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"I believe that pipe smoking contributes to a somewhat calm and
objective judgment in all human affairs."
- Albert Einstein upon joining
the Montreal Pipe Smokers Club. (1950)

Introduction and methodological preface

In the last decades, the international community has been facing countless global threats, including the increasing number of human rights violations that have been occurring in fragile countries. As a result, the international community has been advancing new concepts and norms to both prevent mass atrocities¹ and to punish the perpetrators of these international crimes. Numerous scholars, theorists, and analysts have raised heated debates on the evolution of concepts and laws that, although seemed to represent the cornerstone of international law, have been re-framed and re-arranged to counter ongoing issues and to involve all actors of the international community.

The work starts with the examination of the evolution the concept of sovereignty and the emergence of the concept of human security. Thus, Chapter 1 "Statehood and Human Rights" focuses primarily on the countless debates generated after the Cold War period around the re-conceptualization of state sovereignty as state responsibility. Up until the end of World War II, the concept of state sovereignty had been related to what was established in the Peace of Westphalia in 1648, which ended the Thirty Years' War, that portrayed the rights of sovereigns to govern their peoples free from outside interferences, whether any such external claim to interfere was based on political, legal or religious principles. The goal of the Westphalian model, which found its basis in the Peace of Westphalia, was to coordinate states and territories, thus making each state the only sovereign authority in its delimited borders. The development of modern state models and the changing of the international environment have led to a drastic shift from the Westphalian model. Thus, it is now possible to

¹ This work will use the term "mass atrocities" to refer to international crimes, such as genocide, war crimes, ethnic cleansing, and crimes against humanity, as well as intentional mass killings targeting civilians and non-combatants.

interpret this model as a simple myth, as the state-centric approach promoted from the Peace of Westphalia has shifted to a human approach in which sovereignty is meant as responsibility that states have to protect the people of a limited territory.

This debate has been reinforced thanks to the emergence of individual human rights. Indeed, the emphasis on individual human rights has shifted the relationship between the state and its citizens, strengthening the idea of popular sovereignty and the rights of the individuals. Therefore, to legitimize the practice of sovereign authority, the state has the primary responsibility to provide individuals with civil and political rights, enhancing the importance of their participation. The emergence of human rights together with the drafting of norms of customary law, the watering down of sovereign immunity, the limitations on the absolute immunity for heads of state, the willingness of the twenty-eight Member States of the European Union to reframe their sovereignty status, and the willingness of states to sign and ratify international treaties and conventions is a concrete example of the way the concept of sovereignty has advanced since the Peace of Westphalia.

Whether sovereignty has completely shifted towards the aforementioned concept still needs to be assessed. However, state practice demonstrates that human rights, human security, welfare, and democracy have been covering a fundamental role in legitimizing authority in most Western countries. The drafting of the Universal Declaration of Human Rights in 1948 definitely pushed UN Member States to embrace individual human rights and, hence, to abandon the classical concept of state sovereignty. For the first time, the Declaration also included the concept of security meant as both security of individuals and social security. Specifically, Art. 3 of the Declaration highlights that "Everyone has the right to life, liberty and security of person," as well as Art. 22, which points out that

"Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." Thanks to the drafting of this document, the concept of security was not referred to the security of the state and its people from external threats any longer, as it started being associated with the security of the individuals and communities as well as human development. In 1994, the United Nations Development Programme published a report introducing a new concept of human security, which connects security with people rather than territories and with development rather than arms. Additionally, the report described the seven core components of human security that states should provide all individuals with to prevent the escalation of tensions and the putative occurrence of mass atrocities. These seven elements within the human security framework are: economic security, food security, health security, environmental security, personal security, community security, and political security that will be carefully analysed in Chapter 2 of the research.

After going through the evolution of concept of human security and after introducing its main components, Chapter 2 "Deconstructing Human Security" is dedicated to the analysis of the seven dimensions of human security and to the evaluation of the strengths, weaknesses, opportunities, and threats of the concept. Starting with the definitions of each dimension, the research will take into account the work done by the Global Development Research Center in 2013. Thus, economic security includes income, level of income, access to social safety nets, reliability of incomes, sufficiency of incomes, standard of living, employment, share of employed/unemployed, risk of joblessness, and protection against unemployment. Food security refers to availability and supply of food,

access to basic food, quality of nutrition, share of household budget for food, and access to food during natural/man-made disasters. Environmental security is made of assessment on pollution of water and air, prevention of deforestation, land conservation and desertification, concern on environmental problems, ability to solve environmental issues, protection from toxic and hazardous wastes, prevention of traffic accidents and related impacts, and natural hazard mitigation. Health security comprises assessment of the health status, access to safe water, living in a safe environment, exposure to illegal drugs, access to housing, accessibility to healthcare systems, accessibility to safe and affordable family planning, quality of medical care, prevention of HIV/AIDS and other diseases, health trends, and basic awareness and knowledge on health lifestyles. Personal security contains fear of violence, prevention of accidents, level of crime, security from illegal drugs, efficiency of institutions, prevention of harassment and gender violence, prevention of domestic violence and child abuse, and access to public information. Community security includes fear of multinational/multiregional conflicts, fear of internal conflicts, protection of indigenous people, conservation of traditional/ethnic cultures, languages, and values, as well as the abolishment of ethnic discrimination. Last but not least, political security considers level of democratization, protection against state repression, respect of basic human rights and freedom, democratic expectations, abolishment of political detention, imprisonment, systematic torture, ill treatment, and disappearance.

The analysis of these seven dimensions will demonstrate that the concept of security is no longer meant as national security as it conceives human beings, thus emphasizing the protection of their lives as well as the satisfaction of their basic needs and safety. Understanding these seven elements is mainly necessary to overcome challenges in fragile countries, where the implementation of human security is more at risk. Chapter 3 of

this research, which is entitled "Human Security and the risks of Overburdening the State Infrastructure," aims at both explaining the conditions of State fragility and anticipating the role that the international community has in contributing to the provision of human security according to the principle of the Responsibility to Protect.

One of the most relevant core elements in the comprehension of human security concerns the assessment of risk, whether political, economic, civil, social or religious. Identifying and understanding potential risks represents a starting point to make local authorities and institutions aware of their existence and to push them develop strategies and find tools to minimize the risks and their possible effects on the community. This chapter will also consider Gregory Stanton's "The 8 Stages of Genocide" that identifies a list of steps through which the idea of genocide is usually planned and developed, including solutions and actions to halt the occurrence of the crime in the tracks. Furthermore, it will include the so-called "10 Steps to Prevent Genocide" that the Budapest Centre for the International Prevention of Genocide and Mass Atrocities has been working on to raise awareness about putative solutions to end or at least reduce the occurrence of this crime. Education, Mutual Respect, Inclusion, Dialogue, Disarmament, Promotion, Responsibility, Protection, Intervention, and Duty are ten counter-steps that the Budapest Centre considers as efficient tools for a timely and decisive preventive action to address the escalation of tensions and the happening of mass atrocities.

The above mentioned measures and tools should be adopted to prevent mass atrocities and/or conflicts and to protect civilians and non-combatants mainly in fragile countries, even though no country could consider itself immune from fragility or the occurrence of atrocity crimes. There have been many debates around the definition of fragility and the measures to use in order to quantify the level of fragility. However, the

Country Policy and Institutional Assessment (CPIA) is an index that includes sixteen indicators and measures countries' performances in policy and institutional areas. Assessing the level of fragility is necessary to plan and develop a concrete and efficient strategy to prevent the occurrence of mass atrocities or the worsening of the situation. Both the assessment and the planning operations are integrated in the modern Responsibility to Protect principle. Specifically, the latter include the "duty to cooperate" for prevention of mass atrocities in its Pillar II, which will be expanded in the following chapter.

As sovereignty entails state responsibility such as the one to protect all people within delimited borders, the research will then examine the principle of the Responsibility to Protect and the role played by non-state actors in the promotion or weakening of human security. Agreed at the 2005 World Summit and reaffirmed by both the UN General Assembly and UN Security Council, the concept of the Responsibility to Protect stands on three mutually reinforcing pillars: (I) the responsibility of each state to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity and from their incitement; (II) the international community's responsibility to encourage and assist states in protecting their own populations; and (III) the international community's responsibility to use diplomatic, humanitarian and other peaceful means to protect populations from these atrocity crimes and, when that is judged inadequate and national authorities are "manifestly failing" to protect their population, to take timely and decisive action through the UN Charter (Bellamy, *Non-State Armed Groups and the Responsibility to Protect*, 2016). When in 2001 the Report of the International Commission on the Intervention and State Sovereignty (ICISS)² was published, the concept of

² The International Commission on Intervention and State Sovereignty (ICISS) was formed in September 2000 under the sponsorship of the Government of Canada with the goal of developing global political consensus about how and when the international

the Responsibility to Protect (RtoP) became an emerging source of international norms dedicated to the protection of populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

The adoption of such principle, *which sets forth that states have the primary responsibility to protect their populations from genocide, war crimes, crimes against humanity and ethnic cleansing, but that when the state fails to protect its population, the responsibility falls to the international community. The RtoP expresses a commitment to a continuum of action, from prevention to reaction and rebuilding, with an emphasis on prevention*³ and the establishment of mechanisms related to it, empowers the option of a stronger commitment of the international community to the protection of populations. Chapter 4 "Responsibility to Protect, Duty to Prevent" mainly focuses on the evolution of both the concepts of sovereignty and Responsibility to Protect as well as on how human security represents one of the primary state responsibilities to protect individuals, thus also preventing mass atrocities. Like states, non-state actors play a pivotal role in human security as agents of change and opportunity and as warning bodies. Hence, they also have a responsibility to ensure and guarantee that every individual within the community is included and treated with no discrimination, as mentioned in the Universal Declaration of Human Rights. Nevertheless, there have been insurgents

community should respond to emerging crises involving the potential for large-scale loss of life and other widespread crimes against humanity.

