CHAPTER 2

Twisting Sovereignty
Security and Human Rights in the 'Invention' and Promotion of the Responsibility to Protect

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2.1 Introduction

Responsibility in the field of security has become well established and is central to most discussions of international peace and security today. In fact, it rests squarely at the intersection of ethics and security in International Relations, structured by the tension between what Martin Wight termed the 'Hobbesian' and the 'Kantian' traditions of international thought (Wight 1996). These traditions, summarily stated, posit different views on the central bearers of rights in the international, where a Hobbesian tradition would advance the rights of states, and a Kantian tradition those of individuals. As a corollary to these positions, the concept of a Responsibility to Protect (R2P) was wedged around the nexus of two major fields of contention, which in effect it came to bridge. The first of these is the rights of states versus the rights of individuals (compare Bower, in this volume). The second concerns the duties of (the collectivity of) states in the face of human suffering, and what type of shields sovereignty should provide states directly involved in causing human suffering (compare Erskine, in this volume).

R2P gained popularity fast, to the point where the link between responsibility and security has indeed gained a taken-for-grantedness such that most attempts at defining the emergence of crises in the world today are seen as failures to fulfil sovereign 'responsibilities'. In fact, the R2P policy norm has become an important part of our way of thinking about the use of force in relation to grave breaches of human rights, becoming an intrinsic part of the debate about humanitarian interventions. Coined by the Canadian–sponsored International Commission on Intervention and State Sovereignty (ICISS) in 2001,[2] a watered-down version of R2P was adopted unanimously by the UN World Summit in 2005. Yet, there was no consensus in place as to the meaning of it, nor as to its applicability or implementation. Since then, the principle has been the subject of great

debate, until finally vaguely referred to by the UNSC in 2011 when legitimising the NATO intervention in Libya through UNSC/RES 1973. As Gareth Evans, the co-chair of the ICISS has noted, 'This was a remarkably short time – just a blink of an eye in the history of ideas – when measured against the decades, or sometimes centuries, it usually takes for new concepts to take hold to this extent' (Evans 2008b: 31). Furthermore, R2P counts the support of a number of think tanks devoted to implementing the norm such as the Global Centre for the Responsibility to Protect, and the Asia-Pacific Centre for the Responsibility to Protect. R2P also has a dedicated academic journal (*Global Responsibility to Protect*) and a book series with academic publisher Routledge, as well as a handbook with Oxford University Press (Bellamy and Dunne 2016). All of these continue to keep up the momentum the idea of sovereignty as responsibility has received since 2001.

By all measures, R2P has been hugely successful in redefining the international debate on security. Yet, despite the success the idea of R2P had in its first decade, the road to being adopted – however reluctantly – by the international community as the blueprint for humanitarian interventions was full of obstacles. In spite of the general support the idea had with the West, the idea met strong resistance from states in the Global South who feared a continuation of imperialist and colonialist practices, and it was only through the strong activism of a small international elite that the idea was pushed through at the World Summit in 2005. Edward C. Luck, who in 2008 was appointed Special Advisor on the Responsibility to Protect by Ban Ki-Moon, held that the idea of state responsibility had been well established discursively: 'The lively academic discourse and the dedicated efforts of NGOs, such as the Global Centre for the Responsibility to Protect, the International Coalition for the Responsibility to Protect, and the Asia-Pacific Centre for the Responsibility to Protect, both reflect and encourage the continuing interest in civil society to move RtoP from words to deeds' (Luck 2010: 359; see also Luck 2011).

The broad debate about the rights of individuals and the prerogatives of sovereign states, which unfolded during the 1990s, has in the eyes of many been resolved unproblematically in favour of the former by curtailing the prerogatives traditionally associated with the principle of state sovereignty.[3] The more *absolute* sovereignty of the Cold War, which had been the hallmark of the international system in the age of decolonisation and new states being born (Glanville 2014), was twisted and turned into a more *conditional* right which the international community could grant, but also take away. Omnipotent Leviathans thereby became responsible

citizens of international *society*, enjoying a conditional right to a limited sovereignty which was defined and upheld by the international *community*.

The aim of the chapter is to trace the history of responsibility in the field of security through the development of R2P. By using the idea of 'responsibility' as a lens through which to assess which and whose interests, objectives, and aims R2P was designed to advance, and how this was articulated in the inception of R2P, I show that in spite of claimed ancestry, R2P was a product of the late 1990s and aimed to address the lack of international response or intervention in the humanitarian crises of that decade. In so doing, the chapter contributes to broadening our historical account of R2P by linking and situating aspects of R2P to and alongside earlier initiatives of the 1980s, including *Our Global Neighbourhood*. It thus feeds into the overall objective of the book to follow the concept of discourse and to re-establish how it entered the policy discourse in one particular policy field, that of security.

The chapter will first and foremost trace the historical development of R2P beyond its claimed invention. Accordingly, it will follow a roughly chronological structure. The material forming the basis for this account will consist of both texts and accounts of political processes. Contrasting discursive development with the political processes that accompany them allows for focus on the power dimension accompanying such innovations. In fact, such a historical excavation also opens up new discursive spaces which can help shed light on prevalent discourses, as well as open up spaces for new ones. One of these, which I will highlight, is an attention to the opposition to R2P. Emphasising the political process through which R2P underwent before being adopted by the UN World Summit in 2005 in a watered-down version showcases the resistances which the conceptual innovation met and had to overcome. Doing so allows for more attention to be drawn to more critical perspectives on the principle, which I will highlight throughout and allude to in the conclusion. This account is hence adopting the book's framework to zoom in on the interpretive struggles around responsibility and signifies the negotiated nature of global governance (see introduction to this volume in Chapter 1).

