

## The Evolving Normative Context and IDPs: An Application of R2P?

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# The Evolving Normative Context and IDPs: An Application of R2P?

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Affecting more than 26 million people worldwide, and concerning more than 50 countries (UNHCR 2008), the crisis of internal displacement has become a major feature of the post-Cold War era (Mooney, 2010). People uprooted from their home due to conflict, subjects to massive human rights violations and violence, whilst forced to remain within the borders of their countries define 'internally displaced persons' or 'IDPs' (Mooney, 2010).

Contrary to refugees who, since they have crossed borders, benefit from an international protection regime, the responsibility for IDPs' protection lies primarily with the government of the state concerned; with the international community only playing an accessory role. However, such a situation is highly problematic when one considers that the vast majority of cases of mass displacement is due to a lack of capacity or the unwillingness of the government to protect its citizens. Indeed, the Internal Displacement Monitoring Centre (IDMC) claims that 21 out of 28 states were accused of being responsible for deliberately displacing their citizens in 2007 (IDMC, 2007, p. 15)

In this context, the Responsibility to Protect (R2P), embraced by world leaders in 2005, is said to 'hold the potential to unblock and unlock persistent gaps in the protection of IDPs' (Mooney, 2010, p 63). According to the International Commission on Intervention and State Sovereignty (ICISS) which developed R2P, if states are not able or are unwilling to fulfill their responsibility to protect their own population, the responsibility to protect civilians falls to the international community (Axworthy and Rock, 2008). This development is said to be part of a wider thinking, an evolving normative context, where during the last two decades the traditional statist conception of international relations in which sovereignty was central is changing into one in which the conduct of states toward their population 'has become a matter of international concern and scrutiny' (Cohen and Deng, 2009, p. 1)

Many have thus argued that applying R2P on civilians uprooted by their own government would be 'revolutionary' and 'beneficial' in enhancing their protection (Harris Rimmer, 2010, p.1). The dissertation however, argues that such a position is misled: the real question should be whether R2P can align at all with IDPs.

Therefore, the dissertation's leading question is: in the current global context, can the Responsibility to Protect be applied on IDPs and provide effective protection to them?

Here it is argued that, although there is a case for a moral obligation to assist IDPs and there is evidence that academics as well as United Nations officials have attempted to implement it, the political as well as practical obstacles characterizing the international system are too important for IDPs to look at this concept for their protection. Additionally, the dissertation argues that these obstacles seriously impede R2P in becoming an accepted norm in the internal system.

This dissertation is based on a comprehensive approach, combining both empirical and theoretical research. The empirical research has been achieved by applying a considerable amount of literature such as United Nations and Non-Governmental Organization's reports and books and journal articles written by R2P and IDPs academics. The theoretical research is essentially based on Finnemore and Sikkink's rational-constructivist explanation of norm influence (1998). This methodology is used to explain the current state of the R2P concept and its future prospects.

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This dissertation consists of four main chapters that will each focus on one distinct aspect of the relationship between IDPs and R2P to finally come to the conclusion that will answer the dissertation's question. Chapter 1 provides an overview of the legal as well as political context in which the issue of internal displacement takes place. It also analyses how IDPs and R2P have been considered in the existing literature. Chapter 2 examines the current thinking on IDPs in relation with R2P, by particularly focusing on how IDPs challenges have been connected to R2P so far, both in theory – in R2P core documents and Security Council resolutions – and in practice through two case studies. This leads to Chapter 3 which assesses the significance of several normative developments since the 1990s which have led to the elaboration of R2P and examine the main obstacles impeding R2P to be applied on IDPS. Chapter 4 consists of an attempt to elaborate strategies needed for a more realistic and achievable version of R2P for the protection of IDPs. It also dwells on the process of norm influence in global politics so as to give an indication on how R2P needs to evolve normatively to be accepted universally. Finally the conclusion will answer the research question and provide a summary of the key findings of the dissertation.

The purpose of this dissertation is to clear up misconceptions about R2P application on IDPs as well as highlight its present limits so that accurate analysis can be performed regarding how the concept needs to evolve, both practically and normatively, in order to best serve the needs of IDPs. By better understanding the implications of the normative and political context in which both R2P and IDPs are situated, this dissertation hopes that it will help advance achievable and realistic solutions to enhance the protection of this particularly vulnerable population.

## CHAPTER 1: THE CHALLENGE OF INTERNAL DISPLACEMENT AND THE EVOLVING NORMATIVE CONTEXT

This background chapter intends to provide an overview of the political and legal context in which IDPs are situated. It seeks to highlight how situations of conflict-induced displacement and the persistent gaps in the international legal protection of IDPs provide a case for the international community to take action. This will lead to an examination in the last section of the chapter regarding how the existing literature has connected the issue of internal displacement and the Responsibility to Protect thus far as well as how this dissertation will contribute to the current debate on the responsibility of the international community to intervene to save civilians trapped within their state's borders.

### 1.1 Patterns of conflict

As reported by the Uppsala Conflict Data Program, the overall number of civil wars has declined since the 1990s, accompanied also by a decrease in more deadly and intense wars (Human Security Report Project, 2007). However 'few of the root-causes drivers of warfare and deadly assaults against civilians, from poverty to group inequality, have improved and some have worsened' (Human Security Report, 2007, p. 7). Indeed, widespread violence, people fleeing from civil wars and large scale human rights abuses continue to be major characteristics of the contemporary international system (Cohen and Deng, 2008).

A leading cause in cases of internal displacement has been attributed to conflicts (Cohen and Deng, 2008). According to the United States Committee for Refugees, conflict 'between a government and a minority' is one of the major reasons leading to internal displacement (Nath, 2005 p. 59). Samaddar refers to this as a 'democratic deficit' generating a 'humanitarian deficit' (Samaddar, 2002, p.7). Mistreated by national authorities, minorities seek to tip the balance of power inequalities in their favour. They can provoke civil wars in order to achieve their political objectives, while their government tries to repress the group fearing of claim of self-determination (Cohen and Deng, 1998). As a result, internal displacement occurs, with IDPs frequently perceived as the 'enemy' because of their affiliation with insurgency movements, an adversary political party or with an ethnic, social, religious or cultural group that they judge hostile or inferior (Deng, 2003 p. 119). States tend to be unwilling to authorize international assistance to IDPs, considering that they do not have a duty to protect that category of persons. Moreover, association of IDPs with rebel movements can hamper attempts to aid them, as national governments fear that the provision of any aid will strengthen rebel elements (Cohen and Deng, 2009)

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Although most of the conflicts leading to internal displacement are due to tensions emerging from differences in terms of ethnicity, religion or language, it is more often the manipulation of these very differences by state leaders for military or political objectives that generates mass displacement (Cohen and Deng, 1998). Extremist political leaders can stir up ethnic and communal tensions to strengthen their influence and their personal agenda for the control of the state's resources (International Federation for Human Right (IFHR), 2007). In Kenya for example, the IFHR demonstrates that since 1992 there has been a recurring pattern of internal displacement due to 'politically instigated ethnic clashes in the context of general elections' (IFHR, 2007, p. 8). At every upcoming presidential election, political leaders seek to maintain their political, economic and social positions by fomenting violence among different ethnic groups in several regions of the country. As a result, between 1991 and 1996, more than 300 000 persons were forcibly displaced and some others 100 000 were also uprooted following the 1997 presidential elections, because of their affiliation with the opposition party (IFHR, 2007).

In failed states where warlords and rebel movements often rule, it has become common practice for the belligerent parties to break the law of war through purposefully targeting unarmed civilians and 'using them as weapon of war' (Cohen and Deng, 2008, p. 21). Many rebel groups turn to criminal activities, stealing the land and properties of marginalized populations including IDPs and engaging in violence against civilians, thus provoking new flows of displacement (Fagen, 2003, Schomerus, 2007). Such a trend has been seen in Colombia, Darfur and Iraq where in the latter radical militias associated with the police and the army deliberately displaced Shias and Sunnis so as to gain control over their home areas (al-Khalidi and Tanner, 2006, p. 7-8)

## 1.2 Legal constraints in international law

Although internal displacement is affecting more than twenty six million people (UNHCR 2008), IDPs are not covered by an established regime of protection, contrary to refugees who benefit from the 1951 Geneva Convention. Indeed, as the United Nations High Commissioner for Refugees points out, 'they fall between the cracks of humanitarian law and assistance' (UNCHR, 2004). *The Compilation and Analysis of Legal Norms* relating to IDPs was charged in 1996 and in 1998 to analyse the gaps in the legal protection of IDPs (Mooney, 2003, p. 162). The Compilation concluded that considerable areas in of humanitarian law and human right law were not providing sufficient protection for IDPs (Mooney, 2003). Those gaps can be divided into two categories.