ICISS concluded that state sovereignty entails responsibility for the protection of the states population. The report also emphasized that there is a secondary responsibility of the international community: "where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it," it becomes the responsibility of the international community to intervene for protection purposes. The ICISS principles became known collectively as the Responsibility to Protect and the international community is urged support these Responsibility to Protect principles, emphasizing that prevention must be a priority. <http://www.iciss.ca/report2-en.asp>

³ Responsibility to Protect Engaging Civil Society, Frequently asked questions document, 2008

enacting political and military dissidence within sovereign states. This research will report the case of the Islamic State, whose actions find their ideological basis in the most fundamentalist canons of Islam.

The main outcome of the research is that there is an extant nexus between sovereignty as responsibility and the concept human security that should be empowered to prevent mass atrocities. Indeed, the two concepts reinforce each other as the provision of human security could contribute to the prevention of the root causes of state fragility and, ultimately, mass atrocities. Moreover, the empowerment of the state obligation to fulfil the moral imperative of preventing mass atrocities would push sovereign authorities and institutions to implement the concept of the Responsibility to Protect more efficiently. By doing so, there will be the realization of a global architecture to prevent mass atrocities and empower the vision of a responsible statehood. This outcome will be presented in the last chapter of the research, which is entitled "Conclusions – Sovereignty as Responsibility and the nexus with the concept of Human Security." In the chapter, there will be a clear explanation concerning the role of the international community in recognizing the existence of this nexus and in fostering the importance of cooperation in the empowerment process of the concepts of human security and the Responsibility to Protect. The conclusive paragraph will try to provide an inclusive vision of how sovereignty could be associated with both human security and the Responsibility to Protect. The research ends with a profound proposal on how to empower existing tools to apply preventive measures at each of Stanton's stage of genocide. Adopting a holistic and long-term approach where sovereignty is perceived as responsibility to guarantee human security and, eventually, prevent mass atrocities has become an urgent and essential necessity at all levels of the international community. Specific attention should be given to the young generation who, through education and participation in both social and

political life, could play a crucial and proactive role in the international relations framework.

The methodology of the research combines both qualitative and quantitative data. Specifically, the first one will be used to consider and interpret some concrete examples of human rights phenomena that highlighted the need to embrace the evolution of the concept of sovereignty from "state sovereignty" to "sovereignty as state responsibility;" whereas the second one will be utilized to report the experiences related to and the historical development of the concept of "human security." Part of the methodology used for the research proposal refers to the observation of the United Nations's work in both the international relations and international law frameworks. The research also includes data gathered from in-depth interviews and focus groups with relevant experts and practitioners, academia, and policy-makers working in the field of international affairs and international and humanitarian law. The research utilized a multidisciplinary approach, as it compares a variety of subjects connected to multiple disciplines. The multidisciplinary approach has been the key to examine the notions of state responsibility and human security, as they refer to international law and international relations as well as other relevant field of studies, from the theory of the state to sanitation and environmental law. The systematic analysis of international conventions, international jurisprudence, as well as historical cases of state fragility, conflicts and international disputes, has developed a new understanding of the complexity that the nexus between sovereignty and human security generates in international law, international relations, and national legislation.

A multidisciplinary approach in international law research implies drawing appropriately from multiple disciplines and normative frameworks in order to redefine challenges that can initially be seen as areas of study that do

not stand within the normal boundaries of the laws, which constrain the relations between the various actors of international law. In this work, the multidisciplinary approach has proven useful. Specifically, it contributed to conduct a more profound examination in Chapter 2, which refers to the deconstruction of the notion of human security and on the way this concept connects extant international norms and instruments that are binding States with International Organizations and individuals to the respect of basic human rights standards and to the principle of the Responsibility to Protect.

Nowadays, international law cannot be properly understood outside its political context, whereas contemporary international politics cannot be fully grasped without a solid knowledge of international legal institutions. A multidisciplinary approach, used to acknowledge and analyze the continuous changing field of international peace and security, makes it easier to combine topics such as the United Nations system of collective security, the transformation of war and conflicts (including mass atrocities), human rights protection, the development of international criminal tribunals and humanitarian law, and their nexus with the concept of human security. This research tries to combine knowledge and theories from international law and politics to advance a better understanding of security issues and prevention policies. This research intends to contribute to a deeper comprehension of how international law can be adapted to ongoing human security challenges and how the concept of state sovereignty has shifted from being a safeguard of State autonomy and independence from alien agendas to being the pivotal answer to an increasing demand for the protection of human rights and the prevention of mass atrocities.

1. Statehood and human security

1.1. Evolution of a juridical concept of sovereignty

This research primarily focuses on the state responsibility to guarantee human security by protecting individuals from specific threats. As Luke Glaville, a fellow in the Department of International Relations at the Australian National University, states that “the notion that sovereigns have responsibilities for the protection of their populations is one with a long and rich history.” Before starting the analysis of how and why sovereignty entails certain responsibilities, there is the necessity to address the notion of sovereignty and its evolution throughout history, as States are the main actors able to efficiently implement and guarantee human security.

The term ‘sovereignty’ derives from Latin through French *souveraineté* and has been traditionally interpreted, in political theory, as a substantive term for indicating supreme authority over some polity. The sovereign is the most relevant authority within every society. It is the entity that has powers over its objects, subjects, and dimensions. From the Imperium and the Sacerdotium to the Holy Roman Empire, Hanseatic League, and the Italian city-states, the idea of the sovereign has remained connected to an individual whose authority was accepted within his territory. People thought that the will of this individual transcendently represented the moral foundation of the concept of sovereignty. Hence, from the ninth-century coronation of Charlemagne to the eleventh-century beginning of the Investiture Struggle to the advent of secular dynastic empires, the identity of the figure of the sovereign was indistinguishable from the purpose of the office: sovereignty. Sovereigns pretended to have control over other social entities. They pushed for unilaterally creating the

juridical-ideological dimension of the moral order, developing the ground for all relations within society, prohibiting the spread of foundations and instruments for social interactions, denying time and social knowledge, and choosing individuals for the covering social roles and spatiality within their territory. (Grovoqui, 2009 - in Howland & White, 2009)

In Chapter XVIII of Thomas Hobbes's *Leviathan*⁴, the philosopher defined the institution of a commonwealth as an act of agreement between a multitude of men, to guarantee to every individual, or group of people, "the major part the right to present the person of them all, that is to say, to be their representative; every one, as well he that voted for it as he that voted against it, shall authorize all the actions and judgements of that man, or assembly of men, in the same manner as if they were his own, to the end to live peaceably amongst themselves, and be protected against other men." According to Hobbes, this right established in the act of agreement should have been perceived as a natural right that, hence, all individuals had. Additionally, he believed that the sovereign had then the right to use his own power and strengths to aim at guaranteeing his own defence and preservation, and to be the "judge of what opinions and doctrines are averse, and what conducing to peace."

The decision of societies to institute a commonwealth under the guide of a sovereign power gave birth to the basic principles of peace. According to Charles Covell this decision "was so in the respect that the establishing of the sovereign power created a condition of society where there existed the objectively sanctioned security for men, and for their rights, which, in Hobbes's view, was necessary if there was to be a real and effective obligation on men to conform with the terms of the laws of nature and so act in fulfilment of the principles of peace which the laws of nature

⁴ The work concerns the structure of society and legitimate government, and is considered one of the earliest and most influential examples of the social contract theory.

stipulated. Thus it was that the instituting of commonwealths with a sovereign power was taken by Hobbes to stand as the essential precondition for the presence of a normative order that would make for the full realization of justice among men.” (Covell 2004)

Based on this ideology, Hobbes addressed the concept of justice. He claimed that justice referred to the individuals’ performance of their covenants. However, he pointed out that there was the need to establish a sovereign power that was efficiently working to ensure that the covenants of men would have be concretely binding and, through this, that there would have been binding rules of justice and propriety as incorporated in the principle of natural law, which implied that all individuals were supposed to correctly perform their covenants.

The sovereign power that in the case of commonwealths gave an effective contribution to the laws of nature was a power that represented, and that was exercised through, a set of specific rights essential to the concept of sovereignty. The rights of sovereignty were developed and then implemented through the act of covenant that created commonwealths. Furthermore, the rights were recognized to belong to the figure of the sovereign, as they revealed to be necessary and responsible for the promotion and securing of the peace and defence of commonwealths, as highlighted in the founding covenant.

Chapter XVIII of *Leviathan* also includes a clear summary of the various rights of sovereignty. As Hobbes described, the rights of sovereignty were necessary to establish the absolute and exclusive authority of the sovereign with respect to the subjects. Therefore, the rights of sovereignty were created in a way that the subjects belonging to the commonwealths would have not been able to change the form of government through which the sovereign power was established and

exercised. At the same time, the subjects were not permitted to claim that the sovereign had forfeited his power, as this rule was part of one of some alleged dimensions of the act of covenant by which commonwealths were built on. Moreover, there was no legal framework, which was aligned with the rights of sovereignty, for subjects to blame the sovereign of injustice or to try to punish the sovereign for committed crimes. At this point, it is clear that the sovereign was entitled with an absolute and exclusive authority for the aforementioned reasons; as a consequence, Hobbes also believed that the sovereign was the one and only judge of the necessary tools that were to be adopted as indispensable to preserve the peace and the security of commonwealths. For instance, the sovereign was conferred with the right to judge and control all opinions and doctrines, and to choose which of these were encouraging the maintenance of peace, thus selecting the most appropriate ones to spread out within his commonwealth.