I proceed in five steps. First, I uncover antecedents to R2P in the UN reform movement of the late 1980s. Second, I provide an outline of a number of attempts at redefining the rights of states vis-à-vis individuals during the 1990s. Third, I show how one of these attempts, 'sovereignty as responsibility' came to be successful in redefining the rights and duties associated with state sovereignty. Fourth, I detail the process leading to the emergence of the concept of R2P, before ending with the adoption of R2P

by the UN World Summit in 2005. Finally, I conclude that the fast track R2P has enjoyed does not necessarily reflect the extent to which this policy norm is shared, and that for R2P the main test still lies ahead, in the extent to which it can or will be transcribed into practice.

2.2 Security and Responsibility: Early Developments

In the aftermath of the Cold War, widespread beliefs and hopes that the international could be managed through functioning collective security arrangements came to mark both public debates and policy circles. Within the UN, which for most of the Cold War had been frustrated by a frozen Security Council in which veto powers jealously protected their interests and denied the possibility of joint action, these hopes were expressed by new secretaries-general who took it upon themselves to turn these hopes into reform of the UN system in order to make it better able to address situations in which civil society expected the UN to act, such as grave violations of human rights. Central to the success of this effort was the coupling of human rights and security, the so-called push for an understanding of security as human security (see Suhrke 1999; Chandler 2008). UN Secretary-General Javier Pérez de Cuéllar argued in 1991 that 'the protection of human rights has now become one of the keystones in the arch of peace' (quoted in Glanville 2014: 173). Pérez de Cuéllar further specified, the protection of human rights 'now involves a more concerted exertion of international influence and pressure through timely appeal, admonition, remonstrance or condemnation and, in the last resort, an appropriate United Nations presence, than what was regarded as permissible under traditional international law' (ibid.). This linking of security to human rights is commonly seen as originating in the end of the arms race and the 'deadlock' of the Cold War. Yet, while this may to a certain extent be true, as the aftermath of the Cold War saw a flourishing of attempts to redefine security so as to better take into account human rights, the roots lie in a series of reports aimed at reforming international institutions which were commissioned during the Cold War itself.[4]

The wave of UN reform initiatives following the optimism of the early 1990s was by many seen as stemming from the Brandt report (Brandt 1980), the Palme report (Palme 1982) as well as the Brundtland report (World Commission on Environment and Development 1987). The latter two developed common approaches to peace, security, development, and the environment. While the Palme report focussed on disarmament, the Brundtland report launched the term 'sustainable development' (see also

the chapters by Falkner and Dashwood, respectively, in this volume). The discursive innovation of the Brundtland Commission, albeit in a different field, was to be of crucial importance in the field of security as it showed how such discursive innovations could change actual policy and political positions. As Gareth Evans has noted with respect to the ICISS,

> The commission's hope, above all, was that using 'responsibility to protect' rather than 'right to intervene' language would enable entrenched opponents to find new ground on which to more constructively engage. We very much had in mind the power of new ideas, or old ideas newly expressed, to actually change the behaviour of key policy actors. And the model we looked to in this respect was the Brundtland Commission. (Evans 2008b: 42)

R2P emerged as a discursive construction aimed at creating consensus on a contentious issue. As Marc Pollentine has argued, 'It was clear that inspiration for the Commission, and indeed aspiration for its work, was provided by the 1987 Brundtland World Commission on Environment and Development' (2012: 107). In fact, he confirms, 'Brundtland provided the intellectual blueprints for ICISS based upon its immensely successful concept of "sustainable development" which fused concern for increasing environmental pressures with the need for continued human economic development. This reconciliation – which Axworthy described as having "changed the way we think and do business" – demonstrated the importance of language and evidence of what might be possible in this case' (2012: 107). Secretary-General Boutros Boutros-Ghali's report, called *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping* (1992), made an effort to develop structures that would strengthen peace. 'The time of absolute and exclusive sovereignty, however', Boutros-Ghali argued, 'has passed; its theory was never matched by reality' (Boutros-Ghali 1992: §17).

One year later Gareth Evans responded to Boutros Ghali's invitation to debate these issues and initiated a major study published as *Cooperating for Peace*. Evans argued that security is about protecting individuals as much as defending the territorial integrity of states, and that economic development, human rights, good governance, and peace are intertwined and mutually reinforcing. He called for preventive diplomacy rather than post-conflict reconstruction and suggested guidelines for future interventions.

The report *Renewing the United Nations System* (Childers and Urquhart 1994), while focusing on economic and social cooperation, and the root

causes of instability, violence, and insecurity, highlighted the UN's lack of leadership in global economic policy and further noted a need for an international human rights court and system for monitoring human rights violations. When 'responsibility' was used, it only referred to the socio-economic roles of the UN.