### 1.2.1 Gaps in the normative framework of IDPs protection

The first category can be identified as 'consensus gaps' existing 'because there is no consensus on how a general norm can be applied to the IDPs' (Phuong, 2004, p. 50). Although important aspects regarding the prohibition of torture, the right to life, freedom of religion for IDPs are included in international law, (Compilation, para. 414) according to the Compilation some important areas are not covered due to the lack or absence of explicit norms (Phuong, 2004, p. 50). For example, there is a lack of clarity concerning the protection of life -particularly during intra-state armed conflicts-, gender-based violence, access to international assistance and free movement (Compilation, para. 414).

Another gap which can be identified in existing law relates to the question of applicability: a legal norm exists but it does not apply in all circumstances or only concerns a special category of the population, weakening therefore their relevance to IDPs (Mooney, 2004, p. 162). For instance, certain provisions of humanitarian law only apply to non-nationals in international armed conflicts (Phuong, 2004, p. 49) Indeed, the Geneva Convention, the provisions of which could have been relevant for IDPs protection, only applies to 'protected persons', that is 'those who find themselves in case of a conflict or occupation, in the hand of a party to the conflict or Occupying Power of which they are not nationals' (Fourth Geneva Convention, art. 4). Persons caught in situations of internal conflict against their governments, thus are not covered by the Convention.

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Moreover, the legal protection of IDPs by international humanitarian law is limited because norms are applicable only during armed conflict (Fourth Geneva Convention, art. 3). This is problematic for IDPs since their displacement can be due to low-intensity conflicts which are not defined as armed conflict (Phuong, 2004, p. 49). This can lead states that want to avoid the application of the Geneva Conventions to their territory to label a conflict a 'mere riot' or 'internal disturbance' (Geissler, 1999, p. 40)

Finally, even where relevant norms are present, they are sometimes binding only on specific actors – namely states which have ratified an international treaty or a convention (Phuong, 2004). This can happen when states have not ratified key human rights treaties or humanitarian law instruments – the Compilation refers to this as 'ratification gaps' (Phuong, 2004). Furthermore, human rights treaties have a binding effect only on states and do not apply to non-state actors. Given that a significant number of these are responsible for human rights violations on IDPs, this applicability gap represents a major obstacle for the legal protection of IDPs.

## 1.2.2 Reasoning behind the lack of IDPs protection

In a 1997 interview regarding why the UN had not been able to be more involved with IDPs issues, the UN High Commissioner for Refugees declared 'the problem is sovereignty' (Korn, 1999, p. 49). Indeed, if one wants to deal with IDPs' challenges, understanding the concept of sovereignty is essential: internal displacement occurs within state borders and most of the time under the jurisdiction of governments. The legal basis of sovereignty – and public international law more generally – comes from a Westphalian understanding of international relations where states are considered equal, independent and sovereign (Newman, 2009, p. 422). The United Nations embodies this idea in article 2 (1) of the UN charter which claims that 'the Organization is based on the principles of the sovereign equality of all its Members' (United Nations Charter, 1945, art. 2 (1)).

In line with the concept of sovereignty is that of the principle of non-intervention in a state's internal affairs. As Oppenheim writes, 'the prohibition of intervention is a corollary of every state's right to sovereignty, territorial integrity and political independence' (Oppenheim, 1928, p. 428). This principle has been widely recognized, in UN Security Council resolutions and General Assembly declarations as well as in the Geneva Conventions (Rosenberg, 2004). Therefore, from a state sovereignty point of view, establishing an international treaty codifying the rights of people displaced in their own country could be perceived as direct interference in a state's jurisdiction, domestic affairs, and autonomy defined under article 2(7) of the UN charter (United Nations Charter, 1945)

## 1.3 Literature review

This section analyses how IDPs and R2P have been respectively considered in the literature as well as how these two concepts have been connected so far. This will lead to an analysis of the main weaknesses in the existing literature and, from that, how the current study can contribute to the question of the application of R2P on IDPs as discussed throughout this chapter.

### 2.3.1 Main debates in the internal displacement and the R2P fields

According to the existing literature, the main conceptual debates in the internal displacement fields concern sovereignty, IDP protection, the legal framework, the IDP category, institutional arrangements and the comprehensiveness of IDP's definition (Cohen, 2008, p. 84). Two main debates are especially relevant to this dissertation, namely the question of IDPs protection and sovereignty.

Regarding the issue of protection, academia remains divided about what 'protection' for IDPs entails, which actors

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should be engaged and what measures should be taken to improve security for the internally displaced (Feller, 2006). One part of the literature recommends a greater engagement of UN agencies – the Office of the UN High Commissioner for Human Rights and UNICEF (UNHCR, 2006) – while another group of authors argues that UN peacekeepers should be involved in the protection of IDPs (O'Neill, 2004). This collaboration with the military however, is highly controversial for some who argue that humanitarian and military actions should be dealt with separately so as to avoid the risk that humanitarian actors be associated with one of the conflict parties ( UNHCR 2006, De Torrente 2009). Nevertheless, authors such as O'Neill have stressed that the involvement of peacekeepers and police forces are in the interests of IDPs when these ones are the target of their government or of non-state actors and therefore humanitarian workers should work alongside the military within an 'integrated mission framework'(O'Neill , 2004, p. 173).

The most important debate in IDPs literature relates to the issue of sovereignty. Indeed, according to Cohen, 'any discussion on internal displacement must begin with how to conceptualize and address sovereignty' (Cohen, 2008, p. 85). Since internal displacement occurs within national borders where the government is unable or unwilling to protect and provide assistance to its IDPs, this prompts the question, should sovereignty be considered as a barrier to intervention? (Cohen, 2008)

The literature remains divided on this controversial question. On one hand, regarding the situation of IDPs, Deng envisages sovereignty 'positively', that is

Not as a barrier against international involvement and cooperation, but as a concept of state responsibility to protect and assist its citizens in need and where lack or inadequacy of resources and operational capacities necessitate to invite international assistance to complement national efforts" (Deng, 2004, p. 1)

This positive interpretation of sovereignty is the essence of the concept of 'Sovereignty as a Responsibility' which attributes to sovereignty two characteristics: an internal one relating to the government and its relationship with its population and an external one managing relationships between states (Evans, 2002).

On the other hand, a number of academics have argued that sovereignty should prevail over humanitarian considerations. According to authors adhering to the principle of absolute sovereignty, state sovereignty is a key instrument for the stability of international order (Spelt, 2009). Indeed, sovereignty represents an effective normative barrier deterring potential or actual intervention (Spelt, 2009 p. 59). From this perspective, 'changing the normative yardsticks governing intervention may thus end up doing more harm than good to international order in the long run' (Ayoob, 2002).

At the moment, the literature dealing with IDPs protection seems to be in favour of a positive interpretation of sovereignty. As will be examined later on, the literature connecting IDPs and R2P generally considers that the barrier to intervention should be low when egregious human rights abuses threaten IDPs (Cohen and Deng 1996, 1998; Cohen 2010; Mooney 2010; Edwards 2009).

The issue over sovereignty in the internal displacement field leads then to the wider debate on the 'Responsibility to Protect' developed by the ICISS. This document provides for an international responsibility to take 'collective action' to protect populations at risk (ICISS report, 2001). On this matter, the literature is divided between two main clusters of opinion (McFarlane, Thielking and Weiss 2004).

The first group of opinion is defined as 'optimists' (McFarlane 2004). Embraced most notably by former British Prime Minister Tony Blair (see the 'Blair Doctrine' developed in 1999), R2P is considered for optimists as the most significant and comprehensive effort so far to resolve the contradictory legal, political and moral dilemmas regarding humanitarian intervention (Annan 2002, Newman, 2002, Llyod 2003). In R2P's proponents' view, there has been a shift in the perception of sovereignty which now increasingly depends on the fulfillment of human rights provisions (Evans, Perrez de Cuellar 1991). They see dramatic events such as the genocide in Rwanda and the intervention in Kosovo, as well as the rise of human rights in global politics as signs of 'evolving international standards of conduct for states' (ICISS report, 2001, p. 3) where the protection of civilians is increasingly becoming a norm. Some R2P

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advocates though, have highlighted the risk and consequences of R2P contamination with the War on Terror since the United States used the R2P language to justify the invasion in Iraq (Weiss 2006, Thakur 2004) .