Among the rights of sovereignty that Hobbes described in Chapter XVIII of *Leviathan*, the central ones were those concerning the legislative, judicial, and executive branches of government and, thus, the ones referred to the classical constitutional structure of the commonwealth through which the sovereign power was organized. Specifically, the sovereign ruler held the legislative power, meant as the right to impose the rules of propriety and just conduct in the commonwealth that all the subjects were supposed to observe. The rules held by the sovereign within the dimension of his legislative capacity concerned the civil laws, which were particular to commonwealths. As well as the legislative power, the sovereign also possessed the judicial power. The latter empowered the sovereign ruler with the right of hearing and deciding the outcomes of all controversies among subjects concerning events related to both civil law and the laws of nature. The executive power that Hobbes included in the rights of sovereignty was a specific power associated with the business of

government and public administration. Therefore, the sovereign was also conferred with the right of starting a war or making peace with other commonwealths, and of managing and maintaining armed forces as they were crucial for his defence and for the defence of the commonwealth and its subjects. In addition, the sovereign had the right to select the ministers and other public officials he wanted for his support within the commonwealth, both in peacetime and during wartime. As for the appointment of officials and ministers, the sovereign had also the rights to reward subjects, to punish them when they were breaching the law or, in case of lack of appropriate legal norms, to impose punishments in order to stimulate the subjects to serve the commonwealth and to discourage them from doing the opposite. (Noble 1965)

The rights of sovereignty were considered indivisible rights because the sovereign was authorized to possess all of them, as stated in the covenant, and were capable of being taken away by the sovereign only when the ruler was directly renouncing to his authority. The rights of sovereignty were thus of fundamental importance to the sovereign power in commonwealths, as they were rights that naturally belonged to the sovereign power notwithstanding with the constitutional form of government.

In his work, Thomas Hobbes identified three different forms of government based on the number of people who were composing the representative authority of the sovereign. The first he described was the monarchy, in which the sovereign representative was made of one man only; the second one was the democracy, where sovereignty was held by an assembly made of selected members of the commonwealth; and the last one was the aristocracy, where the sovereign power was conferred to an assembly made of a specific group member of the commonwealth.

According to Hobbes, although there were similarities and dissimilarities and different advantages and disadvantages belonging to these three different forms of government, the crucial consideration he made was that the sovereign power, as well as the rights of sovereignty, were supposed to be the same no matter the form of government through which the sovereign power happened to be created. Indeed, continuing with the description of his ideology, Hobbes stressed that there was no difference between the nature of the sovereign power in commonwealths, as well as the rights of sovereignty, and the way the sovereign power was established. For example, Hobbes did not make any differences between the commonwealths by institutions, which referred to all cases in which the sovereign power was established through the voluntary submission of men, and the commonwealths by acquisition, referred to all cases where the sovereign power was taken through force, as with territorial expansions during wartime. (Covell, 2004)

Yet, there is no a singular mode of global governance under a Westphalian model of sovereignty. According to Hegel, sovereignty reflects a set of dynamics of conflict and negotiation among different actors across time and space. These dynamics belong to regimes of sovereignty under which super powers establish suitable and politically acceptable rules, and mechanisms of resolution of rival interests as well. Thus, sovereignty cannot be interpreted without taking into account the subjective goals of these regimes toward their internal subjects and external objects. (Grovoqui, 2009 - in Howland & White, 2009)

At this point, it is evident that sovereignty arises from numerous, multifaceted, and differentiated institutions that congeal into formal and informal regimes of authority. The points of differentiation are recognizable and politically acceptable laws, rules, and ethical standards that lead collaborating and competing geopolitical institutions. Together

with these regimes of authority, the regional coordinates of sovereignty foster hierarchical systems among states and regions. They control and use power domestically and transnationally to create international governance. Thus, sovereignty regimes embody the historical distributions of power and subjectivity within the international system. (Grovogui, 2009 - in Howland & White, 2009)

According to what was established in the Peace of Westphalia⁵ of 1648, the concept of sovereignty entitled states with the right to choose the form of government and their ruler, without being bound to any external interference. (Glanville, 2014) The 'Westphalian model' of the international legal system illustrates how the Peace of Westphalia, which represented the end of the Thirty Years' War in Europe, was a paradigm shift in the evolution of the present state system and formed the cornerstone of the international relations field. (Beaulac 2003) This definition of sovereignty lasted for centuries and despite occasional claims for a fade out of the Westphalian concept of state sovereignty, the international community still continues to depend on it. (Miyoshi, 2009)

The aim of the Westphalian model was to coordinate states and territories, thus making each state, whether monarchy, principality, or republic, the only sovereign authority in its delimited territory. This "territorialization" of power represented an attempt to normalize a system of mutually recognized sovereign states. It soon became a model that European states subsequently adopted during the colonial era, when they expanded globally. The Westphalian model was also based on the idea that the international system would have maintained and managed itself through

⁵ The Peace of Westphalia was a series of peace treaties signed between May and October 1648 in the Westphalian cities of Osnabrück and Münster. These treaties ended the Thirty Years' War (1618–1648) in the Holy Roman Empire, and the Eighty Years' War (1568–1648) between Spain and the Dutch Republic. It contains various references to the principle of non-interference and of the sovereign power of ruling and control of nations and states.

the development of international law, the stipulation of treaties, and the occurrence of diplomatic exchanges.

However, as countless scholars have noted, there is no clear evidence of the development of a normative system coming from the Westphalian treaties. Indeed, the Peace of Westphalia mainly legitimated the right of sovereigns to govern the subjects without any outside interference, especially when the interference was relying on political, legal, or religious arguments. To answer to the collapse of the ecclesiastical authority in Western Europe at the beginning of the Reformation, the Westphalian model endorsed the establishing of the concept of state. Citing Mark W. Janis, the treaties arose in the Peace of Westphalia “enthroned and sanctioned sovereigns, gave them powers domestically and independence externally.” By defining which sovereign ruled which lands, the Westphalian model created a linkage between sovereignty and territory, and aimed at finding a solution to national sovereignty among European powers. Nevertheless, its fundamental objective was to promote the independence of the sovereign’s state from the Pope and other ecclesiastical institutions. Yet, some analysts stressed that the Peace of Westphalia, which marked the emergence of an international system, served to coordinate the rise of a global economy and, more specifically, of its legal and colonial institutions. (Howland & White, 2008)

Clearly, the development of new and modern State models and the latter’s interdependence in a changing international environment have contributed to a dramatic shift from the Westphalian model of non-interference. Indeed, it is now possible to refer to this model as a simple myth, as the idea that sovereignty was subject to full independence from external interference has become concretely impossible to imagine. Despite this very latest observation, the Italian jurist Dionisio Anzilotti correctly pointed out that the Peace of Westphalia has been “considered, rightfully

so, as the starting point of the historical development of the present international law.” (Anzillotti 1923) Grovogui describes sovereignty as “an institution founded on specific ethical conventions based on temporal understandings of the moral order.” (Grovogui, 2009 - in Howland & White, 2009)

A. Haggar, after defining the concept of sovereignty as the ultimate law-making authority over a territory or a state’s decision making-process and maintenance of order, illustrated the components that sovereignty requires. By doing so, he directly referred to the Montevideo Convention on the Rights and Duties of States⁶ in its Article 1:

“The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states”.

Thus, sovereignty requires a population confined in determined boundaries. Douglas Howland, the David D. Buck Professor of Chinese History at the University of Wisconsin–Milwaukee, and Luise White, Professor of History at the University of Florida, who believed that sovereignty does not accrue naturally to a state, also confirmed Haggar’s statement. (Howland & White, 2008) Going deeper in the analysis of the concept of sovereignty, they also claimed that it is a set of practices that are historically contingent - a mixture of both international and domestic processes, including self-determination, international law, and notions relating to natural rights. (Howland & White, 2008)

In the nineteenth century, affected by John Austin’s positive theory of law, some legal scholars started developing the idea that law could have been produced only by a sovereign power. They firmly believed that it was not

⁶ This treaty was signed at the International Conference of American States in Montevideo, Uruguay on December 26, 1933. It entered into force on December 26, 1934. The treaty discusses the definition and rights of statehood.

important if the sovereign power was represented by a king, a parliament, or a council. The fact that either the king, the parliament, or the council was a sovereign body was a guarantee for the meaningfulness and the legitimacy of the law. Austin's ideology was based on the idea that only a sovereign power could have produced international law that, otherwise, would have remained only a type of morality. In this way, Austin went against the empirical school of international law, new in the nineteenth century and mostly epitomized by Jeremy Bentham and Henry Wheaton. The latter were claiming that the codification of existing practices, meant as both treaties and conventions, constituted international law. This uncertainty is still at the core of today's debate: is international law normative or binding? Due to the existence of international and bilateral treaties and conventions, it can be said to be binding, even though there is still a lack concerning the enforcing mechanisms. (Howland & White, 2008)

During the 1950s, many French West African politicians did not achieve independence as autonomous nation-states; indeed, they pushed for participation in a more egalitarian federal France meaning that the country would have been made of individuals of different nationalities residing in different territories. Dr. Andrew F. Cooper, Professor at Balsillie School of International Affairs, defines this choice as a "layered sovereignty." There are three levels of sovereignty, respectively territorial, federal, and confederal sovereignty that, consequently, refer to three different ways that member states could adopt to voluntarily associate in order to pursue shared legislative and administrative interests. Territory ceased to be the exclusive basis of state centralization. On the other hand, the author Kevin C. Dunn describes the independence process of former British and Belgian colonies, which he defined as discrete nation-states. In fact, the Belgian territory of Rwanda-Burundi became independent as two states, Rwanda and Burundi, as they were before the colonial period. The

question that arises is: how much of their territory do these states now control? Similarly to the early modern kings of France who did not have the control over all French lands, "African states in the Great Lakes Region share their sovereignty with game parks and territories reserved for animals that are founded, funded, and administered by international agencies." (Howland & White, 2008)

In the past decades, there were debates on the concept of sovereignty that went to different directions. Some scholars argued that sovereignty represented a tool to discuss about individualized experiences, private and autonomous and, most importantly, institutions. Bowdlerized versions of Carl Schmitt, who stated that sovereignty was an authoritative decision in an exceptional situation, initiated the analysis of the concept from a "performance" perspective; therefore, it started a heated debate on sovereign bodies as well that was a metaphorical progression that he believed had both "*repoliticized*" individuals and reconceived autonomy. Some other scholars defined it as an inherent characteristic for the functionality of states. Howland and White, when considering the US foreign policy, brought up a practical example of this direction. Indeed, in their work, they asked the following question: "who could have imagined, a decade ago, that U.S. officials would speak of giving Iraq sovereignty?" It is evident that the question of how states become sovereign cannot be addressed without first understanding what entity gets to be a state, and how states develop and become main actors in an international community. (Howland & White, 2008)