The first appearance of international responsibility within the discourse on the role of the UN and the international community is not before 1995. As the UN celebrated its fiftieth anniversary of the UN Charter, the Commission on Global Governance published its report entitled *Our Global Neighbourhood*. As the Cold War was coming to an end, Willy Brandt had invited key members of these commissions to a meeting in Königswinter in 1989. Among the participants were Gro Harlem Brundtland, Ingvar Carlsson, Shridath Ramphal, Jan Pronk, and Julius Nyerere. Members of this meeting continued to work up until 1991, when a document entitled *Common Responsibility in the 1990s: The Stockholm Initiative on Global Security and Governance* was presented at a meeting in Sweden, and then subsequently endorsed by many world leaders. *Our Global Neighbourhood* (Commission on Global Governance 1995) was a direct sequel to that report. The report gave specific proposals on how to expand the UN's authority in order to provide a standing UN army; the establishment of an Economic Security Council; end the veto power of permanent members of the Security Council; the establishment of a new parliamentary body of civil society representatives (NGOs); the establishment of a new Petitions Council; a new Court of Criminal Justice; the creation of binding verdicts of the International Court of Justice; and expanded authority for the Secretary-General. The report stated that states 'must secure their future through commitment to *common responsibility* and shared effort' (1995: foreword; emphasis added). The chairmen further stated that '[w]e also believe the world's arrangements for the conduct of its affairs must be underpinned by certain common values. Ultimately, no organization will work and no law upheld unless they rest on a foundation made strong by shared values. These values must be informed by a sense of *common responsibility* for both present and future generations' (ibid.; emphasis added). The chairmen went on to write '[w]e can, for example, go forward to a new era of security that responds to law and collective will and *common responsibility* by placing the security of people and of the planet at the centre' (ibid.). And finally, with reference to developments in the wake of 1989, the report stated that '[t]he world community seemed to be uniting around the idea that it should assume greater *collective responsibility* in a wide range of areas, including

security – not only in a military sense but in economic and social terms as well – sustainable development, the promotion of democracy, equity and human rights, and humanitarian action' (1995: chapter 1).

Yet, *Our Global Neighbourhood* not only developed the idea of international responsibility, it also included clear parallel, if not identical takes, to the ICISS work and Evans' pioneering of R2P. For as *Our Global Neighbourhood* stated, 'Most governments accept responsibility for the provision of public goods such as policing and justice, financial stability, or environmental protection; to do otherwise would be to abandon essential functions of a state. The same responsibility applies – but is less readily acknowledged – at an international level' (ibid.). The major innovation of ICISS, namely to bypass the thorny question of rights and duties, focusing instead on the double responsibility, had been around for quite some time. In fact, as the previous quote makes clear, the responsibilities of states towards individuals, and the responsibility of the international community to intervene should this first responsibility fail, is already there.

2.3 The 1990s: The Decade of Humanitarian Intervention

The 1990s were above all defined as the decade of humanitarian intervention. Initiated largely by UN Secretary-General Javier Pérez de Cuéllar, the debate culminated with the innovations of the ICISS introducing the concept of R2P. And although there was in no way a linear development or teleology at play here, successive developments and rearticulations came to build upon each other, and different terms and concepts were launched and competed with each other for international attention and legitimacy. These included the insistence from French Foreign Minister Bernard Kouchner – founder of Médecins sans Frontières (MSF) – on a *droit d'ingérence*, or a right to intervention; the case made by British Prime Minister Tony Blair about the need to bypass the UN Security Council when the moral case for intervention so dictated; the development of the idea of human security; the rearticulation of 'sovereignty as responsibility' by Francis Deng and his associates at the Brookings Institution; and finally UN Secretary-General Kofi Annan's insistence on the need to balance 'individual sovereignty' against 'national sovereignty' (see Evans 2008b: 35; Glanville 2014). As Evans himself notes, 'for all the creativity and commitment involved in each of these efforts, none of them succeeded in generating any kind of broad international consensus' (Evans 2008b: 32). Thus, when the ICISS issued its report on the R2P, the Commission relied

on and funnelled a broad and disorganised debate which had been going on for over a decade (de Waal 2007; Evans 2008a).

The immediate aftermath of the Cold War started a heated international debate about the parameters of the legal and legitimate use of force in international politics. To many, the joint international operation against Iraq in 1991 backed by the UN Security Council (UNSC) heralded the end of the deadlocked situation of the Cold War, and a new era in which the international community would take joint action in matters of international peace and security. The heightened global awareness and focus on human rights and their severe breaches in conflicts throughout the globe played into this, giving way to a broad discussion about the justifiability of the international use of force in order to redress or prevent grave breaches of human rights.

This debate about 'humanitarian intervention' reached the wider public sphere and came to define the terms of international peace and security of the 1990s (for an overview, see Chandler 2002). Yet that debate reached a deadlock too. Against the necessity to intervene or 'do something', the inherited tradition of just war thinking left an obstacle difficult to overcome when the use of force by other states against the wishes of a sovereign state was concerned: *just authority* and its intricate connection to the geopolitics of the UNSC. The veto of the permanent members (P5) of the UNSC once again came to loom over the bright dawn of humanitarian intervention. NATO's solution for the former Yugoslavia, championed notably by Tony Blair, was that grave breaches of human rights in and of themselves constituted just authority. This conflation of both just cause and just authority in an attempt to sidestep Chinese and Russian opposition to NATO intervention in the Balkans proved not workable: both international law and ethics stood firm on the insistence of the necessity of securing legal authorisation before the international deployment of force. The debate about whether states had a *right* to intervene ended with confirming such a right, with the caveat that the international community must give its authorisation through the UN Security Council.