On the opposite side, a group of academics have condemned the idea of humanitarian intervention and R2P. According to Ayoob (2002), the Responsibility to Protect evokes the arguments expressed by colonial empires back in the 19<sup>th</sup> century and encourages the reproduction of colonialist patterns of behavior from western powers. Another criticism relates to the 'Just- Do- it -But Don't- Call-it -Approach' (McFarlane, Thielking and Weiss, 2004, p.979) which condemns instrumental decision making such as the decision to intervene in Kosovo (Chandler, 2002). Proponents of this view argue that intervention raises the problem of intervening on a case by case basis and therefore, is selective and arbitrary (Chandler 2002). Furthermore, acting without the Security Council authorization leads to a conflict between legality and legitimacy, creating opportunities for law making by the western power elite (Chandler, 2002, p. 135). Finally, among refugee organizations, worries have been expressed about the dangers of a 'politically motivated interpretation of the concept of R2P' (Human Right Watch, 2003). The International Committee of the Red Cross (ICRC) has warned that the ICISS report may be interpreted selectively as favoring IDPs remaining within their territory ahead of the protection of refugees (McFarlane, Thielking, Weiss, 2004).

## 1.3.2 Connections between IDPs and R2P in the literature

There has apparently been a move toward the idea that the R2P *should* apply to IDPs in recent literature. Authors insist on the 'natural compatibility' between the two concepts (Mooney 2010, p. 82). Indeed, the concept of 'Sovereignty as Responsibility' that has led efforts for IDPs protection has strongly influenced the creators of R2P – ICSS members have recognized the 'intellectual debt' that R2P owed to IDPs protection efforts (Thakur, 2002, p. 255 ). In addition, the vast majority of IDPs experts who made the connection with R2P agree that, overall, R2P represents a significant step forward to solve the gaps in IDPs protection by enhancing the legal obligations of governments to protect their citizens (Feller,2006 ; Mooney 2010). It appears that, generally, IDPs advocates believe that R2P will be 'beneficial' and 'revolutionary' in improving the protection of uprooted populations (Harris Rimmer, 2010, p. 1).

Roberta Cohen (2010) points to the fact that the application of R2P may not always work to the benefits of the IDPs, most notably in regards to 'R2P's limited application', 'the narrowness of R2P scope' and 'R2P's equation with military actions' (Cohen, 2010, p. 21 – 30). However she remains in favor of R2P and suggests strategies – such as clarifying the concept before applying it on IDPs and making R2P more comprehensive by focusing on prevention, capacity building and protection – to make the R2P more relevant to IDPs protection (Cohen 2010, p. 31-37).

## 1. 3.3Weakness of the existing literature and contribution of the study

Although these works are of considerable relevance for IDPs protection, overall, the literature connecting IDPs and R2P suffers from major weaknesses.

First of all, the main weakness of the existing literature is that it is limited. Besides the works of Roberta Cohen, Francis Deng and Erin Mooney, there is only one edited book, *Protecting the Displaced: Deepening the Responsibility to Protect* (Davies and Glanville 2010), that explores how the Responsibility to Protect is aligned with IDPs. Most of the literature on IDPs focuses on the root causes of displacement and the lack of a legal and institutional framework for them (Phuong 2004; Bagshaw 2005; Hampton 2002)

Another major problem with the literature is that the link with R2P has not been adequately made. Indeed, the literature does not take into account and does not question the impact – or otherwise – of the evolving normative context that R2P may represent. Authors do not consider the fact that, outside of academia, there is little evidence that governments are actually considering the application of R2P for IDPs protection. Since its adoption in 2005, R2P

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has only been applied to IDPs in Kenya in 2008. It has never been applied to situations where protection for IDPs is urgently needed such as in Darfur, the Democratic Republic of Congo (DRC) or Sri Lanka, prompting the UN Secretary General's Special Adviser on R2P to observe that 'skeptics and public observers alike may well question the utility of R2P principles if they are applied only to easier cases' (Luck, 2008, p. 6).

Thus, although some have argued that the intervention in Kenya is evidence that the R2P applies to IDPs in practice, the dissertation intends to demonstrate that actually, the political and practical obstacles to implementation are too important. Academics have not taken sufficient account of those practical problems in applying the R2P to IDPs.

If there is a disconnection between what academics are considering and what is taking place, this will not work at the benefit of IDPs. It is thus crucial to be clear about what the present normative context is and to develop coherent strategies taking that reality into account.

The following chapter aims to provide a comprehensive overview of the current thinking on internal displacement and its connection with R2P, both in official statements and in state practice.

## CHAPTER 2: THE CURRENT THINKING ON IDPS

This chapter aims to explore how the issue of internal displacement has been related to the various R2P reports and UN Security Council resolutions; as well as if R2P has been applied in practice in countries where massive internal displacement has occurred.

### 2.1 Connection between IDPs and R2P in official statements

At the regional level, positive steps have recently been taken in 2009 by the African Union to connect the issue of internal displacement and the concept of the Responsibility to Protect (Davies and Glanville, 2010). The African Union Convention for the Protection and Assistance of Internally Displaced Persons (AU IDP Convention), for the first time, requests African states to commit themselves to the protection and assistance of IDPs, and articulates the obligations of governments, the African Union, international organizations and armed groups in preventing and addressing problems of internal displacement. For example, according to the Convention

The African Union shall have the right to intervene in a Member State pursuant to a decision of the Assembly ...in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity (AU IDP convention, art. 8 (1)).

So far though, the convention has been signed by just 31 out of the 53 African Union member states and ratified by only 7 – to be legally binding it has to be ratified by at least 15 states (AU IDP Convention, 2011). This indicates an enduring reluctance among the majority of African states to connect the two notions.

At the international level, an examination of the core documents of the Responsibility to Protect reveals how the linkages between IDPs and R2P have remained either nonexistent or inconsistent.

First, the ICISS report remains mute on the connections with IDP protection. Indeed, it only focuses on refugees, claiming that a key purpose in being involved in conflict prevention is to avoid 'refugee outflows' and 'other spillovers' (Evans 2008 p. 168-9), suggesting that this category of forced migrants matters only for strategic concerns and international security – as opposed then to IDPs. *The 2005 World Summit Outcome Declaration* mentions the Guiding Principles on Internal Displacement which establishes the rights and guarantees relevant to IDPs as 'an important framework for the protection of internally displaced persons' (UN General Assembly, 2005, para. 132) but it does not contain any reference to instruments aimed at improving the UN's aptitude to respond to

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their sufferings concretely (Cohen, 2006, p. 101.)

The UN Secretary General Report's *Implementing the Responsibility to Protect* (2009) seems to take a step forward, however. Whilst acknowledging that UN agencies and programmes are already making important contributions to the elimination of mass atrocity and crimes, it points out that

They could do much more effectively if goals relating to the responsibility to protect, including the protection of refugees and *the internally displaced*, were mainstreamed among their priorities, whether in the areas of human rights, humanitarian affairs, peacekeeping, peace-building, political affairs or development ( 2009, para 29).

Equally significant, the 2009 report points to the failure of the international community to address the issue of internal displacement in Darfur, the Democratic Republic of Congo and Somalia which has resulted in damaging the public image of R2P (Report of the Secretary General, 2009, para. 55). This report therefore clearly recognizes that the R2P concept and IDPs' protection are connected. And yet, since then the question of protecting IDPs has hardly been mentioned in recent debates on R2P : The 2010 report *Early Warning, Assessment and the Responsibility to Protect* never refers to IDPs, and the last R2P Report on *The Role of Regional and Sub-Regional arrangements in implementing the Responsibility to Protect* (2011) only mentions briefly the 2009 African Union Convention for the protection of IDPs, but does not go further than stating that it the first regional legal body that is associated with R2P (Report of the Secretary General , 2011,para. 20). Nowhere in the report does it suggest that such a positive development would be worthy being replicated at the international level or that the Convention's focus on IDPs should be particularly relevant and further developed in other regional organizations.

Notwithstanding the neglect of IDPs in R2P core reports, there has been growing recognition in UN Security Council resolutions of massive internal displacement of civilians as a threat to international peace and security, suggesting at first sight a positive shift in the recognition of IDPs plight (Orchard, 2010). According to Chapter VII of the UN charter, the Security Council is charged with maintaining peace and security and may consequently consider action in situations threatening international order (UN charter, chap. VII art. 39). The end of the Cold War has seen a progressive broadening of the notion of threats to international peace and security by the Council, to include situations such as

The use of extreme violence by governments against large populations that could generate massive refugee flows, illegal arm trafficking and the rise of paramilitary guerrilla armies, all of which could disrupt neighboring states and regional stability (Cronin, 2008, p. 72).