Aida Hozic, Associate Professor of International Relations at the University of Florida, illustrates how sovereignty is expected to be a state property, as it is declared as the norm in the state-based systems. However, she inquiries how her assessment could analytically be referred to all those states that are recognized as sovereign although they are "fractious and

fantasy polities,” with open borders, whereas others are currently governed by UN missions or officers appointed by the United Nations or the European Union. She also offers the particular example of the Balkans. Indeed, the Balkans includes some countries in which sovereignty is so inconsistent, as it is often violated in the name of sovereignty itself. Balkan states are artificially maintained because they are considered and utilized as buffer zones, sites of crime, as criminality becomes the norm in such situations. In support to her argument, Hozic also argues that exceptional states are becoming the norm in the early twenty-first century. Indeed, she claims that the very term “failed state,” as it is the case of the Balkan countries, represents the ultimate form of unified political expression. (Howland & White, 2008)

With the beginning of the twenty-first century, analysts have progressively focused on issues related to sovereignty. Since the Nuremberg and Tokyo trials, “international law does not admit sovereign derogation or immunities for crimes of war, crimes against humanity, and genocide, which may also include the crime of ethnic cleansing.” Recently, challenges such as globalization, transnationalism, failure of states, migration, radicalization, extremism, global diseases, and climate change have led to the rearrangement of the practices of sovereignty. (Grovoqui, 2009 - in Howland & White, 2009) Similarly, Francis Deng and William Zartman believe that the states should refer to post-colonial sovereignty only in the case they have shown an appropriate compliance with the moral and legal obligations they have towards their citizens and their own states. (Grovoqui, 2009 - in Howland & White, 2009)

After the analysis of the evolution of the concept of sovereignty, it is possible to say that it could be interpreted as a historical construct, as it was adopted by historical agents to create an organizing principle of the

international order. Therefore, it serves to manage the multitude of evolving internal and external relationships between political entities.

The debates around the rearrangement of the concept of sovereignty have brought to the rise of a new absolutism: "a metaphysics of politics that vests one region and, through it, particular states and constituencies, with the power and unquestionable wisdom to set absolute standards for governance." Many scholars support the idea that creating self-appointed guardians of international morality would be morally questioning. Indeed, it could be possible to illustrate a range of misplaced Western intentions and past involvements in violence. At the same time, it could also be simple to point out some estimable humanitarian interventions that Non-western States carried out. Examples are: the Indian intervention to stop violence in Bangladesh and its contribution to maintain the territorial integrity of Congo upon Lumumba's killing; the Vietnamese intervention to end the reign of the Khmer Rouge in Kampuchea; and Tanzania's intervention in uprooting Idi Amin's dictatorship in Uganda. "Morality and notions of political legitimacy are not the preserve of any one region or political doctrine or ideology." (Grovoqui, 2009 - in Howland & White, 2009)

The evolution of sovereignty is essential for the comprehension of the normative dimension concerning the state-building activities of international administrations. By developing and accepting international administrations and denying self-governance to the affected citizens, the international community compromises one of the most important components of sovereignty, the norm of *self-determination*. However, as sovereignty is closely related to the notion of statehood, it is the institution, which necessarily incorporates the most notable components of the normative dimension, that shapes state-building activities. As a consequence, the link between sovereignty and state-building creates a

complex and seemingly contradictory relationship. By asserting that sovereignty is a complex concept, which addresses the relations between all states and the states and their national societies, and which presents both legal and political features, it is possible to examine and assess these contradictions, and better comprehend the linkage between state-building and sovereignty. The state-building practices of international administrations exposes a sovereignty enigma: "international administrations compromise a fundamental side of a political community's sovereignty by violating its right to self-governance, but do so with the aim of making it sovereign with regard to the relations between state and society." (Zaum, 2007) Thus, Zaum agrees that sovereignty is a "constructed of beliefs that are held intersubjectively, [and that] it only changes when these intersubjective beliefs, not individually held ideas, change." (Zaum, 2007) Recognizing the necessity to define the concept of sovereignty, he uses one definition that is similar to Robert Walker's, which says that it "is *the recognition of the claim by a state to exercise supreme authority over a clearly defined territory.*" (Zaum, 2007)

Actions of sovereignty usually emphasize an authority over a political entity, as well as its right to conduct diplomatic exchanges, as a typical right that characterizes a state as sovereign. Both the authority and the recognition of claims to authority emphasize the social nature of sovereignty, with regard the relation between states, and the one of the state and its national society. Recognition is a social process, which arises from shared norms and the interaction between entities. In the same way, an authority requires a normative dimension accepted by all individuals engaged in an authoritarian relationship: the state and society. (Zaum, 2007) It is also crucial to analyse the notions of both positive and negative sovereignty. According to Zaum, "an international order that is characterized by a regime of negative sovereignty, where the exercise of authority over a specific polity is externally legitimized by mutual

recognition.” (Zaum, 2007) On the other hand, the concept of positive sovereignty gives birth to another aspect of sovereignty that is still under studies and that this work will address as well, namely sovereignty as responsibility. Positive sovereignty depends on the condition of empirical statehood, and is connected to the concept of authority mentioned above.

A state’s responsibility can be directed internationally towards other states, and domestically towards its own citizens. The simplest international responsibility to apply is the so called negative responsibility, which concerns the responsibility that states have to non-interfere in the domestic affairs of other states, which enhances the initial meaning of sovereignty as established in the Peace of Westphalia. Other international responsibilities, for example, include the enforcement of treaties that a state signs and/or ratifies. The idea that states have responsibilities towards their citizens seems more complex in the light of state practice during the Cold War period. The concept of sovereignty incorporates Hobbes’s act of agreement, meaning that there is a necessity for an ultimate authority within every political society for this society to exist and efficiently function, and that all individuals within this society need to renounce to part of their freedom to favour the functioning of their community. Sovereignty is therefore a tool to keep domestic order, thus including a social purpose. The primary responsibility arising from sovereignty is then to guarantee the physical security of the political society and to legitimize the exercise of sovereign authority. (Zaum, 2007)

Francis Deng (1993, 1995) was the first to articulate the approach of “sovereignty as responsibility” to protect the people of a limited territory, which directly challenged the non-intervention component of the concept of sovereignty. The terminology has later been embraced by many in the field, (e.g. Teson 1997; Barkin 1998) and defined as a “new normative

principle of international order.” (Etzioni 2006) It was the 2001 ICISS report on the Responsibility to Protect, however, that produced the loudest resonance of the principle after its adoption as a key element of the R2P framework.

The understanding of sovereignty as responsibility has been reinforced thanks to the emergence of individual human rights. Indeed, the emphasis on individual human rights has shifted the relationship between the state and its citizens, consolidating the idea of popular sovereignty and the rights of the governed vis-à-vis the state. To legitimize the exercise of sovereign authority, the state has to fulfil its obligation of providing individuals with civil and political rights, enhancing the importance of their political participation that emerged from the newly concept of popular sovereignty.

Whether sovereignty has shifted fully towards this aspiring conception remains an extremely controversial question. State practice shows that human rights, human security, welfare, and democracy have been playing a relevant role in the legitimization of authority in certain Western members of the international community, though not necessarily in all states. This division clearly emerged from the debate occurred in the Security Council concerning NATO’s intervention in Kosovo in March 1999. Even among Western states, the notion of sovereignty as responsibility does not seem to have reached its peak, mainly when the right to democratic governance could be used to justify or legitimize the use of force.

This emphasis on the responsibilities related to the concept of sovereignty strengthens the idea that the international community has replaced the conception of negative sovereignty with the positive one since the end of the Cold War period. Specifically, this change means that states have

been living up to these responsibilities, as positive sovereignty implies that there has to be an effective authority over a territory and a population of a political community. This authority is based on the legitimacy afforded to it by the ability and willingness of the states to protect their citizens, and to guarantee and respect their rights. Hence, the practice of sovereign authority carried out by the states depends on where the line is drawn between the authority of the state and the rights of society. (Zaum, 2007)

An extensive literature covers the profound evolution of the conditions under which sovereignty is practiced. In particular, this literature focuses on the recent challenges to the traditional definition of sovereignty, such as "the wide concept of threats to international peace and security, the collapse of state authority, the importance placed on popular sovereignty, and new demands for self-determination." (Weiss and Hubert 2001: 6–12) Aligned with this evolution, human rights also started playing a more international role. (Badescu 2009) The military interventions occurred during the 1990s brought new attention to the concept of sovereignty as well as a change in the international debate concerning "sovereignty as authority," which is nowadays interpreted as "state responsibility."

Within the political theory dimension, various efforts have been put to show that sovereignty and humanitarian intervention are strongly related, as both are justified only to the extent that they decrease the security of individuals. National political institutions create a network of relations that protect and promote their members' interests. There are also cases in which external intervention simply takes on the role that justified national political institutions at the beginning. (Vernon 2006) This is an example of when sovereignty is not only a matter of governments. Other scholars, however, focus their research on the demand to the "natural duty" of justice, needed for the protection of basic human rights. (Buchanan 2004)

Similarly, there are arguments based on common morality or on the tradition of natural law, which interprets humanitarian intervention as a basic ethical duty that states should have to protect civilians from violence. (Nardin 2003) Instead, some others developed a case based on the provision of basic needs. Considering the existence of global justice, the tension between sovereignty and responding to the troubles of the individuals in need should be addressed by favouring the individuals. (Brock 2006) According to the concept of global justice, reaching a universal agreement on the nature of sovereignty is a slow process, and the above tension subsides in certain cases, thus warranting humanitarian intervention to protect fundamental human rights for fragile countries and unsecure populations. (ibid.: 278)

For Henry Shue, a scholar offering one of the most fervent and persuasive contributions in favour of a constraint notion of state sovereignty, sovereign states do not only have rights, but also duties. Such duties limit states' behaviour by making their sovereignty restricted to a minimal level of respect for the human rights of their own citizens. (Shue 2004) Thus, sovereignty is not a natural characteristic of political communities, but a status giving membership of the international system. In the twentieth century, sovereignty came to be used increasingly to justify the state's role as guarantor and provider of certain basic human rights, hence replacing the politically ineffective legitimating principle of absolute right. (e.g. Reus-Smit 2001)