A second debate followed the aftermath of the US retreat from Somalia in 1996. Pérez de Cuéllar had attempted to shift the discussion from the right to intervene to focus instead on the duties of states to act: 'What is involved is not the right of intervention but the collective obligation of States to bring relief and redress in human rights emergencies' (quoted in Glanville 2014: 173). After the US retreat and refusal to further engage militarily in Somalia, a fear of the consequences of military involvement on the African continent left the whole world watching on the sidelines,

despite numerous warnings and as parties to the 1948 Convention against Genocide, as over half a million people were killed in Rwanda. Despite the global commitment states had to act against genocide by virtue of being party to the Convention against Genocide. This time, the debate was fuelled by a global civil society demanding that action be taken in cases of grave breaches of human rights. There was no shortage of either just cause or just authority this time. Thus, there was no discussion of a right to intervene in Rwanda, as that right was well established in the Genocide Convention, but of the *duty* states had to act (see also Erskine, in this volume). Yet, for all the calls for action, few of the states so duly entitled to act felt a responsibility to do so, let alone a duty. This time the principle of state sovereignty came out strengthened in order to account for the inaction of the international community of states in the face of a situation calling for humanitarian intervention.

It is against this backdrop, provided by the discursive strands clustering around the limits of both the *rights* and the *duties* of the international community to sidestep sovereignty in the face of grave breeches of human rights, that the origins of R2P can be traced (see Pape 2012). This frustrating deadlock gave way to a new argument which attempted to stay clear of this impasse by circumventing the blockade posed by the principle of state sovereignty altogether by ignoring it; calling instead for a redefinition or twisting of sovereignty. Enabling the policy move to understand sovereignty not as a cluster of rights delimitating the territorial boundaries of political authority but rather as a set of domestic duties in accordance with principles of good governance was largely supported by the move in academic circles to understand sovereignty as socially constructed rather than ascribing to it a set meaning (see the discussion in Bartelson 2015). This twist in sovereignty was intrinsically bound to the scholarly emphasis on the constructed nature of state sovereignty which followed the constructivist turn in IR. A number of works insisted on setting aside the principled or normative character of sovereignty, focusing instead on sovereignty as a site of political struggle or normative change (see Biersteker and Weber 1995). Sovereignty became, so to speak, what states made of it. This academic move happened parallel to a move in policy circles (see Pérez de Cuéllar and Boutros Boutros-Ghali, both quoted in Glanville 2014: 173f.).

Yet, despite a perceived need to act in the face of mass violations of human rights, there was no international consensus as to what the parameters – be they legal or moral – of such actions were, as the widely different interventions of the 1990s (Somalia, Rwanda, Bosnia, and Kosovo) show. Gareth Evans has concisely summed up the situation:

> The 1990s was the decade in which every one of the central questions surrounding humanitarian intervention was, for the first time, exposed with real clarity. But it ended with absolutely no consensus on any of the answers. Every general discussion in the UN General Assembly and other international forums, and nearly every difficult individual case that arose, became a political battlefield with two warring armies . . . Battle lines were drawn, trenches were dug, and verbal missiles flew. The debate was intense and very bitter, and the twentieth century ended with it utterly unresolved in the UN or anywhere else. (Evans 2008b: 30)

2.4 Duties Rather than Rights: Sovereignty as Responsibility

The crucial move in twisting the principle of sovereignty away from granting states absolute and exclusive prerogatives, to borrow Boutros-Ghali's language, and giving instead priority to 'the rights of the individual and the rights of peoples' (Boutros-Ghali in Glanville 2014: 174) came with Boutros-Ghali's appointment of Francis Deng as Representative to the Secretary-General on Internally Displaced Persons. The appointment itself represented a break, as internally displaced persons (IDPs) had traditionally not been a concern of international law, as they fell within the purview of sovereign states. The fact of crossing a state border was the constitutional act of the refugee, and what also made refugees an international concern. A focus on IDPs therefore already heralded a weakening of absolute sovereignty in favour of individuals. In this context, Deng's most important contribution was perhaps the work he undertook to link the concept of state sovereignty to that of state responsibility. Within the institutional framework of the Brookings Institution, Deng worked with Roberta Cohen to construct a framework which would make IDPs a matter for international concern. The conceptual innovation of Deng and his associates came under the term 'sovereignty as responsibility' in 1996 (Bellamy 2010: 434; see also Weiss and Korn 2006). In order to address the barrier posed by the invocation of sovereignty, Deng sought to rearticulate sovereignty, yet at the same time nest this rearticulation on a traditional understanding of the principle. Their starting position was thus as powerful as it was remarkably uncontroversial, as it was one of the key propositions flowing from the principle of state sovereignty, namely that the states themselves had the primary responsibility for the well-being of their population. As Deng et al. stated, '[t]he premise of the normative argument . . . is to recognize internal conflicts and their consequences as falling within the domestic jurisdiction and therefore national sovereignty of the country concerned' (Deng et al. 1996: 1).