This has led the Security Council to enact a series of resolutions regarding the protection of IDPs, whether by condemning ethnic cleansing, or by insisting on the vulnerability of particular groups including IDPs (Orchard, 2010, p. 105). For instance, Resolutions 1261 and 1325 condemn the deliberate targeting of internally displaced children and women and Resolution 1400 extends the mandate of the United Nations in Sierra Leone (UNAMSIL) for the protection of IDPs and specifically mentions R2P in this context (Weiss and Korn, 2006, p. 102).

The incorporation of IDPs into the Security Council purview seems then quite encouraging and suggests that an alignment between R2P and IDPs is occurring. Unfortunately though, the use of the R2P language in situations of internal displacement has not been 'an evidence of the term's manifest utility' (Hehir, 2010, p. 234), as will be demonstrated in the following section.

## 2.2 The actual record

The examination of regime-induced displacement in Darfur and Kenya – where there was a wide recognition of R2P pertinence – seeks to demonstrate the major limits of the concept. In regards to Darfur, R2P is considered as a complete failure in that it fails to generate political will and collective action. In contrast, R2P is widely recognized as a success in Kenya, having helped to limit the intensification of violence. When looking closely at its application there



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however, its so called success seems more that overrated.

## 2.2.1 Darfur

Since 2003 the situation in Darfur has been described as being 'a supreme humanitarian emergency, where the only hope of saving lives depends on outsiders coming to the rescue' (Wheeler 2000, p. 34). Although large scale killings and displacement had started in February 2003, more than a year passed before the Security Council finally decided to address the crisis (Orchard, 2010).

In the high level of violence that have characterized the conflict in Darfur – among the main human rights violations were killings, systematic rape as a weapon of war and abductions – the forced displacement of Darfur's population has been a particularly distinct feature (Williams and Bellamy, 2005, p. 30). The primary goal of the Janjaweed, who were recruited by the Sudanese government, was to concentrate the population in the urban centres where they could be contained (Orchard, 2010). The conflict took a new turn in 2008 with the Janjaweed systematically attacking IDPs camps and peacekeepers (Orchard, 2010).

Although the bulk of displacement and mass killing occurred in 2003 – with 1, 5 million of displaced persons and 120 000 killed at that time (UNHCR report, 2004) – the UN Security Council only recognized the crisis in May 2004. Since then, the Security Council's response to the conflict has 'consisted chiefly of ad hoc steps rather than a systematic or strategic approach to the crisis' (De Waal, 2007, p. 1041). Rather than considering the application of R2P, the Permanent Five essentially focused on finding a political settlement with Darfur's government. The Council issued in July 2004 Resolution 1556 demanding Omar al Bashir's government to disarm the Janjaweed's and condemning acts of ethnic violence (S/RES/1556, 2004). It imposed sanctions only in March 2005 but as Human Rights Watch noted they 'amounted to little more than a symbolic gesture given the division on the Security Council' (Human Right Watch, 2005, p. 85). Ensuing action consisted in mentioning the situation to the International Criminal Court (S/RES/1593, 2005) and approving the instauration of a shared assistance mission led by the African Union, UNAMID (S/RES/1769, 2007).

In Alex Bellamy's view, the general unwillingness to take further action in Darfur owes to the fact that anti interventionist governments – namely China, Pakistan and Russia – manipulated the language of the R2P to justify arguments against intervention by arguing that in some contested situations, the prime responsibility still lies with the host state (Bellamy, 2005, p. 33). These governments judged that the level of suffering was too low to accuse Sudan of failing in its duty to protect its population (Bellamy, 2005, p. 33).

The manipulation of the R2P language by China and Pakistan makes sense when one knows that Darfur is deeply connected to their geopolitical and strategic interests. Indeed, countries with strong links to Islamic and Arab governments such as Pakistan and Algeria, acted to obstruct any tougher actions against the Sudanese government (Cohen, 2005). China also had its reasons to veto any resolution sanctioning Sudan's oil sector since it is the largest oil buyer in Sudan, 'holding a 40% share in the international consortium extracting oil in Sudan' (Cohen, 2005; Goodman, 2004).

The United States and the European Union also had it in their interests to avoid a direct conflict with the Sudanese government. Indeed, Sudan's strategic position in the War against Terror explains in part why R2P was not applied (Williams and Bellamy, 2005). Since 9/11 and particularly after the war in Iraq, Washington has been trying to make the Sudanese government an ally against terrorism. Given the risk that radical political groups could succeed in depicting a Western involvement in Darfur as a 'crusader plot' against Islam and use it at their advantage to strengthen their position in the Sudanese government, western states chose not to intervene (The Economist, 2004, p. 11). Western states chose to manage the crisis in a way that did not encourage an expansion of Islamic extremism in order to avoid Sudan to become a 'safe have for anti-western terrorists' as it used to be a decade ago (Williams and Bellamy, 2005, p. 38).

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Furthermore, concerns about the consequences that an intervention could have on other civil wars in Sudan, particularly between the government and the SPLM/A, made the Council reluctant to intervene (Orchard, 2010). Indeed, in the words of Colin Powell, the US Secretary of State at the time 'there is a concern that we don't want to put so much pressure on the Sudanese government, that causes internal problems that might make the situation worse...' (Hoge, 2004) Darfur was perceived as less important than the management of the war between the government and the SPLM/A, where significant 'diplomatic capital' had been invested (Hoge 2004).

Thus, since 2003, between 1.9 million to 2.7 million people have been displaced within Darfur (IDMC, 2011). It took more than a year for the Security Council to finally decide to recognize the crisis and even when it was involved in Darfur, the threat of veto and disagreements among the Permanent Five impeded the implementation of effective sanctions and delayed for 5 years the sending of UN peacekeepers (Orchard, 2010).

### 2.2.2 Kenya

In Kenya, the widespread violence following the presidential campaign in 2007 and 2008 brought the issue of internal displacement into the international spotlight. The contestation of the 2007 elections and the ethnic violence following this led to 650 000 persons being internally displaced in 2008 (IDMC, 2010). Among peoples those responsible for the violence were militias and the police, with the victims being generally targeted and displaced 'as a means of clearing areas of people with certain ethnic and political ties' (IDMC, 2008, p. 15). This situation led the UN Secretary General to apply R2P which was aimed at 'providing a discursive framework for international diplomatic involvement' (Chandler, 2009, p. 31). After warning that the Kenyan government would be held responsible for violating human rights, the Secretary General implemented R2P by using international political pressure from Western governments and involving the African Union (Cohen, 2010). These diplomatic pressures led to a negotiated settlement with the Kenyan government, preventing what could have probably become the beginning of bloodshed on a much larger scale. According to Kofi Annan and many others, Kenya offers the best example that R2P can effectively work in practice (Cohen, 2008)

Is Kenya then providing an illustration of what R2P can deliver in situations of internal displacement? In spite of its perceived success, making this case a model for IDPs protection seems to draw the wrong conclusions from the Kenyan situation.

First, even though diplomatic pressure helped to halt the violence, the application of R2P failed as an effective preventive measure (Sharma, 2010). Warnings of violence occurring before the crisis had already been reported and this could have helped prevent the crisis at an earlier stage (Sharma, 2010). However, the international community largely ignored it :1500 people died and 650 000 were displaced before the UN Secretary General defined the ethnic clashes as a R2P situation and decided to take action (Cohen 2010, p. 21). .

Furthermore, in their hurry to end the clashes as quickly as possible, the international community neglected the third pillar of the Responsibility to protect – namely the Responsibility to Rebuild (Sharma, 2010, Cohen, 2010). Emergency solutions – such as power sharing – were privileged at the expense of more long term measures such as the resolution of the causes of displacement and of inter -communal tensions which remain high in some regions (IDMC, 2010). In addition, in the aftermath of the crisis, IDPs concerns were largely left aside with the government shutting down IDPs camps without considering if areas of return were safe enough (Cohen, 2010). Indeed, as of today, thousands of them are still in temporary settlement camps without sufficient food, medicine or decent shelter (Cohen, 2010).

Thus, considering how the pre-crisis and post-crisis phases in the country have been largely neglected, it seems more accurate to describe the international response to the crisis as 'a metaphorical bandaging of Kenya's wounds' (Sharma, 2010).

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## **2.3 Conclusion**

The examination of how the issue of internal displacement has been approached both in theory and in practice demonstrates that so far, IDPs do not attract the attention of the international community. The linkage between internal displacement and the Responsibility to Protect remains extremely poor, and while the Security Council has progressively included IDPs in its resolutions, its actual practice reveals that concerns over them are only rhetorical.