Most recent scholars seem to share the common idea that sovereignty is not absolute, and that any claim in defence to state sovereignty cannot be made by asserting that a state is free to act according to its own power towards its citizens. (ICISS 2001: 8) Nevertheless, according to Hedley Bull, Robert Jackson, and Henry Kissinger, states can legitimately disagree about the way they want to organize their political systems, meaning that

their choice concerning their national community should affect the maintenance of international order. Others have argued that recent interpretations of sovereignty as conditional have been translated into a new "imperialism," meant as a way for states to pursue Western interests by portraying themselves as agents of the international community. (Ayooob 2002; Chandler 2002, 2006)

Despite all these debates, there seems to be an agreement on the changed meaning of sovereignty in response to transformations that have affected the international community and international institutions. A significant number of scholars, especially liberal international lawyers, have convincingly argued that sovereignty is vested in the people and not in the state. (e.g. Makinda 2002; Franck 2003; Teson 2003) Such interpretations of state sovereignty are not centred on a primary need to respect territorial borders, but on a primary responsibility to protect the citizens of a state during an internal conflict. Failed states, however, may not belong to this category, as in these instances sovereignty ceases to exist and, therefore, international laws that privilege state sovereignty are no longer applied. Examples of countries where state authority failed due to internal conflicts are: Afghanistan in the early 1990s; Liberia in the 1990s; and Congo and Sierra Leone in the late 1990s. These examples refer to the collapse or the failure of sovereign authorities due to internal conflicts and leave aside cases where state authority has collapsed because of external interventions, such as the more recent examples of Afghanistan and Iraq. As for cases when sovereignty is no longer relevant, the answer can be found in what Krasner (2004) calls "shared sovereignty." "Shared sovereignty" refers to various engagements in which some individuals, who are chosen by international organizations or coalitions, share authority with nationals over some aspects of domestic sovereignty. Even in this case, it might result very difficult to develop an alternative to conventional sovereignty.

There is now a growing acceptance that the humanitarian interventions carried out in extreme cases of human rights violations are legitimate in accordance with international law and cannot be held hostage to the norm of conditional state sovereignty. While some theorists argue that the norm of sovereignty "is no longer sacrosanct," (Chopra and Weiss 1992) others phrase it differently, even though they promote the same significant message, namely that state sovereignty could not be considered as absolute as when it was established with the Peace of Westphalia. (Philpott 1995; Mills 1998: 3) Even some of the strongest supporters of the traditional concept of sovereignty argue that there is a certain hierarchy concerning the different sovereign state's responsibilities, which recently include humanitarian objectives as well. Robert Jackson (2004) claims that the primary responsibility of a state is focused on both national and international responsibility, and so humanitarian responsibility is simply related to these two types of responsibilities that a state has in the international dimension, thus playing a secondary role.

Apart from being an essential topic of heated debate, the concept of conditional sovereignty has also reached practical terms. Policy makers have been pondering the sovereignty versus responsibility dilemma, which may become even more crucial to the international order since the endorsement of R2P by the General Assembly in September 2005. In chapter 4 of the *UN reform 2005 and beyond: conceptualization, institutionalization and implementation*, Muntarbhorn analyzes the United Nations-related reforms initiated by the 2005 summit of Heads of Government, which adopted a set of tools and strategies to *re-energize* the body from the perspective of whether the rules of the game have changed. In addition, "three Secretaries-General of the UN, Boutros Boutros-Ghali, Kofi Annan, and Ban Ki-moon, declared that sovereignty is no longer absolute and that it can be overridden in exceptional

circumstances.” For instance, Kofi Annan tried to advance his argument concerning the existence of “two concepts of sovereignty” and that the international community should embrace the one that includes the responsibilities, along with the rights, of statehood. (1999; 2005a)

There are concrete examples of the modern decline of the traditional state-centric approach to the concept of “absolute” sovereignty. They include the emergence of norms of customary international law, to the extent that they connect rogue states, such as Libya in its argument with the international community after the bombing of a passenger jet over Lockerbie, Scotland, in 1988. Another example refers to the watering down of sovereign immunity, and to the switch from the absolute to the “restrictive” approach in the aftermath of World War II. The limitations on absolute immunity for heads of state, which reached its peak in the 1998 Rome Statute of the International Criminal Court (ICC), are other relevant examples. Another example that fits in the evolution of the concept of sovereignty is the willingness of the twenty-seven member states of the European Union (EU) to renounce to their sovereignty status under the EU requests and refrain from acting in accordance to their sovereign preferences. The willingness of some states to voluntarily sign and ratify international agreements, such as the Kyoto Protocol against global warming, might be another example of this decline.

All these examples of evolution of the concept of sovereignty advance one question: “does this amount to a weakening of state sovereignty?” (Badescu, 2010)

1.2. Responsibility of States for internationally wrongful acts

“The law of state responsibility plays a central role in international law, functioning as a general law of wrongs that governs when an international obligation is breached, the consequences that flow from a breach, and who is able to invoke those consequences (and how).

As a consequence, the law of state responsibility is multifaceted and covers a veritable multitude of issues.”

(Borelli 2012)

1.2.1. The work of the International Law Commission

The idea of developing international law through the restatement of existing rules or through the formulation of new rules is not of recent origin. Intergovernmental regulations of legal questions concerning general and permanent interests were originated at the Congress of Vienna (1814–15). Some theorists might argue that even before the Treaty of Paris of 1814, or the Treaty of Westphalia, relations between reigns or communities have developed thanks to diplomatic conferences that had the aim of convening on the creation of international legal rules. The resolution of the Assembly of the League of Nations adopted on the 22nd of September 1924, envisaging the creation of a standing organ called the “Committee of Experts for the Progressive Codification of International Law,” constituted an important advancement for the intergovernmental effort to promote the codification and development of international law. In 1927, the Committee was called to analyze and propose a codification for three topics, namely: nationality, territorial

waters, and the responsibility of States for the damages done in their territory to the individuals or property of foreigners. (League of Nations 1927)

Unfortunately, the only international instruments that came out from this work were on the topic of nationality; in addition, no further experiments in codification was made by the League of Nations after 1930. Based on the experience of the League of Nations, the governments participating in the drafting of the Charter of the United Nations were overwhelmingly opposed to confer their legislative power to the Organization and to enact the binding rules of international law; they also rejected proposals to grant to the General Assembly the authority to impose "certain general conventions on States by some form of majority vote". (International Law Commission 2001)

There was, however, a final agreement to establish a Committee on the Progressive Development of International Law and its Codification.⁷ In June 1947, the Committee both published a report recommending the establishment of an International Law Commission and set forth provisions designed to serve as the basis for its statute. During the second session of the General Assembly, a large majority of the Sixth Committee⁸ agreed about the creation of an International Law Commission and, on the 21st of November 1947, the General Assembly adopted resolution 174 (II), establishing it. The Commission opened the first of its annual sessions on the 12th of April 1949. (International Law Commission 2001)

⁷ During the second part of its first session, the General Assembly, on 11 December 1946, adopted resolution 94 (I) establishing the Committee.

⁸ The Sixth Committee is the primary forum for the consideration of legal questions in the General Assembly. All of the United Nations Member States are entitled to representation on the Sixth Committee as one of the main committees of the General Assembly.

The International Law Commission has "the promotion of the progressive development of international law and its codification"⁹ as main objective. Even before its creation, the General Assembly suggested¹⁰ to the International Law Commission to prepare a draft declaration on the rights and duties of States that would have clarified and defined the international responsibility of states in cases of unfulfilment of their obligations.

At its first session,¹¹ in 1949, the Commission carefully examined a draft handed over by Panama,¹² suggesting the main principles to be inserted in the declaration. During the session, the Commission adopted the final draft of the Declaration on Rights and Duties of States, which included fourteen articles with commentaries, and decided to send the draft to the General Assembly with its conclusion. As the General Assembly only requested the draft of such declaration, the Commission was the body to decide how to take it forward. (International Law Commission 2001) The Commission observed that: "the rights and duties set forth in the draft Declaration are formulated in general terms, without restriction or exception, as befits a declaration of basic rights and duties. The articles of the draft Declaration enunciate general principles of international law, the extent and the modalities of the application of which are to be determined by more precise rules. Article 14 of the draft Declaration is a recognition of this fact. It is, indeed, a global provision which dominates the whole

⁹ Statute of the International Law Commission (1947) Adopted by the General Assembly in resolution 174 (II) of 21 November 1947, as amended by resolutions 485 (V) of 12 December 1950, 984 (X) of 3 December 1955, 985 (X) of 3 December 1955 and 36/39 of 18 November 1981.

¹⁰ General Assembly Resolution 178 (II) of 21 November 1947

¹¹ The International Law Commission held its first session at Lake Success, New York, from 12 April to 9 June 1949 in accordance with General Assembly resolution 174 (II) of 21 November 1947.

¹² The General Assembly, at its 123rd meeting, on 21 November 1947, adopted resolution 178 (II) which reads as follows: "[...] Instructs the International Law Commission to prepare a draft declaration on the rights and duties of States, taking as a basis of discussion the draft declaration on the rights and duties of States presented by Panama, and taking into consideration other documents and drafts on this subject."

draft and, in the view of the Commission, it appropriately serves as a key to other provisions of the draft Declaration in proclaiming 'the supremacy of international law'". (International Law Commission 2001)

The draft contained important elements that were finally setting the supremacy of human rights on the sovereignty of states. Article 6, for example, stated "Every State has the duty to treat all persons under its jurisdiction with respect for human rights and fundamental freedoms, without distinction as to race, sex, language, or religion." Article 13 contained the principle of supremacy of international obligations: "Every State has the duty to carry out in good faith its obligations arising from treaties and other sources of international law, and it may not invoke provisions in its constitution or its laws as an excuse for failure to perform this duty." (International Law Commission 2001)

However, the General Assembly only commended¹³ the draft Declaration to "the continuing attention of Member States and of jurists of all nations and requested Member States to furnish their comments on the draft" and invited Member States to share their suggestions on: "whether any further action should be taken by the General Assembly on the draft Declaration;" and "if so, the exact nature of the document to be aimed at and the future procedure to be adopted in relation to it." As the number of States that had given their comments and suggestions was considered too small to form the basis of any definite decision regarding the draft Declaration on Rights and Duties of States, the General Assembly chose¹⁴ to postpone consideration on the matter "until a sufficient number of States have transmitted their comments and suggestions, and in any case to undertake consideration as soon as a majority of the Member States have transmitted such replies." This delay determined the "discontinuation" of

¹³ General Assembly Resolution 375 (IV) of 6 December 1949.