Yet, Deng et al. went further, introducing the question of accountability: 'However, it is also recognized that sovereignty carries with it certain responsibilities for which governments must be held accountable' (ibid.) – a clear break with the understanding of sovereignty as absolute political authority. Deng was successful in rearticulating sovereignty largely because this aspect was not strongly emphasised. Instead, most of the focus lied on the rather unproblematic notion that sovereigns had responsibilities. Rereading Deng, it is clear though that much of the conceptual work that would be undertaken a few years later by the ICISS had already been broached by Deng and his associates in the mid-1990s. Indeed, they advanced that governments 'are accountable not only to their national constituencies but ultimately to the international community. In other words, by effectively discharging its responsibilities for good governance, a state can legitimately claim protection for its national sovereignty' (ibid.). Sovereignty was thus tweaked so as to hinge upon internal good governance according to liberal principles, and states were argued to be accountable to the international community (see Chandler 2004 for a discussion).

This was a double move by Deng. On the one hand, he made sovereignty less of a legal question than one of ethics. On the other, he solved the question of who was the fundamental bearer of rights internationally in favour of individuals and at the expense of states. Once the inviolability of sovereignty was done away with, Deng addressed the relative importance of states and individuals: 'Quite apart from the individual orientation of the universalizing values behind the human rights movement, it can be argued that even in the indigenous African value system, the individual is ultimately the core of the social order' (1996: 5). Basing this argument of indigenous African values was a tactical attempt to curtail criticism from G77 countries, who rejected these innovations on the grounds that they were based on Western customs and values (ibid.). The novelty in Deng's approach was the explicit linkage of sovereignty and responsibility. By doing so, Deng was able to shift the debate from being about the rights of states vis-à-vis those of individuals to one about the rights of individuals and the duties of states. This started the process of disenfranchisement of sovereign states which would continue with the concept of R2P.

2.5 Enter R2P and International Responsibility

Once sovereignty had been twisted to imply responsibility within the framework of the UN's work with IDPs, the challenge remained to redefine this responsibility in broader terms, and what rights a state's

failure to uphold its duties or responsibilities would grant the international community. As shown in the previous section, this was not the first time the connection between the rights and duties of sovereign states were linked to the concept of responsibility. For a while responsibility provided the overall background to *Our Global Neighbourhood*, the report itself had a much broader concern and is not an acknowledged reference in accounts of the origins of R2P. Kofi Annan pushed to tear down the walls represented by sovereignty in regimes which did not live up to human right standards, in the Millennium Report, asking the question,

> if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we then respond to a Rwanda, a Srebrenica – gross and systematic violations of human rights that affect every precept of our common humanity? (Annan 2000: 48)

The report attempts to answer this by declaring that in spite of the inherent dilemmas of humanitarian intervention, as well as the vital protection the norm of sovereignty provides for weaker states,

> no legal principle—not even sovereignty—can ever shield crimes against humanity. Where such crimes occur and peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community. (ibid.)

Yet, while the Canadian government responded to Anan's call with a Commission aimed at rewriting the rules of sovereignty in order to allow for a more lenient approach that would enable more intervention, there was no consensus amongst UN Member States at the time. Algeria as well as China spoke out against humanitarian intervention to protect small and weak countries (cf. Coleman 2013: 152). Similarly, Russia insisted to the UN General Assembly that new norms should evolve through a collective process rather than being imposed 'as a fait accompli' (quoted in Coleman 2013: 152). Nor did the USA come over with much support. In fact, the USA had refused to support the British in establishing guidelines for intervention in the aftermath of Kosovo (ibid; Wheeler 2001: 564). Canada's active role in the case is referred to as its 'position ... in the Rwandan genocide, to which it had a special connection through UNAMIR's Canadian Force Commander [Roméo Dallaire], whose testimony helped generate public support for the principle of humanitarian intervention' (Coleman 2013: 153). It received explicit support of a number of other Western countries, including the United Kingdom, France, and Germany.

It should be noted that R2P is not the only instantiation of the concept of responsibility in international security within the UN system. In 2001, Kofi Annan had in his report *Protection of Civilians in Armed Conflict*, called for the establishment of a 'culture of protection' in order to reorient UN peacekeeping to its core activity (see Vogt et al. 2008): the protection of civilians. Annan stated that '[g]overnments would live up to their responsibilities, armed groups would respect the recognized rules of international humanitarian law, the private sector would be conscious of the impact of its engagement in crisis areas, and Member States and international organizations would display the necessary commitment to ensure decisive and rapid action in the face of crisis' (S/2001/331).[5]

Thus, when the Canadian-sponsored ICISS met for the first time in Ottawa in November 2000, co-chaired by Gareth Evans and Algerian diplomat Mohamed Sahnoun, it was generally regarded that protection was seen as the key concept to ensure the UN could fulfil its mandate with respect to international peace and security. ICISS presented its *Responsibility to Protect* report to Kofi Annan in December 2001. The report offered a reframing of sovereignty by insisting through 'sovereignty as responsibility' that sovereignty was first and foremost a duty to uphold the welfare of its citizens rather than a right of non-interference. Cases of inability or refusal to live up to these duties triggered a right to intervene and react to these violations.

In order to avoid criticism for being overly interventionist, the report also insisted that the responsibility to react had to be followed by a responsibility to prevent and to rebuild (see Coleman 2013: 158). In the same vein, intervention was to be limited to large scale mass atrocities; four of seven acknowledged that principles of the just war tradition were to guide international action: right intention, last resort, proportional means, and reasonable prospect of success (ICISS 2001: 31–7). The question of right authority, which Tony Blair had sought to circumvent a few years earlier in the case of Kosovo, was reaffirmed, though twisted. The UN Security Council was to have full authority yet, should it reach a deadlock, the UN General Assembly was to take over this authority from it.

