10<sup>th</sup> October 2013, that reiterated the government's primary responsibility to protect the population, as well as to ensure the security and unity within its borders, also stressing their commitment to accord due respect to Human Rights Law, Refugee law and International Humanitarian Law (IHL). [www.un.org](http://www.un.org).

According to Genser 2013, the R2P has also been invoked in Mali, Sudan, Myanmar, Congo and the Democratic Republic of Korea. In all, the R2P was successful in Libya, Cote D'Ivoire and Mali, but encountered much obstacles in other States. One of the major arguments against the R2P is that it violates State sovereignty. This was though echoed by the Secretary General, Ban Ki-Moon. Scholars claim that the only occasion where other States will intervene in a State without that State's consent is when the State in question is either allowing or committing mass atrocities against its citizens. In this instance, the State has forfeited her sovereign responsibility. This according to Ban K-Moon, means that Responsibility to Protect will be reinforcing sovereignty but in the midst of contentions. The force of veto in the UNSC also stands as an obstacle in the full implementation of the R2P.

### **Conclusion**

The evolution of the modern international society that endowed States with sovereignty received lots of checks to enhance international relations. International law regulated the relationships and diplomatic conferences became avenues to set standards for advancements of relations. The gatherings established the principle of joint consultations and collective diplomatic treatment of major international upshots. The League of Nations and later the United Nations and other international, regional, sub-regional and security arrangements were offshoots of these efforts. The establishment of the UN has no doubt enhanced international relations through her activities. BOSCO 2009, see the UN as a world of international relations to itself.

The major foundation on which the UN was laid was co-operation and collaborations as spelt out in her Charter provisions. The R2P precept is one of the UN efforts to prevent and halt mass atrocity crimes through the UN agency of the International Commission on Intervention and State Sovereignty (ICISS). As a principle that threatened the sovereignty of States, the implementation of the R2P, though has strengthened international relations, the revolving trend in the international system have placed great limitation to its full implementation. The R2P principle no doubt shows that the world is one, that threats to citizens of States requires collective action to address. The interest in protecting civilians is the major driving force behind the R2P norm.

### **Recommendations**

In the face of the progressing trend in the international system for enhancement of international relation, the following recommendation are made in the fulfilment of the principle of the Responsibility to Protect (R2P).

- i. A coordinated and coherent international effort should be launched for the R2P.
- ii. Joint response mechanism must be constituted
- iii. Capacity building efforts must be put in place.
- iv. Regional involvements must be enhanced and supported.

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