¹⁴ General Assembly Resolution 596 (VI) of 7 December 1951.

the topic by the International Law Commission. (International Law Commission 2016)

In 1954, the General Assembly requested the Commission to undertake the codification of the principles of international law governing State responsibility. The Commission started working on the issue in 1955 with the vision of determining the international responsibility of States. According to the criteria laid down by the Commission in 1969, the study of the international responsibility of States had to include two broad separate points; the first was going to be aimed at covering the origin of international responsibility while the second at analysing the content of such responsibility. The first task was to assess the events and circumstances that should have been established in order to impute to a State the existence of internationally wrongful acts, which, as such, are sources of international responsibility. The second task was to determine the consequences within the international law framework of internationally wrongful acts in different cases in order to develop a definition of the content, forms, and degrees of responsibility.

In 2001,¹⁵ the Commission amended the title of this topic to "Responsibility of States for Internationally Wrongful Acts." While describing the Responsibility of States for Internationally Wrongful Acts,¹⁶ the International Law Commission claimed that "Every internationally wrongful act of a State entails the international responsibility of that State." An international wrongful act could be defined

¹⁵ The International Law Commission held its fifty-third session at Geneva, Switzerland, from 23 April to 1 June and 2 July to 10 August 2001 in accordance with General Assembly resolution 55/152 of 12 December 2000.

¹⁶ Text adopted by the International Law Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission's report covering the work of that session. The report, which also contains commentaries on the draft articles, appears in *Yearbook of the International Law Commission, 2001*, vol. II (Part Two), and in the annex to General Assembly resolution 56/83 of 12 December 2001, and corrected by document A/56/49(Vol. I)/Corr.4.

as a conduct consisting of an action or omission that is attributable to the State under international law; and that constitutes a breach of an international obligation of the State. Such characterization is governed by international law and is not affected by the characterization of the same act as lawful by domestic law. (International Law Commission 2016)

1.2.2. Subjective and objective elements as precondition of State responsibility under international law

State responsibility is a cardinal institution of international law. It is the result of the general legal personality of every State under international law, and of the fact that States are the principal bearers of international obligations. (Crawford 2006) Different range of treaties and other commitments correspond to distinct responsibilities, laying the precondition and variability of State's international obligations.

The law of state responsibility for internationally wrongful acts does not recognize the 'crime of state' as part of its regime. States cannot be held criminally accountable under international law, as the law of state responsibility has remained not punitive in its scope, and is essentially seen as a "reparation tool." While for many years an aggravated regime of liability for international crimes committed by states was considered an effective alternative in political and doctrinal circles, upon completion of the Articles on State Responsibility, the ILC did not include state crimes. (Wyler e Castellanos-Jankiewicz 2011)

However, the Italian jurist Roberto Ago¹⁷ did not propose the notion of crimes of state as an analogy to domestic criminal law. He did not explore

¹⁷ Between 1969 and 1980, Roberto Ago produced eight reports and the ILC provisionally adopted 35 articles constituting Part One of the proposed draft articles: 'Origin of State

criminalization of state acts in a condemning logic. By introducing Article 19, he sought to establish an aggravated regime of state responsibility for violations of the most important values in international society.

In 1976 Roberto Ago, as Special Rapporteur of the ILC on State Responsibility, introduced the concept of 'international crimes' in his Fifth Report Article 19, as adopted, provided as follows:

"International crimes and international delicts

1. An act of a State which constitutes a breach of an international obligation is an internationally wrongful act, regardless of the subject-matter of the obligation breached.
2. An internationally wrongful act which results from the breach by a State of an international obligation so essential for the protection of fundamental Interests of the international community that Its breach is recognised as a crime by that community as a whole constitutes an international crime.
3. Subject to paragraph 2, and on the basis of the rules of international law in force, an international crime may result, inter alia, from:
 - a) a serious breach of an international obligation of essential importance for the maintenance of International peace and security, such as that prohibiting aggression;
 - b) a serious breach of an international obligation of essential Importance for safeguarding the right of self-determination of peoples, such as that prohibiting the establishment or maintenance by force of colonial domination;
 - c) a serious breach on a widespread scale of an international obligation of

Responsibility'. The detailed treatment in Part One of the rules of attribution and the general justifications or excuses for an internationally wrongful act was highly influential. Other elements were more controversial, in particular Art. 19 Draft Articles on State Responsibility of 1980 ('1980 Draft Articles') introducing the concept of international—ie State—crimes, as well as the over-elaborate typology of obligations in Arts 20 to 26 1980 Draft Articles.

essential Importance for safeguarding the human being, such as that prohibiting slavery, genocide and apartheid;

d) a serious breach of an international obligation of essential importance for the safeguarding and preservation of the human environment, such as those prohibiting massive pollution of the environment or of the seas.

4. Any internationally wrongful act which is not an International crime In accordance with paragraph 2 constitutes an international delict.”

As Professor Georges Abi-Saab noted, Article 19 introduced a necessary distinction between different norms of international law, as well as a certain grading among them, by attaching severe consequences to the violation of these norms. Unfortunately the text provided by Ago was not taken forward in the 2001 text.

The fundamental qualification of State responsibility is the commission of a wrongful act by a State. According to Sabino Cassese, an Italian Professor of Administrative Law and a former judge of the Constitutional Court of Italy, the commitment of a wrongful act requires the existence of both subjective and objective elements. As for the first ones, Cassese describes them as: “the imputability to a State of conduct (action or omission) of an individual contrary to an international obligation and, in some limited instances, the fault (*culpa*) of the State official performing the wrongful act.” As for the objective elements, these are: “the inconsistency of a particular conduct with an international obligation; a material or moral damage to another international subject; the absence of any of the various circumstances precluding wrongfulness.” (Cassese 2005)

States act at the international level through individuals. Therefore, for a State to be responsible, it is necessary to establish whether the conduct of

an individual may be attributed to it. As the ICJ claimed in the *Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, "according to a well established rule of international law [of a customary character] the conduct of any organ of a State must be regarded as an act of that State." Consequently, if the individual has that status, the ascription of his acts and contacts to the State can be reasonably produced. Basically, the State official must act in his official capacity, and not *qua* private individual. (Cassese 2005)

When dealing with acts that can engage the personal responsibility of individuals under international law, the same primary rule can cause the state's international responsibility for the corresponding wrongful act. However, this hypothesis has not entirely been embraced by international practice. It is reasonable to consider that the two forms of responsibility are completely autonomous from each other since the beginning, i.e. because they are triggered by the violation of non-identical primary rules. (Gaeta 2011) For the international responsibility of the state to rise, though, it would be not required to prove that the state as such - or one or more of its officials - sheltered a genocidal intent in the criminal sense, as this is required only for the criminal accountability of individuals. Lacking direct verification of the existence of a genocidal policy, it would only be necessary to prove that because of the overall pattern of violence; the ultimate goal of the state policy cannot but be that of destroying the targeted group as such. Only considering criminal responsibility and state responsibility as two distinctive issues it is possible to completely fulfil the notion that under international law there is "a dual regime of responsibility for serious violations of human rights and other norms of concern for the international community as such." (Gaeta 2011)

A wrongful act is imputed to the State even if the State official performed that act *outside or contrary to his instructions or even outside his remit*,

as long as he acted by using the means and powers pertaining to his public function.¹⁸ Obviously, foreign nationals and foreign States are not expected or required to be cognizant in each case of the allotment of powers to the various state officials. Consequently, "the rule whereby the State incurs responsibility even when its organ acted outside his competence (restated in article 7 of ILC Draft)." International rules also cover the case where individuals, who do not fulfil State functions, play an important role in the exercise of governmental authority as they may actually wield authority and control over senior State officials. It is logical that acts performed by those persons should be attributed to the State as a whole; hence, if these acts are against international law, the State shall bear international responsibility.

Additional category of individuals whose activity may be attributed to a State regards the *de facto State organs*. These are individuals who, although they do not have the formal status and rank of a State officials, act on behalf of a State, or are under the overall control of a State, or behave as the State officials. Article 8 of the ILC Draft concerns the conduct of private persons or entities. Under this article, "the conduct of a person or a group of persons shall be considered an act of a State under International Law if the person or the group of persons is in fact acting on the instructions of, or under the direction or control of that State in carrying out the conduct."¹⁹

¹⁸ Article 9 of the 2001 text adopted by the ILC on Responsibility of States for Internationally Wrongful Acts on the "Conduct carried out in the absence or default of the official authorities" cites: "The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority."

¹⁹ Cassese suggests to look at the judgment of the ICJ in *Nicaragua* and that of the Appeals Chamber of the ICTY in *Tadić*.

The standard of evaluation set out by the ICJ (accepted by the ILC) makes it difficult to prove that a State is responsible for acts performed by individuals not having the status of State officials. It suits necessary to prove that *every single action* contrary to international law has been the subject of *specific instructions* by the State. Instead, under the test propounded by the ICTY, whenever an individual is a member of a military unit or of a militarily organised group, it is sufficient to prove that a State exercises overall control over that unit or group, for such a State to incur international responsibility for unlawful acts performed by members of that unit or group. Thus, the test involves a significant broadening of State responsibility.

In case of unlawful acts committed by individuals not acting as *de facto* state officials, for instance against foreigners, the State on whose territory the acts were committed incurs international responsibility only if it did not act with diligence: if it omitted to take the necessary measures to prevent attacks on foreigners or foreign assets or, after perpetration of the unlawful acts, failed to search for and duly punish the authors of those acts, as well as pay compensation to the victims. Normally, international courts do not inquire whether or not State officials who have allegedly performed an international wrong acted intentionally. They only consider the question of fault as a distinct subjective element of State responsibility, but only take fault into account when dealing with circumstances precluding wrongfulness or for establishing the amount of compensation due. By "fault" is meant a psychological attitude of the wrongdoer consisting of either "intention" or "recklessness."