The crucial move of the ICISS was to deny the rights of states wholesale in cases of grave breaches of human rights, placing all the rights squarely on individuals. In that sense, the ICISS did not show a way ahead by solving the dilemma between the rights of states and collectivities; they ignored the dilemma altogether. In Evans words,

> The relevant perspective, we argued, was not that of prospective interveners but of those needing support. If any 'right' was involved, it was of the

> victims of mass atrocity crimes to be protected. The searchlight was swung back where it should always be: on the need to protect communities [*sic.*] from mass killing and ethnic cleansing, women from systematic rape, and children from starvation (Evans 2008b: 40).

The second claim of the ICISS was, building on Francis Deng's understanding of sovereignty as responsibility, to make the case sovereignty

> should now be seen not as 'control', in the centuries-old Westphalian tradition, but, again, as 'responsibility.' The starting point is that any state has the primary responsibility to protect the individuals within it. But that is not the finishing point: where the state is unable or unwilling to meet its own responsibility, through either incapacity or ill will, a secondary responsibility to protect falls on the wider international community to step in, by whatever means is appropriate to the particular situation (Evans 2008b: 42).

Where the 1990s had witnessed a number of attempts at overcoming the sovereign impasse in order to establish a right to intervene, none of them had made any clear headway, and few ended up leaving a clear mark in practice. In contrast, the ICISS report gained immediate attention, as the R2P phrase became a way to reframe the debate about intervention. Many reasons account for this success, including the extent to which the ICISS tapped into prior discourses and rearticulations such as Deng's 'sovereignty as responsibility' in order to make its R2P catchphrase.

Perhaps more important was the coordination between key actors in the process. A central element was that it was made to look as if it was an initiative which bridged the divide between the Global South and the Global North. Being recognised as a Western liberal coalition 'would be counterproductive'. Contacts between Western states and actors were therefore 'deliberately discreet' because although the 'ICISS was undisputedly a Canadian initiative . . . it was politically crucial to stress that there was "nothing precooked" about the Commission's report, that is, that neither Canada nor any of the other Western states was driving its findings' (Coleman 2013: 159). Therefore, about half the commissioners were selected from non-Western countries, and the research team was multinational. Furthermore, consultations were held in Ottawa, Geneva, Maputo, Washington DC, Santiago, Cairo, Paris, New Delhi, Beijing, and St. Petersburg (ibid.). Yet, the overall coherence of the report was ensured by Ramesh Thakur (Indian born, but Canada educated), Michael Ignatieff (Canada), and Gareth Evans (Australia), and 'it was Evans himself who first identified the term "responsibility to protect" as a way of reconciling the principles of human rights and state sovereignty' already in January

2001, only a few months into the work of the Commission (Bellamy 2010: 437). As a key to the success of R2P, Coleman also highlights the tight links – or 'alliance' – between the ICISS and UN Secretary-General Kofi Annan (Coleman 2013: 159–60). Just as R2P had been conceived as a solution to Kofi Annan's rumblings about the conundrum between sovereignty and human rights, Annan also took ownership of the answer offered by ICISS.

2.6 Twisting Sovereignty: The World Summit and Beyond

The ICISS report did not in and of itself lead to the adoption of R2P as a binding rule or a principle calling for action. The ICISS proposed one way of twisting sovereignty in order to limit the rights of states involved in mass atrocities through focussing on the double responsibilities of states and the international community, yet it was by no means perceived as a universal solution for the dilemma between the rights of individuals and the rights of states. Just as it was Kofi Annan's call for addressing this dilemma in 1999 in the Millennium Declaration which had given the Canadian government the opportunity to push the focus away from the rights of sovereignty to its duties, once again it was Annan who gave the impetus to move beyond the ICISS report (Bellamy 2010: 435).

In fact, as Katharina Coleman has argued, without support from what she calls 'Minervian powers' – understood as advanced industrial democracies with significant economic and military clout, yet also a strong commitment to multilateralism and norm construction – the debate about R2P 'would have ended in a reaffirmation of the inviolability of state sovereignty' (2013: 151). While the ICISS report launched the concept of R2P, the exact status of the principle remained unclear. Although a number of advocates sought to make the case that R2P was central to international law and that states, through interventions such as the war in Kosovo in 1999, had already acknowledged in practice to R2P being part of customary law, the case remained unclear (see Welsh and Banda 2010). Apart from some Western states, few states wanted to commit to the principle, as most of them perceived it as too interventionist, especially following the US invasion of Iraq (see Leira and Kaspersen 2006; de Carvalho and Lie 2011; 2013; Lie and de Carvalho 2011). Annan thus appointed Evans to the High Level Panel mandated to come up with recommendations for reforming the UN to better respond to new challenges. These recommendations were to be put in front of the UN General Assembly at the 2005 UN World Summit. 'Evans succeeded in persuading

the panel to incorporate the RtoP. In its December 2004 report, the panel endorsed the "emerging norm that there is a responsibility to protect" and confirmed the developing consensus that this norm was "exercisable by the Security Council"' (Bellamy 2010: 437–38). But as Bellamy points out, 'the adoption of the RtoP was in no way assured and took persistent advocacy on Evans's part' (Hannay 2008; see also Bellamy 2010: 438).