Both case studies also reveal the limits of R2P application on IDPs. Its application in Kenya was possible because engagement only involved diplomatic pressure and had the consent of national authorities. The Secretary General could call upon R2P 'without the explicit authorization of the Security Council' (Report of the Secretary General, 2009, para. 51), ensuring that the Council members could not move to impede its application. Darfur is a dramatic case, illustrating a clear lack of political will to intervene because of geopolitical concerns and the pervasiveness of the principle of non-interference.

With this taken into account, is it then accurate to talk about an emerging norm of a responsibility to protect that would hold the potential to assist IDPs? The following chapter will attempt to respond to this question.

## **CHAPTER 3: AN EVOLVING NORMATIVE CONTEXT?**

Commenting on the growing influence of human rights norms in the last decades, Gareth Evans argues

It is now commonly acknowledged that sovereignty implies a dual responsibility: externally, to respect the sovereignty of states, and internally, to respect the dignity and basic rights of all the people within the state. In international human rights covenants, in UN practice, and in state practice itself, sovereignty is now understood as embracing this dual responsibility. Sovereignty as responsibility has become the minimum content of good international citizenship (Evans, 2002, p. 102).

This chapter intends to demonstrate that Evan's comment, and more general arguments about a so called emergence of an evolving normative context in which the sufferings of IDPs would be seen as intolerable for the international community are overoptimistic, if not mistaken. The contemporary international system remains in actual fact dominated by self-interest as well as strategic and practical concerns of which IDPs are not a part. After examining the post-cold war normative developments which have led to the elaboration of the ICISS report, the dissertation will examine the main obstacles impeding both the R2P to be applied on that vulnerable category of persons and more generally to be established as a norm.

### **3.1 Normative developments and the Responsibility to Protect**

The end of the Cold War brought considerable changes in the agenda and the structure of global politics. Alongside dark predictions on how the collapse of the bipolar order would undermine peace and stability such as Robert Kaplan announcing the 'Coming Anarchy' (Kaplan, 1994), a more positive thinking developed as well. This one posited that the post- Cold War environment was holding tremendous potential for the creation of a more solidarist order where human rights would prevail over traditional security concerns and that international relations would go beyond military deterrence and hostility (Hehir, 2008; Shaw 1994).

Four significant features characterize the normative developments that occurred in the post-Cold War era: the rise of human rights in international politics, the development of global civil society, the reconceptualization of sovereignty and NATO's intervention in Kosovo (Hehir, 2008).

First, increased human rights abuses caused by civil wars after the Cold War started to be seen as a threat to international peace and security due to their potential to spill over (Hehir, 2008). Indeed, in a globalized world, the

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growing interconnection of economies meant that those intra-states conflict could provoke 'epidemics of regional disorders' by destabilizing international markets and political and social order (Hoffman, 1993 p. 23). Western states had therefore strategic reasons to broaden their interpretation of threats to international peace and security to include human rights violations. This development opened the door for human rights advocates to call for greater western involvement in war-shattered countries (Herman and Peterson, 2002, p. 199). Their advocacy was inspired by a cosmopolitan understanding of international politics, described by Kim Hutchings as

The position which prescribes types of political practice and institution that operate over, above or across the boundaries of the nation state and which are at least potentially global in their reach' (Hutchings, 1999, p. 154).

The end of the Cold War also enabled the development of international humanitarian networks linking up and coordinating their agendas like never before (Kaldor, 2003 p.2). The main goal of these civil society groups was to integrate morality into global politics and to 'develop normative thinking about the behavior of states' (Hehir, 2008, p. 38). Challenging the traditional approach developed by Realism according to which states 'actions are motivated by self-interests (Morgenthau, 1978), this approach proffered an alternative view regarding how international organizations and states 'ought to act' (Hehir, 2008, p. 38). This 'normative turn' (Hehir, 2008, p. 38) encouraged the development of the concept of human security defined as

The security of the individual and communities rather than the security of the states. It combines human rights and human development, freedom from fear and freedom from want (Kaldor, 2005, p. 177).

As a result of these changes, the concept of sovereignty was challenged. Indeed, sovereignty was increasingly described in negative terms, permitting governments to abuse the human rights of their citizens (Wheeler, 1996). As Kenneth Booth notes, 'sovereignty and statism constructed from the 17<sup>th</sup> to the 20<sup>th</sup> century led inexorably to the Holocaust and atomic warfare' (2001, p. 65). The 'negative sovereignty game' tolerated human rights abuses occurring within state's borders because of the prevalence of the right of equal sovereignty and the principle of self-determination (Jackson, 1990, p. 10). With the growing development of human security however, the notion of sovereign rights was considered to be dependent on the respect for human rights. Therefore, states which failed to respect their citizens' human rights put at risk the inviolability of their sovereignty, making humanitarian intervention legitimate (Hehir, 2008, p. 44)

It is this latter argument, that state's sovereignty should not be a barrier from external intervention when it commits egregious human right violations that constituted a major justification for intervening in Kosovo (Hehir, 2008) Operation Allied Force was apparently the evidence of a move from a Realist conception of foreign policy toward one based on moral grounds (Fuller, 1999; Robertson, 2002). NATO intervention was held to illustrate how international interests and values have started to connect in the post-cold war world and proved the capacity of global civil society to compel western states to act ethically (Bellamy, 2002).

It is in this context that the redaction of *The Responsibility to Protect* by the ICISS in 2001 must be understood. The report argues that the debate on humanitarian intervention takes place

In a historical, political and legal context of evolving international standards of conduct for states and individuals, including the development of new and stronger norms and mechanisms for the protection of human rights ( ICISS, 2001, p. 6)

The ICISS report advances the normative debate in two ways. First, it reinterprets the concept of sovereignty 'from control to responsibility' (Evans and Sahnoun, 2002, p.101). Sovereignty now entails two responsibilities: an internal one meaning that every government is compelled to respect the human rights of its people within its frontiers and an external one according to which every state has a responsibility toward the international community embodied by the United Nations (Evans and Sahnoun, 2002, p.101). Second, the report changes the focus from the rights of foreign interventionists toward an emphasis on civilian in suffering and stresses that the Responsibility to Protect is 'shared as between the primary duty to protect their own populations and the secondary duty of the wider community' (Alvarez, 2007 p. 1). Another contribution of the report is to conceptualize sovereignty in a comprehensive manner: it

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encompasses the 'Responsibility to Prevent', 'the Responsibility to React' and the 'Responsibility to Rebuild' (ICISS report, 2001). R2P is envisaged as a 'continuum' (Chandler, 2009 p. 29), from the responsibility of states to prevent egregious human rights abuses from happening to the responsibility to rebuild war shattered countries after an intervention; this means that R2P goes beyond intervention. As to the question of who would be the most suitable body to authorize military intervention, the report argues that the UN Security Council is the relevant decision maker (ICISS report 2001).

Since its development in 2001, the R2P concept has been welcomed as a tremendous success from academics as well as from policymakers (Weiss, 2006). Especially on the policymaking level, R2P seems to have started the process of norm emergence in global politics. In 2004, the report of the Secretary General's *High Level Panel on Threats, Challenges and Changes* recognized R2P's core argument of Sovereignty as Responsibility. The endorsement of R2P went further in 2005 at the World Summit Outcome where 192 government leaders recognized that states are responsible to protect their population from ethnic cleansing, genocide, crimes against humanity and war crimes (World Summit Outcome 2005). They agreed as well that collective actions are necessary when a state 'is manifestly failing to protect its population' (Bellamy, 2010, p. 143).

In light of these evolutions, it would seem logical to agree with academics and human rights advocates who argue that the R2P idea has great potential to resolve the prevailing gaps in the protection of IDPs (Cohen 2010; Mooney, 2010, Edwards 2009). It is useful to remember that the essence of R2P, 'Sovereignty as a Responsibility' originates from the then Secretary General's representative for IDPs Francis Deng in his work on how to improve protection for these vulnerable populations (Cohen and Deng 1996). Moreover, the four R2P situations identified by the World Summit – war crime, ethnic cleansing, crimes against humanity and genocide – inexorably involve internal displacement on a large scale (Mooney 2010). Therefore, there is a general expectation among IDPs advocates that R2P will be beneficial for them and that it will strengthen the implementation of legal obligations already in place (Mooney, 2010).

Unfortunately however, as Thomas Weiss accurately observes, 'normative development and political reality are rarely in synch' (Weiss, 2006, p. 742). The following section explains why the current geopolitical context prevents R2P to be applied to IDPs and more generally to emerge as a norm.