The irregularity of a State conduct with an international obligation must refer to an obligation halting for that state from an applicable rule or principle of international law, independently from the class of the obligation violated, either through direct or enduring wrongs. For what

concerns the question of damage, it is legally permitted to take into account the wrongdoer and, in particular, to bring an action against it. To this purpose, a distinct specific element is required: such an element can be *material* or *moral*. Material damage is defined as any prejudice affected to economic or patrimonial interests of a State or its subjects; moral damage is described as any violation of a State's honour or dignity. As pointed out by Anzilotti, an international wrongful act may only be committed when in addition of a legal injury a State prompts also material or moral damage. Therefore, the damage or prejudice has to be caused to a lawful right for another state, entailing that damage should be regarded as a distinct objective element of wrongfulness.

Cassese argues that there is no coincidence that most illustrations of responsibility arising from a mere breach of an international obligation without involving any material or moral damage advanced in the ILC reports, belong to an area where state responsibility takes on different connotations. Whereas damage is a necessary objective element of the wrongful act in the case of ordinary responsibility, it is not required in the case of aggravated responsibility. Moreover, Cassese claims that in the case of ordinary responsibility the injured state is normally entitled to request reparation only because one of its rights has been violated and this abuse has caused a material or a moral damage. When the states concerned in an assumed contravention have brought cases to international courts, judges have not felt the necessity to satisfy themselves that the state other than the one allegedly breaching international obligation was a damaged party.

Circumstances precluding wrongfulness are envisioned. They consists in: consent of the state injured²⁰, self-defence,²¹ countermeasures in respect

²⁰ The draft text of the Responsibility of States for Internationally Wrongful Acts in its Article 20 defines "Valid consent by a State to the commission of a given act by another State precludes the wrongfulness of that act in relation to the former State to the extent that the act remains within the limits of that consent."

of an international wrong,²² *force majeure*,²³ distress,²⁴ state of necessity.²⁵

The importance of the occurrence under customary law of duties for states to practice universal jurisdiction in proper cases is to prevent violations of

²¹ The draft text of the Responsibility of States for Internationally Wrongful Acts in its Article 21 defines "The wrongfulness of an act of a State is precluded if the act constitutes a lawful measure of self- defence taken in conformity with the Charter of the United Nations."

²² The draft text of the Responsibility of States for Internationally Wrongful Acts in its Article 22 defines "The wrongfulness of an act of a State not in conformity with an international obligation towards another State is precluded if and to the extent that the act constitutes a countermeasure taken against the latter State in accordance with chapter II of part three."

²³ The draft text of the Responsibility of States for Internationally Wrongful Acts in its Article 23 defines "1. The wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the act is due to force majeure, that is the occurrence of an irresistible force or of an unforeseen event, beyond the control of the State, making it materially impossible in the circumstances to perform the obligation.

2. Paragraph 1 does not apply if:

(a) the situation of force majeure is due, either alone or in combination with other factors, to the conduct of the State invoking it; or

(b) the State has assumed the risk of that situation occurring."

²⁴ The draft text of the Responsibility of States for Internationally Wrongful Acts in its Article 24 defines "1. The wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the author of the act in question has no other reasonable way, in a situation of distress, of saving the author's life or the lives of other persons entrusted to the author's care.

2. Paragraph 1 does not apply if:

(a) the situation of distress is due, either alone or in combination with other factors, to the conduct of the State invoking it; or

(b) the act in question is likely to create a comparable or greater peril."

²⁵ The draft text of the Responsibility of States for Internationally Wrongful Acts in its Article 25 defines "1. Necessity may not be invoked by a State as a ground for precluding the wrongfulness of an act not in conformity with an international obligation of that State unless the act:

(a) is the only way for the State to safeguard an essential interest against a grave and imminent peril; and

(b) does not seriously impair an essential interest of the State or States towards which the obligation exists, or of the international community as a whole.

2. In any case, necessity may not be invoked by a State as a ground for precluding wrongfulness if:

(a) the international obligation in question excludes the possibility of invoking necessity; or

(b) the State has contributed to the situation of necessity."

public interest rules by other states and non-state actors and of the right to take unilateral countermeasures as a response to serious violations. These duties and rights are component elements not so much of state sovereignty as of states' responsibility to protect the public interest of the international community. (Wellens, 2009) Recently, international law has progressed considerably and now includes broad recognition of the legal rights and duties of individuals, non-State actors, and other non-State entities. Nonetheless, as in the past, States remain the most important actors in international law, endowed with broader sets of legal rights and obligations than those available to any other international legal actor. (Oppenheim 1967) (Sadat 2011) International law is, therefore, the product of State interests.

Development, however, has been achieved as States' attentions and the values that their societies embrace have converged, demanding greater conformity by States to certain human aspirations. Over the last decades, state sovereignty has surrendered to collective interests and human rights values, and has recognized an increasing importance of International Criminal Law (ICL)²⁶ as well. Both fields have been driven by ideas that

²⁶ International criminal law is the body of laws, norms, and rules governing international crimes and their repression, as well as rules addressing conflict and cooperation between national criminal-law systems. ICL places responsibility on individual persons—not states or organisations—and proscribes and punishes acts that are defined as crimes by international law. International criminal law is a relatively new body of law, and aspects of it are neither uniform nor universal. For example, some aspects of the law of the International Criminal Tribunal for the former Yugoslavia (ICTY) are unique to that jurisdiction, do not reflect customary international law and also differ from the law of the ICC. Although there are various interpretations of the categories of international crimes, these materials deal with crimes falling within the jurisdiction of international and hybrid courts, including the ICTY, International Criminal Tribunal for Rwanda (ICTR), Special Court for Sierra Leone (SCSL), Extraordinary Chambers in the Courts of Cambodia (ECCC), and the International Criminal Court (ICC). These crimes comprise genocide, crimes against humanity, war crimes and the crime of aggression.

As international criminal law is a subset of public international law, the sources of ICL are largely the same as those of public international law.³ The five sources of ICL used by international and hybrid criminal courts generally are:

- 1) treaty law;
- 2) customary international law (custom, customary law);
- 3) general principles of law;

with time have acquired an incrementally higher level of value recognition from broader and diverse constituencies. Admittedly, progress in these fields has been slower and more painstaking than in the economic field. What has been achieved in the fields of human rights and ICL is the result of a process of accretion that strengthened ideas about human values throughout the history of several civilizations. (Bassiouni 2011)

The definition of what constitutes a State in international law has been influenced over the years by important developments, such as the decolonization of States in Latin America, Africa, Asia, and the Middle East,²⁷ and the development of the right to self-determination.²⁸ Other important developments concern the dissolution of State coalitions (such

4) judicial decisions (subsidiary source); and

5) learned writings (subsidiary source).

The five sources of ICL roughly correlate with the classic expression of the sources of international law contained in Article 38(1) of the Statute of the International Court of Justice (ICJ):

a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting States;

b) international custom, as evidence of a general practice accepted as law;

c) the general principles of law recognized by civilized nations;

d) [...] judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

²⁷ Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by General Assembly resolution 1514 (XV) of 14 December 1960, stated on Art. 7 that "All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity."

²⁸ "The principle of self-determination was invoked on many occasions during World War II. It was also proclaimed in the Atlantic Charter (1941) (Declaration of Principles of 14 August 1941), in which President Roosevelt of the United States and Prime Minister Churchill of the United Kingdom declared, inter alia, that they desired to see 'no territorial changes that do not accord with the freely expressed wishes of the peoples concerned' (Principle 2 Atlantic Charter), that they respected 'the right of all peoples to choose the form of government under which they will live' (Principle 3 Atlantic Charter) and that they wished to see 'sovereign rights and self-government restored to those who have been forcibly deprived of them' (Principle 3 Atlantic Charter). The provisions of the Atlantic Charter were restated in the Declaration by United Nations signed on 1 January 1942, in the Moscow Declaration of 1943 and in other important instruments of the time." (Thürer e Burri 2008)

as the Soviet Union) and States (such as Yugoslavia), attempts to occupy territories (such as Russia's activity in the Crimean Peninsula and in eastern Ukraine),²⁹ and the need to cope with unique (*sui generis*) cases, such as the Palestinian-controlled territories. These developments have produced extensive academic debate on how to define a State in international law, and almost every new development has led to new proposals for addressing the issue in a unique manner.

Since its creation, the United Nations has been focusing on the analysis of the responsibilities that States have towards the binding principles of international law and the emerging variety of human rights treaties and conventions from December 9, 1948. The text of the Convention for the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly in December 9, 1948.³⁰ This convention, which represents the first human rights document of the United Nations, inherently imposed obligations of States to actively prevent genocide. Article 1 reads "The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish."

Both in Article 6 "Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction" and article 8

²⁹ The internationally recognised Ukrainian territory of Crimea was annexed by the Russian Federation on 18 March 2014. Ukraine considers the annexation to be a violation of international law and agreements by Russia, including Agreement on Establishing the Commonwealth of Independent States in 1991, Helsinki Accords, Treaty on the Non-Proliferation of Nuclear Weapons of 1994 and Treaty on friendship, cooperation and partnership between the Russian Federation and Ukraine. The event was condemned by many UN members as an illegal annexation of Ukrainian territory, in violation of the 1994 Budapest Memorandum on sovereignty and territorial integrity of Ukraine, also signed by Russia.

³⁰ After obtaining the requisite twenty ratifications required by article XIII, the Convention entered into force on 12 January 1951.

"Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III" the Genocide Convention empowers the international community to assist in the prevention and punishment of the crime.