As shown, not only did the concept meet fierce resistance, but it was also launched just after the attacks of 11 September, in a climate in which Western intervention seemed largely decoupled from human rights with terrorism taking up most of the international agenda (see Evans 2006; Leira and Kaspersen 2006). Against this historical backdrop, R2P's adoption by the World Summit in 2005 is all the more remarkable. In fact, it was due not to a surge in international support, but rather to a small group of devoted activists who managed to steer the discussions of Kofi Annan's High-Level Panel on Threats, Challenges and Change (HLP) to include R2P in advance of the summit. The panel conducted a series of consultations before concluding in its report that they 'endorse the emerging norm that there is a collective international responsibility to protect' when 'sovereign Governments have proved powerless or unwilling to prevent' (High Level Panel 2004: 66).

There was no international consensus on R2P at the time, and the fact that R2P was endorsed by the HLP was more a result of Gareth Evans' advocacy as one of the members of the panel than a reflection of R2P's standing on the international agenda in 2004 (Leira and Kaspersen 2006: 29). In fact, Evans 'was instrumental in persuading [the panel] to endorse R2' as '[h]is influence on Panel deliberations eclipsed that of [Canada,] R2P's most ardent state supporter' (Leira and Kaspersen 2006: 26; Coleman 2013: 161). While Canada had submitted a non-paper to inform about R2P, a member of the secretariat commented that HLP 'didn't need a Canadian non-paper to know what R2P was. We had Gareth Evans on the Panel' (in Coleman 2013: 162). R2P did encounter resistance from members of the panel, but this resistance was not substantial enough to rid the report of the concept. In fact, Tanzania's former OAU Secretary-General Salim Ahmed Salim came out in favor of R2P, which 'denied R2P critics the only alternative moral high ground, which was the position of defenders of the sovereignty of vulnerable developing states' (Coleman 2013: 162; see also Glanville 2014). This process culminated with the unanimous adoption of a wording close to R2P in paragraphs 138 and 139 of the UN's 2005 World Summit. Again, as it had taken Canadian entrepreneurship and Australian leadership through Gareth Evans to push

for the R2P agenda, once again it was Evans who took the lead in advancing the R2P cause. As Leira and Kaspersen have noted, 'no government took a lead, with the notable exception of Canada, which took upon itself to further the "Responsibility to Protect" agenda' (2006: 51–2). As Bellamy notes, 'Evans was instrumental in persuading Kofi Annan's High-Level Panel to adopt the RtoP principle' (Bellamy 2010: 436). In fact, '[h]aving devised the principle, Evans went on to play the role of "norm entrepreneur". He helped protect the RtoP from the fallout over Iraq and then ensured that it was placed on the agenda at the 2005 UN World Summit' (Bellamy 2010: 437).

Making it into the HLP report was crucial for R2P, as this report was the basis for Kofi Annan's own report to the World Summit, *In Larger Freedom* (Annan 2005). As Evans has noted, 'The crucial next step was for the High-Level Panel's recommendations to be picked up in the secretary-general's own report to the summit, designed to bring together in a single coherent whole all the credible UN reform proposals in circulation, in particular from our panel' (Evans 2008b: 45).

Again, the process leading up to the 2005 World Summit was an initiative of the UN Secretariat rather than a broad discussion among member states. Thanks to solid support from Canada and 'like-minded states' Kofi Annan was able to continue his strenuous advocacy as Secretary-General for R2P as then–Canada's UN Ambassador stated (in Coleman 2013: 163). The version of R2P which emerged, though, was one much less potent than in the ICISS report itself, as it was decoupled from specific guidelines on the use of force as such a concept would not have had the support of other permanent Security Council members apart from the United Kingdom (Coleman 2013: 163).

At the World Summit itself, R2P came under fire. While it did have the support of most Western states and key states in the Global South such as South Africa, Mexico, and Rwanda, the reason why the Summit endorsed a modest version of R2P – what Bellamy calls 'one of the few real achievements of the UN's 2005 World Summit' (Bellamy 2010: 434) – was the fact that R2P was coupled with a bundle of other issues in the negotiations. Less than twenty-four hours before the adoption of the outcome document, member states were faced with a 'take-it-or-leave-it' deal, and many states associated with the NAM and G77 groupings felt they had no choice but to acquiesce to the package deal – on whose adoption other priorities hinged (for a detailed account, see Leira and Kaspersen 2006). As the Ambassador of Cuba pointed out, 'it took a last-ditch, undemocratic, non-transparent act to bolster the UN's aspirations

towards democracy, transparency, and efficiency' (quoted in Leira and Kaspersen 2006: 59). As Pollentine also notes, 'a running sore throughout the negotiations was a feeling – among G77 and NAM countries – that their voices were either being ignored, or failing to shape the negotiations in the way they might have expected' (Pollentine 2012: 218). In this process, as key ambassadors have confirmed, due to the constant advocacy by Canada and Gareth Evans, R2P 'snuck' into the document and 'slipped by' (Pollentine 2012: 216). As a member of the Secretariat has put it, 'R2P by itself would never have been endorsed in a resolution of the General Assembly. But the fact that it came in a huge package, where many countries were focused on other things, and had other battles to fight . . . it got through in the end' (quoted in Coleman 2013: 165). Coleman insists that support from the Secretariat itself was crucial in keeping R2P on the table. The final package, which had only just been rewritten on the eve of the Summit, was presented to the General Assembly by its president Jean Ping on a 'on a "take-it-or-leave-it" basis. The facilitators' text on R2P remained intact in this process, effectively overruling the remaining state objections' (Coleman 2013: 166).