## 3.2 Political and practical obstacles to develop and implement R2P for IDPs protection

The case studies in the previous chapter illustrate how the lack of political will and the pervasiveness of strategic interests impeded the effective application of R2P on IDPs. Here it is argued that in the current global context – characterized by heavy suspicion regarding R2P, the enduring prevalence of sovereignty, the prioritization of strategic concerns and resources constraints – the 'normative turn' (Hehir 2008) that lies at the heart of the Responsibility to Protect is flawed and cannot provide effective international assistance to internally displaced persons.

First of all, since the war in Iraq, there has been a heavy skepticism among many states that the R2P is actually a 'Trojan horse' masking neo-imperial and geostrategic objectives (Bellamy, 2005). Indeed, one should not forget that one of the Responsibility to Protect's authors, Michael Ignatieff (2003) strongly supported the war in Iraq which was unilaterally promoted and waged to prevent the acquisition of weapons of mass destruction (Dannreuther, 2008). The retrospective justification by Washington that the invasion of Iraq was based on humanitarian grounds underscored how the concept could be abused and manipulated (Bellamy, 2005). As a result, it has become extremely difficult for the concept to be internationally accepted and applied since it could lead to 'a general pattern of interventionism' (Roberts, 2004)

Consequently, as Bellamy stresses, 'the Iraq war has undermined the standing of the United States and the UK as norm carriers' (Bellamy, 2005, p. 32). According to Finnemore and Sikkink (1998), new norms do not meet with immediate acceptance, but must contest with preexisting ones. However, if the norms carriers – those promoting the

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new norm – lose their credibility because of the general perception that they have used the new norm for the purposes of self-interest then ‘the process of normative change is likely to be slowed or reversed’ (Bellamy, 2005, p. 33). This appeared obvious when, at the 2003 Progressive Governance Summit which took place after the invasion in Iraq, countries which used to support the concept – such as Argentina, Chile and Germany – strongly opposed Canada and the UK’s suggestion to insert elements of the ICISS report in the final conclusion (Weiss, 2005, p. 752). This supports Kenneth Booth’s comments who argues that as a result of the use of humanitarian reasons to justify the war in Iraq ‘it will be more difficult next time for us to call on military action when we need to save potentially hundreds of thousands of lives’ (Roth, 2004, p. 2)

In this context, R2P’s equation with coercive action represents a hindrance for the work that has been accomplished so far for IDPs, since it increases the suspicion of governments where displacement occurs that humanitarian assistance actually masks western agendas (Mooney, 2010). Since the early 1990s, considerable efforts have been made to persuade states and the international community that they have responsibilities toward IDPs. Indeed, from 1994 to 2004, Francis Deng, the Special Representative of the U.N Secretary-General for IDPs, worked assiduously to convince governments to adopt the Guiding Principles on Internal Displacement based on the Responsibility to Protect (Cohen 2010). Commenting on his work for the internally displaced, Deng outlines this

The main principle that guided me in my work on the mandate has been to balance between allaying the fears of Governments about national sovereignty while impressing upon them the compelling humanitarian and human rights concerns of the international community with the plight of the internally displaced (Deng, 2004, p. 50).

Secondly, major concessions made during the UN Summit Outcome – the idea that the Security Council members agree to not use their veto was abandoned and no specification on the criteria for intervention was established (Hehir, 2008, p.71) – has underscored the reluctance of western powers, especially the United States to agree to any proposal that would oblige them to send their troops when a humanitarian emergency was occurring (Hehir 2008). Such a position confirms John Mueller’s view that western states will intervene ‘only when their interests seem importantly engaged or where they manage to become self-entrapped’ (Mueller, 2005, p. 109).

Mueller’s argument makes sense with regards to IDPs when one examines the privileging by the UN Security Council of the ‘international security’ approach, which will apply chapter VII of the UN charter only when situations of widespread human sufferings represent a threat to international peace and security (Newman, 2007)

Indeed, although the ICISS report does not require the existence of a threat to international security to exercise the right to intervene – the requirement being the evidence of widespread human rights abuses generating ethnic cleansing or large scale loss of life (ICISS report, 2001) – the fact remains that security concerns still prevail over humanitarian ones. Indeed, outside intervention is more likely to happen when security challenges such as risks of large-scale refugee flows appear, since there is a potential that these movements spread over borders (Weiner, 1996). As Dowty and Loescher argue ‘external displacement internationalizes what might otherwise be purely domestic issues related to the causes of ... movements (Dowty and Loescher, 1996, p. 69). This approach means that in situations of internal displacement, humanitarian intervention will only occur if there is a ‘risk of cross border movement’ (Geissler, 1999, p. 473) which could threaten states countries and destabilize regions. For instance, regarding NATO’s intervention in Kosovo, British Prime Minister Tony Blair declared that ‘when oppression produces massive flows of refugees who unsettle neighboring countries then they can be properly described as threat to international peace and security’ (1999). The same dynamics drove the interventions in Iraq and in Somalia in which the main goals of the states supporting a breach in the sovereignty of the considered states was to limit refugee flows and regional spillovers (Barutciski 2002).

It remains unlikely therefore that the UN Security Council or governments consider population displacements which do not have transboundary effects as representing an international security threat and therefore apply their responsibility to protect. Regarding the situation in Burma for instance, in 2007 the international community reported to the Security Council the widespread attacks by the military on ethnic minorities, with abuse of prisoners, rape and forced displacement occurring; and yet, two of the P5 members – China and Russia – objected to any application of R2P because the situation did not represent a threat to peace and security (Haacke, 2009, p. 179). In the same way,

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R2P was not invoked by the Security Council in Sri Lanka, when in 2009 more than tens of thousands of Tamils IDPs were cornered by the military and attacked. The reason of this inaction was due to the fact that the government was 'fighting terrorists', here the Tamil Tigers (Cohen, 2010, p. 23).

Finally, in a context of 'competing demands for limited resources', (McFarlane, Thielking and Weiss, 2004, p.985) IDPs are likely to suffer from the prioritization of government leaders of national concerns over global ones, given what they represent (Weiss, 2006). Concerns that are not directly connected with national security issues are unlikely to receive the necessary operational, financial and institutional resources that IDPs so vitally need.

Indeed, since the end of the Cold war there has been a decline of UN peacekeepers with the Western contribution falling to less than 10% in 2009, whereas at the end of the 1990s the US and Europe were providing about 25 % of all the UN armed forces (Bellamy and Williams 2009). Among the principal reasons explaining this trend are that western governments are less inclined to deploy their forces to places where their strategic interests are not at stake; they are more involved in non-UN-missions in Afghanistan and Iraq and they are generally unwilling to let their troops be commended by non-Westerners (Bellamy and Williams, 2009).

In concrete terms, this means that there is crucial lack of manpower and equipment necessary to meet the calls to save IDPs. This also suggests that there is a gap between Western states that authorize and support peacekeeping missions to protect civilians and invoke R2P and those that in actual fact, participate to UN missions (Bellamy and Williams 2009).

Moreover, the predominant position of the United States in the international system and its considerable military capacity – surpassing the rest of the world – means that Washington's participation is crucial for the application of R2P on a large scale (Weiss, 2006). As Weiss argues, this situation is likely to remain if the European Union (EU) does not decide to increase its military and defence budget (Weiss, 2006, p. 754). This problem was particularly visible in Darfur where the EU condemned the actions of the Sudanese government and threatened sanctions but did not send its own troops (Bellamy and Williams, 2005, p. 34). According to one EU official 'however much handwringing there is, we're simply not up to something like it yet' (*The Economist*, 2004 p. 40). The decision not to intervene was due to the military overstretch of the European armed forces after their deployment in the DRG, Macedonia, Afghanistan, Bosnia and elsewhere. European leaders therefore were not able to mobilize sufficient resources to intervene in Darfur (Bellamy and Williams, 2005, p. 34).

### 3.3 Conclusion

In view of this, it is more accurate to describe the evolving normative context in which R2P is born as a 'normative desire' rather than 'an empirical description of reality' (Newman, 2007, p. 76). The fact is that the reality on the ground has not been changed by R2P's new rhetoric.

On the normative side, it cannot be denied that the R2P has reached a certain level of recognition. According to Finnemore and Sikkink, norm influence occurs at three stages including 'norm emergence' – where norm entrepreneurs persuade a significant number of states to adopt a norm – , 'broad norm acceptance' and 'internalization' (Finnemore and Sikkink, 1998, p. 895). Given that the Security Council, the General Assembly and a number of states increasingly believe that sovereignty depends on the adherence to human rights (Newman, 2007, p. 75) it seems fair to argue that the R2P idea has entered the stage of norm emergence and has started the process of norm acceptance. However, particularly since the war in Iraq, those two processes have taken steps backwards since R2P's main norm entrepreneurs, the USA and the UK, have lost their credibility by using R2P rhetoric for their own self interests. Moreover, the situation in Darfur and Kenya has also shown that non-intervention and the principle of sovereignty are still quite alive among UN membership. The non-application of R2P without the consent of the state has remained the trend so far (Orchard, 2010). This is highly problematic since in situations of regime-inducement it is the state itself that is directly responsible for generating internal displacement.