Although unanimously endorsed, R2P was still far from universally accepted, as R2P had met resistance and opposition in the phase leading up to the World Summit. In fact, the final text of the Outcome Document was agreed only at the very last minute, and only after the UN Secretariat had shown 'an absolute determination on our side to have the concept included, at the cost of dropping everything else' (John Dauth, quoted in Bellamy 2010: 438). Insiders to the process found it 'surprising' that R2P made it into the final Outcome Document, as the opposition to it had led them to believe that it would 'never come to pass'. That R2P managed to survive the process was not a sign of its broad support among member states, but rather a testimony to the sustained efforts of Kofi Annan, the Canadian government and Gareth Evans (Leira and Kaspersen 2006: 65).

2.7 Conclusion

Part of the success of R2P was due to the elegant way in which it twisted understandings of sovereignty so as to bypass the deadlock between proponents of the inviolability of sovereignty and those putting the rights of the individual at the centre of international politics. Yet, this conceptual twist did not come without arm-twisting. As I have showed, the strong backing by Canada and the ability of its proponents to be at the centre of international negotiations strongly accounts for the rise of R2P. This

activism led in 2005 to the unanimous yet very cautious adoption of the policy norm at the World Summit. As such, rather than being the institutionalisation of evolving yet interspersed practices of protection heralding a coherent view of international authority as Ann Orford (2011) argues, I have sought to show the extent to which R2P was the outcome of strategic discursive moves, as well as political positioning when negotiating it. The meaning states attach to R2P as a policy norm remains widely contested – as was the case during the 2005 World Summit.

In fact, many of the developments beyond the World Summit have given rise to increasing scepticism towards R2P as merely yet another cover for Western imperialism. The NATO intervention in Libya was authorised through a UNSC Chapter VII mandate with reference to the protection of civilians and thus heralded by many as the first full instantiation of states' collective responsibility to protect and the responsibility of individual states for the protection of its population. Yet, as *The New York Times* recently emphasised, regime change in Libya, rather than R2P, was the key driver of the US policy in Libya under Secretary of State Hillary Clinton (Mohamed 2012; Heinze and Steele 2013; see also Becker and Shane 2016). Rather than making the case for R2P, the intervention in Libya has made non-Western states warier of the ways in which responsibility may in fact be a cover for other interests. As Ulfstein and Christiansen have argued, while some NATO activities in Libya were covered by the UNSC mandate, overthrowing Qaddafi was clearly illegal. In their view, '[t]he overstepping of the mandate may have a negative effect on the credibility of the responsibility to protect in future gross human rights violations' (Ulfstein and Christiansen 2013: 159). Others have seen what may in fact be the demise of R2P as predicated on broader structural trends in international politics, making the case that R2P was predicated on the unilateral moment. In such a view, the recent rise of China and Russia is what heralds the end of R2P, irrespective of actual policies (Garwood-Gowers 2012; see also Murray and Hehir 2012). Whatever the case may be, it is clear that the way through which R2P was acknowledged in 2005 without any firm commitment, contributed to reinforce its character of being a Western construct against which it was in the best interest of the G77 and NAM countries to oppose (see the discussion in Welsh 2011).

R2P was a creative way to merge the concepts of international rights and duties in order to affirm the duties of states to protect (sovereignty as a right of states, yet first and foremost a cluster of duties towards its population) *as well as* the rights of the international community to intervene. Yet, in so doing, the concept of responsibility did not help clarify the

distinction between the rights and duties of states. Instead, while containing a call to duty for action in the face of mass violations of human rights, R2P also gave some states the unapologetic right to interfere within the sovereign sphere of others.

As discussed, the linking of sovereignty with a right to intervene is not new (see Glanville 2014). Yet, favouring R2P because a similar understanding can be found in political theorising even before the state misses an important point about the historical development of international politics, namely that most states in the world were born precisely during that exception of the Cold War, and that this being the international society they were born into, it was also the deal they signed up for. As I have argued here, R2P was an innovation of the 1990s which rested on important interventions in the 1980s. Seeing it in a longer perspective, while giving R2P a longer pedigree, also links the concept to historical periods such as the nineteenth century, when not every state was entitled to be a full-fledged member of the family of civilised nations, and sovereignty was no guarantee against imperial interventions.

Notes

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2 The framing of this debate in terms of responsibility goes further back to the efforts by Willy Brandt to find common grounds for global governance in the post–Cold War era.

3 As Luke Glanville (2014) has argued, such an interventionist view of the rights of the 'international community' is not new. In fact, as he claims, it may very well be that the non-interventionism against which R2P was cast was a Cold War exception, and that powerful or Western states have always maintained intervention as both their right and duty.

4 Parts of the discussion of early initiatives rests on the overview provided in de Carvalho and Schia 2004.

5 Concerned chiefly with the developments of R2P here, I will not dwell on the parallel establishment of the Protection of Civilians (POC) agenda, which was more concerned with protection in ongoing missions than with the parameters for allowing international action based on the collective responsibility of states. For more on POC, see Lie and de Carvalho 2008; de Carvalho and Schia 2009; Lie and de Carvalho 2010; de Carvalho and Sending 2013.

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