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More crucially, actual state practice – ‘the real indicator of new norms’ (Newman, 2007, p. 75) – demonstrates that there is still a long way to go before seeing the Responsibility to Protect rises from words to deeds to save IDPs. The inaction in Darfur, Burma and Sri Lanka to save internally displaced persons clearly confirms that it is political and strategic concerns, as well as means, not humanitarian considerations that influence states ‘decisions to intervene to save IDPs. In this sense, the privileging of the international security approach by the Security Council over a solidarist one -where collective action would be taken even without a manifest threat to international peace – means that population movements such as internal displacement which do not have a transboundary impact will be neglected and considered an internal matter. All of this means that internally displaced people, at this point in time, cannot expect to see their situation improved by this new concept.

Finally, not only are the prospects of seeing R2P applied to IDPs extremely low, but one should also ask if associating R2P with them is always desirable. Equating the two notions – R2P and IDPs – could result in politicizing IDP’s protection, increasing the suspicion of concerned states that IDPs concerns are a pretext for military action and lead them to reinforce their sovereignty. There is a need then, to be extremely careful when applying the concept.

Aware of those limits, the last chapter will seek to develop strategies that accommodate the reality of power politics with IDPs challenges.

## **CHAPTER 4: STRATEGIES AND RECOMMENDATIONS**

The previous chapter concluded on a pessimistic note about the prospects of the R2P concept and its application on internally displaced persons. This is not to say that IDPs have reached a deadlock however. Indeed, it is important to be clear about the present limits of R2P so that accurate analysis can be performed on how the concept needs to evolve in order to serve the needs of IDPs. The conclusions drawn earlier suggest that the ICISS report does not provide a correct understanding of empirical reality. Thus, according to the dissertation, R2P needs to be developed in ways that recognize the reality of power politics, the force of national interest and sovereignty as well as allay fears about military intervention. Two types of strategies, both realistic and achievable, should be developed. The first and more practicable one would be to focus on the prevention pillar in order to reach a level of consensus on R2P. Second, strategies connecting national interests and humanitarian concerns over IDPs should be explored. The last section of the chapter will adopt a more theoretical perspective, examining the broader question of why certain norms are more successful internationally than others. This will give an indication about the path R2P should follow for the concept to gain more normative weight.

### **4.1 Focusing on the prevention pillar of R2P**

The reorientation of the Responsibility to Protect away from the controversial use of force without the consent of the state toward an emphasis on prevention should be made the first priority for any strategy aiming at assisting IDPs. The ICISS report points to a range of measures including diplomacy, economic and judicial measures, and peace operations deployed with the consent of the state as well as assistance from the international community to support the development of responsible states fulfilling their duties toward their citizens (Bellamy, 2009). If more resources would be dedicated to develop the political and institutional capacities which are indispensable to increase the success of such measures, many of the flaws and controversies of R2P would be reduced. First, and foremost, by focusing on identifying early signs of conflict, the prevention pillar would address the root causes of tensions before they turn into conflict and generate R2P crimes whose mass displacement is the consequence. Second, insisting on prevention would considerably soothe fears expressed in the developing world and elsewhere that R2P is a ‘Trojan horse’ (Bellamy, 2005) for imperial intervention. By tackling the problem at its source, the Responsibility to Prevent would avoid political divisions and paralysis in the Security Council about the nonconsensual use of force, fears of neo-imperialism and the absence of strategic concerns, as occurred in Darfur. Finally, choosing to focus on the responsibility to prevent is a realistic and practical recognition of the operational and financial limitations of the



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international community: allocating sufficient resources to conflict prevention remains less costly, both in terms of financial and human costs, than deploying troops and military equipment for an indeterminate period of time (Bellamy, 2009).

So how would focusing on the prevention pillar materialize for IDPs? The first thing to say is that one of the reasons to have a particular focus on IDPs is that most of the time, internal displacement is symptomatic of wider community tensions and a sign of future ethnic cleansing or human rights abuses (Cohen and Deng, 1998). Localizing early patterns of internal displacement would be considerably helpful in detecting intra-state tensions which are on the verge of exploding and turn into the four R2P crimes that the World Summit identified.

The first key step would be to strengthen the early warning system- the first part of prevention (Bellamy, 2009). As analysed in chapter 3, in Kenya before the crisis, warning of violence had already been reported but they were ignored by the international community. There is thus an urgent need to resolve the 'warning response gap' (George and Holl 1997). One way to do this would be to strengthen the ability of the United Nations to deploy experienced officials who could initiate diplomatic negotiations at short notice. A positive sign in respect to this has been the creation in 2006 of a 'Mediation Support Unit' (MSU) whose goal is to 'serve as a repository of policy and guidance, lessons learned and best practice' (Bellamy, 2009, p. 123). The MSU has also established a 'UN peacemaker' Program offering logistical support for mediation and peace processes (Mediation Support Unit, 2011). Although still modest, such initiatives should be encouraged.

Moreover, the prevention pillar should also be connected with the OCHA's Internal Displacement Division (IDD) whose mission consists in improving the transparency and efficiency of international protection through the supervision of all IDPs agencies (OCHA, 2006). Although IDD's mandate is of considerable importance for assisting IDPs, the IDD's mission has been described as 'lacking of accountability and responsibility' and, as consequence, preventive measures suffers from incoherence (Bellamy, 2009). A crucial improvement would be for the Division to dedicate an important part of its mandate to the development of preventive measures ranging from overseeing coming elections in states where civil tensions are fomenting such as in Kenya. The Division should also reinforce the ability of the state to tackle civil crises and internal displacement. Furthermore, the IDD could rely on regional institutions which have already incorporated conflict prevention mechanisms in their purview, such as the African Union's Continental Early Warning System or the Conflict Early Warning and Response Mechanism created by the Intergovernmental Authority on Development (IGAD) (Chigas 1996; Ackerman 2003; Mychajlyszyn 2003:145)

An essential preventive step should also be to promote national solidarity in order to neutralize the negative racial, ethnic and ideological stereotypes to which internally displaced persons suffer from. As studied in chapter 2, the issue of ethnicity, its manipulation by elites and the perception of IDPs as 'the others', are among the main causes of their flight (Cohen and Deng, 1998). To counteract those negative stigmas, the role of civil society – and more particularly community-based and faith-based organizations, women, mass media and the education sector – should be strengthened so as to encourage tolerance, understanding and promote a positive perception of IDPs among the population. In this respect, the AU Convention for the Protection of IDPs could serve as a relevant example. The Convention places an emphasis on the importance of community leaders and civil society organizations in preventing internal displacement due to their capacity to interact with insurgent groups

By making non-state armed groups aware of their obligation to respect international humanitarian law, including the prohibition on the displacement of civilians, unless such displacement is necessitated by the security of the civilian or imperative military reasons' (AU IDP Convention, 2010 p. 27).

The dissertation wants to make clear that by insisting on developing the prevention pillar it does not mean that in emergency situations such as genocide, collective action should not be taken. Focusing on prevention constitutes a realistic assessment that R2P will only rarely be applied given the current global context. However, it strongly agrees that in certain situations it remains vital that the international community develop the political will and the means to deploy their armed forces overseas to protect IDPs. To help achieve this goal, the dissertation develops in the following section two strategies that could persuade states to meet their responsibility to protect IDPs.

## 4.2 Finding ways to connect national interest with IDPs concerns

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As expressed previously, ultimately, the decision of states to apply their responsibility to protect will depend on a series of political, strategic, and practical considerations. To convince western states to take on their R2P, it is necessary to develop strategies that would make national interests connect with humanitarian concerns. The following measures point to ways which could help balance the issue of national self-interest with R2P.

The first strategy would be to build awareness campaigns among the western public about the crisis of internal displacement and how assisting them would be positive. Studying the question regarding how government leaders make decisions, Alex Mintz has developed the 'polyheuristic theory' of foreign policy making (Mintz, 2004). He finds that 'domestic political audience costs' – in combination with personal and external factors -deeply influence state leaders in their foreign policy decisions (Mintz, 2004, p. 7). Policy makers tend to be risk averse, essentially concerned with their political survival (Sathasivam, 2003). As a result, they are more likely to choose an alternative that generates the lowest political costs. Following that logic then, educating the public – through the mobilization of civil society movements such as the International Coalition on the Responsibility to Protect – about situations where internal displacement is occurring, could have an impact on the way they vote and thus help advance the application of R2P on IDPs.

Another way to persuade western states to adopt R2P would be to offer them alternative strategies, such as encouraging them to pressure and sanction governments in which R2P crimes and displacement occur. States that have aggressive and violent tendencies toward their citizens should be the subject of diplomatic and economic sanctions as well as media pressure – although the negative repercussions of economic sanctions on the local population should be particularly taken into consideration (Weiss, Lopez, Minear 1998). In this context, the recent development of 'smart sanctions', consisting in 'targeted financial institutions, arms embargoes, travel bans and diplomatic sanctions' (United Nations Sanctions Secretariat, 1999) should be further deepened.

## 4.3 Possibilities for further normative developments

From a theoretical perspective, the impossibility to develop a R2P norm in the current global context invites one to think more broadly about why some norms spread internationally and generate political will while some do not. Finding elements of a response to such a question could give an indication about how R2P needs to evolve in the normative arena in order to reach universal acceptance.

In this area, the works of Finnemore and Sikkink who seek to explain the process of 'socialization of international norms' by integrating rational choice and constructivist theories, are of particular relevance (Finnemore and Sikkink, 1998). They argue that a norm will be influential in global politics depending on three conditions: its legitimation, its prominence and quality, and its intrinsic characteristics (Finnemore and Sikkink, 1998 p. 906)

First, states will tend to adopt new norms when they feel their legitimacy is at stake. According to Finnemore and Sikkink (1998), states are deeply concerned with being recognized as full members of the international community. By endorsing norms, they increase their legitimacy as members of the international society and received a 'seal of international approval' from international institutions (Claude 1966, p. 368). Furthermore, the more states endorse norms, the more peer pressure to be part of the international society will increase, forcing states to adjust their behavior in a way that conforms to international standards (Sikkink and Risse 1999). For instance, a humanitarian right norm will be more likely to be adopted if enough peer pressure – both internally and externally – is put on a state to adopt the norm (Sikkink and Risse, 1999, p. 12). When states are accused of violating human rights, in order for them to maintain their domestic and international status, they will tend to 'adjust to pressure by making some tactical concessions' (Sikkink and Risse, 1999, p.12). They will do so by signing international human right conventions to regain external assistance or to avoid diplomatic and economic sanctions, or by accepting to initiate diplomatic negotiations (Sikkink and Risse, 1999, p. 12). These actions are fundamentally motivated by a 'rational choice behavior' (Sikkink and Risse, 1999, p. 12). Indeed, states being 'utility maximizers' – that is only pursuing their self-interests – will adjust their behavior in order to achieve their objectives (Snidal 2002, Sikkink and Risse 1999). In this way, if enough pressure is being put on them, they will be more likely to adopt the norm (Rise, Ropp and Sikkink 1999)

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Secondly, norms supported by prominent states or being of a high quality tend to be more influential than others. (Finnemore and Sikkink, 1996). According to Ann Florini, prominence is a key attribute of norms that guarantees that they will spread and become institutionalized (Florini, 1996). Thus, norms supported by governments generally considered as 'successful' and as 'desirable models' such as western norms, will be more likely to be influential and accepted in other parts of the world (Finnemore and Sikkink, p. 906).

Finally, norms which possess intrinsic qualities are also more likely to internationalize (Finnemore and Sikkink 1998). Indeed, norms whose content is clear and specific, and that are enduring have a likeliness to be more effective (Legro 1997, Franck 1992). Moreover, norms which aim to be universal will spread more easily (Geertz 1980). In this way, Boli and Thomas argue that norms built around the five principles characterizing world culture – 'universalism, individual, voluntaristic authority, rational progress and world citizenship' – will spread internationally (Boli and Thomas, 1999, p. 45). Finally, a norm will also be more likely to internationalization if it is morally progressive (Crawford, 1993). Norms regarding the protection of vulnerable groups for instance, although they are interpreted differently across cultures, will still have more influence than other norms.

In this context, the question of the transnational spreading of norms in non-western contexts deserves special attention. Studying norm diffusion in Southeast Asia, Acharya, finds that strategies that take socio-cultural factors into account, such as belief systems, will be more likely to succeed and be implemented locally than those trying to suppress local characteristics (Acharya,2004). Transnational norms are diffused and adopted through the process of 'localization' defined as

The active construction – through discourse, framing, grafting and cultural selection – of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices (Acharya 2004, p.245).

Acharya argues that a global norm will be accepted through its transformation and adjustment to the local context that will fit local identities. Moreover, in his thinking, norm localization is likely to persist over time since it is a voluntary process (Acharya, 2004, p. 251).

In light of this, several improvements should be made in order to make the R2P concept gain normative weight.

First of all, the R2P scope needs to be made clearer and more specific. Currently, the Security Council has not yet reached a consensus about what norms should prevail -the question of whether host state consent should be a condition for the deployment of armed forces remains unanswered – and what exact actions should be taken (Bellamy, 2010 p. 162). On this latter point, R2P gives the international community a great liberty to decide what sort of actions the international community can take. This vagueness considerably hampers R2P's normative development.

Second, the United States and the United Kingdom needs to restore their credibility as norm carriers so as to regain states' trust. This must be done by carefully controlling when the R2P language should or not be employed in order to establish a clear separation between the concept of responsibility to protect and coercive action.

Finally, based on Acharya's works, it is crucial to foster 'localisation' strategies of R2P by making it fit into local contexts. In this view, the growing acceptance of R2P by Southeast Asian governments is a positive development (Bellamy and Drummond, 2011). Indeed, following domestic and external pressure and concerned with the situation in Burma, ASEAN has accommodated the principle of nonintervention – deeply embedded in the region – with a localized version of R2P (Bellamy and Drummond, 2011). The concept has been modified in a way that limits its power to authorize intervention, while at the same time the principle of non-intervention is being reshaped to allow criticism, provide regional aid and the use of diplomatic pressure to address situations of humanitarian emergencies (Bellamy and Drummond, 2011)

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## CHAPTER 6: CONCLUSION

According to Wheeler and Egerton, 'the real test of the 2005 World Summit Declaration is whether it increases the likelihood of the Council mustering the political will to prevent and halt future humanitarian crises' (Wheeler and Egerton, 2009, p. 128). Unfortunately, the crisis in Darfur since 2003, the forced displacement of civilians in Burma in 2007 and the bombarding of Tamil IDPs in Burma in 2008 sadly demonstrates that so far, this test has failed.

This dissertation has sought to show that the so called evolving normative context in which R2P has been developed clearly overlooks the predominance of power politics, geostrategic interests and the enduring prevalence of sovereignty. It also overestimates the natural inclination of states to apply their responsibility to protect when civilians such as IDPs are in danger.

The dissertation particularly sought to highlight three main points.

First, the analysis of R2P in Kenya and Darfur in Chapter 3 reveals that host state consent is still a requirement for R2P application in IDPs situations. How can the concept be of any help then when one knows that the vast majority of new cases of internal displacement are caused by governments? Second, as Chapter 4 argued, the Security Council will tend to apply R2P only when internal displacement involves the risk of spreading over borders and destabilizing neighboring countries, thus threatening international peace and security. This means that, while location should not matter, it in fact critically determines whether or not states will respond to crises of internal displacement. Finally and more generally, the prospects of establishing an international norm of a Responsibility to Protect are extremely low. As seen in chapters 4 and 5, the success of a norm depends on its promotion by credible norm entrepreneurs, its broad acceptance and its clarity and specificity, among other things. Although the embrace of a localised version of R2P by ASEAN members is encouraging, clearly the war in Iraq has impeded and damaged the process of norm emergence and norm acceptance. If the concept of the Responsibility to Protect was already widely contested by developing countries, the retrospective justification of the invasion by the United States and the United Kingdom in Iraq for humanitarian reasons also made 'R2P friends' increasingly suspicious.

Although the dissertation concludes that at this point in time the Responsibility to Protect cannot provide effective protection for IDPs, it remains convinced that concrete measures must be taken to respond to their plight. The international community, international and regional organizations as well as states and individuals have to find ways to accommodate the reality of power politics with humanitarian concerns. The dissertation has suggested that two types of strategies should be developed. The most achievable and realistic one would be to mobilize resources to develop the prevention pillar with a special focus on early warning detection of displacement and the promotion of national solidarity campaigns to neutralize negative stigmas to which IDPs frequently suffer from. The second strategy, achievable only on the longer term, would be to modify the way Western governments perceive their interests. Building awareness campaigns to educate the Western public about the crisis of internal displacement and imposing 'smart sanctions' on governments responsible for provoking internal displacement are policies that should be explored in depth.

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