This notion of responsibility of State in the application of the Convention on the Prevention and Punishment of the Crime of Genocide has been reiterated on 26 February 2007 in the statement to the Press by H.E. Judge Rosalyn Higgins, President of the International Court of Justice, regarding the Bosnia and Herzegovina v. Serbia and Montenegro case:

"The Court has found that the Respondent could, and should, have acted to prevent the genocide, but did not. The Respondent did nothing to prevent the Srebrenica massacres despite the political, military and financial links between its authorities and the Republika Srpska and the VRS. It therefore violated the obligation in the Genocide Convention to prevent genocide."³¹

³¹ From the Summary of the Judgment of 26 February 2007 Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) from para. 428-438: "In view of their undeniable influence and of the information, voicing serious concern, in their possession, the Yugoslav federal authorities should, in the view of the Court, have made the best efforts within their power to try and prevent the tragic events then taking shape, whose scale, though it could not have been foreseen with certainty, might at least have been surmised. The FRY leadership, and President Milošević above all, were fully aware of the climate of deep-seated hatred which reigned between the Bosnian Serbs and the Muslims in the Srebrenica region. Yet the Respondent has not shown that it took any initiative to prevent what happened, or any action on its part to avert the atrocities which were committed. It must therefore be concluded that the organs of the Respondent did nothing to prevent the Srebrenica massacres, claiming that they were powerless to do so, which hardly tallies with their known influence over the VRS. As indicated above, for a State to be held responsible for breaching its obligation of prevention, it does not need to be proven that the State concerned definitely had the power to prevent the genocide; it is sufficient that it had the means to do so and that it manifestly refrained from using them.

Such is the case here. In view of the foregoing, the Court concludes that the Respondent violated its obligation to prevent the Srebrenica genocide in such a manner as to engage its international responsibility."

On the 10th of December 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights (UDHR)³² that, in one of the brief spells of enlightenment in the twentieth century, one could hardly anticipate that a historical process of generalization of the international protection of human rights was being launched, on a truly universal scale. State responsibility provides the frame of reference for considering other forms of international responsibility, namely the responsibility of international organizations,³³ (Crawford, 2006) and similarly supports the demand to examine the implementation and compliance of human rights law, and the responsibility of non-state actors.³⁴

³² Although the UDHR is not an international legal instrument per se, it supplied the essential provisions and sentiments found in the principal international human rights conventions. In the preamble is clearly stated that the UDHR is proclaimed "as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."

³³ "When the articles on responsibility of States for internationally wrongful acts were near their completion, the International Law Commission included in its long-term programme of work the subject "responsibility of international organizations", on the basis of a proposal made by Mr. Alain Pellet. The General Assembly recommended in 2001 that the Commission engage in this study. The following year the Commission appointed the present writer as Special Rapporteur. In 2009, after discussing seven reports presented in seven successive years, the Commission adopted at first reading the draft articles on the responsibility of international organizations and requested comments and observations from States and international organizations. After taking these views into account and considering the eighth report, the Commission completed its work on this subject in 2011." (Gaja 2011)

³⁴ "The Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations (NGOs) in Disaster Relief, which the International Federation of Red Cross and Red Crescent Societies and the ICRC developed, is an example of a set of voluntary standards for NGO behaviour." (Weissbrodt 2013)

Common article 1 of the Geneva Conventions also sets out the obligation of State parties to ensure respect for international humanitarian law in all circumstances.³⁵

³⁵ Article 1 common to the four Geneva Conventions reads as follows: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances". This provision was reiterated in Article 1, paragraph 4, of Additional Protocol I. As such, the obligation to respect and ensure respect (which will also be referred to as common Article 1) applies to international conflicts and, indeed, to non-international conflicts to the extent that the latter are covered by common Article 3. While conflicts of a non-international character as defined by Additional Protocol II are not explicitly covered by the obligation to respect and to ensure respect, they can nonetheless be considered as indirectly falling within the purview of the provision, insofar as Protocol II is merely an elaboration of common Article 3 of the four Geneva Conventions, a fact stated in its Article 1, paragraph 1. The obligation to respect and to ensure respect for humanitarian law is a two-sided obligation, for it calls on States both "to respect" and "to ensure respect" the Conventions. "To respect" means that the State is under an obligation to do everything it can to ensure that the rules in question are respected by its organs as well as by all others under its jurisdiction. "To ensure respect" means that States, whether engaged in a conflict or not, must take all possible steps to ensure that the rules are respected by all, and in particular by parties to conflict." (Boisson de Chazournes e Condorelli 2000)

1.3. Originating the concept of human security

The evolution of human rights and the progression of national and international instruments since the proclamation of the Universal Declaration of Human Rights³⁶ have evidently shown the non-self sufficiency of the 1948' Charter to achieve universal protection of these rights.³⁷ The Charter certainly is a milestone document in the history of

³⁶ The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 General Assembly, with Resolution 217 A, as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected.

³⁷ In addition to the International Bill of Rights and the core human rights treaties, there are many other universal instruments relating to human rights. A non-exhaustive selection is listed below.

World conference on human rights and millennium assembly: Vienna Declaration and Programme of Action; United Nations Millennium Declaration.

The right of self-determination: United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples; General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"; International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

Rights of indigenous peoples and minorities: Declaration on the Rights of Indigenous Peoples; Indigenous and Tribal Peoples Convention, 1989 (No. 169); Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

Prevention of discrimination: Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); International Convention on the Elimination of all Forms of Racial Discrimination (ICERD); Declaration on Race and Racial Prejudice; Convention against Discrimination in Education; Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking a settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; World Conference against Racism, 2001 (Durban Declaration and Programme of Action).

Rights of women: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP); Declaration on the Protection of Women and Children in Emergency and Armed Conflict; Declaration on the Elimination of Violence against Women.

Rights of the child: Convention on the Rights of the Child (CRC); Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child

pornography (CRC-OPSC); Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OPAC); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).

Rights of older persons: United Nations Principles for Older Persons.

Rights of persons with disabilities: Convention on the Rights of Persons with Disabilities; Optional Protocol to the Convention on the Rights of Persons with Disabilities; Declaration on the Rights of Mentally Retarded Persons; Declaration on the Rights of Disabled Persons; Principles for the protection of persons with mental illness and the improvement of mental health care; Standard Rules on the Equalization of Opportunities for Persons with Disabilities.

Human rights in the administration of justice: protection of persons subjected to detention or imprisonment: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); Basic Principles for the Treatment of Prisoners; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; United Nations Rules for the Protection of Juveniles Deprived of their Liberty; Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Safeguards guaranteeing protection of the rights of those facing the death penalty; Code of Conduct for Law Enforcement Officials; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules); United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); Guidelines for Action on Children in the Criminal Justice System; United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines); Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; Basic Principles on the Independence of the Judiciary; Basic Principles on the Role of Lawyers; Guidelines on the Role of Prosecutors; Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions; Declaration on the Protection of All Persons from Enforced Disappearance; Basic Principles and Guidelines on the Right to a Remedy and Reparation; International Convention for the Protection of All Persons from Enforced Disappearance; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); Updated Set of principles for the protection and promotion of human rights through action to combat impunity

Social welfare, progress and development: Declaration on Social Progress and Development; Universal Declaration on the Eradication of Hunger and Malnutrition; Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind; Declaration on the Right of Peoples to Peace; Declaration on the Right to Development; Universal Declaration on the Human Genome and Human Rights; Universal Declaration on Cultural Diversity.

Promotion and protection of human rights: Principles relating to the status of national institutions (The Paris Principles); Declaration on the Right and Responsibility of

human rights and sets a common standard of achievements for all people and all nations but has been, as it was probably meant to be, progressively empowered in diverse directions by other more binding instruments.

These binding instruments do not eradicate the importance of the Charter but rather expand its capability to be the Master Plan of all human rights

Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; United Nations Declaration on Human Rights Education and Training.

Marriage: Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

Right to health: Declaration of Commitment on HIV/AIDS.

Right to work and to fair conditions of employment: Employment Policy Convention, 1964 (No. 122).

Freedom of association: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Slavery, slavery-like practices and forced labour: Slavery Convention; Protocol amending the Slavery Convention signed at Geneva on 25 September 1926; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Rights of migrants: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPMW); Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

Nationality, statelessness, asylum and refugees: Convention on the Reduction of Statelessness; Convention relating to the Status of Stateless Persons; Convention relating to the Status of Refugees; Protocol relating to the Status of Refugees; Declaration on the Human Rights of Individuals who are not nationals of the country in which they live.

War crimes and crimes against humanity, including genocide: Convention on the Prevention and Punishment of the Crime of Genocide; Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity; Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity; Statute of the International Tribunal for the Former Yugoslavia; Statute of the International Tribunal for Rwanda; Rome Statute of the International Criminal Court.

standards. Human rights, on the other hand, have evolved not only from the perspective set by this fundamental document, but also as a result of the advancement of the interdependence of other sectors of human life. Simultaneously, the dichotomy between the notion of State and the one of individual rights has narrowed to the extent that it is now conceivable to refer to them as two sides of the same coin. MacFarlane and Khong stressed that "leaders may not have formed states in order to provide protection to their citizens, but their provision of that protection promoted in their subjects some sense of obligation to comply with the state's requests and a degree of loyalty to the state and its purposes," (MacFarlane & Khong, 2006) which in turn enhanced the power of the state. Security, described as the "state of feeling safe, stable, and free from fear," founds its primary legacy with the concept of human security.

Shortly after the end of the Cold War, in 1994, the Special Adviser of UNDP (United Nations Development Programme) Administrator James Gustave Speth, Mahbub ul Haq, proposed the new concept of Human Security. The concept advocated a new way of understanding security from the "freedom from fear" and "freedom from want", two famous expressions of US President Roosevelt, pronounced in 1941. (Redaelli, 2015) The notion was the result of calls for new thinking in security matters right after the dissolution of the Soviet Union. In 1991, the Stockholm Initiative on Global Security and Governance issued a call for "Common Responsibility in the 1990's" which referred to "challenges to security other than political rivalry and armaments" and to a "wider concept of security, which deals also with threats that stem from failures in development, environmental degradation, excessive population growth and movement, and lack of progress towards democracy".

In one of his paper "New imperatives of Human security" of 1994 he wrote that "We need to fashion a new concept of Human Security Which is reflected in the lives of our people, not in the weapons of our country".

Human security is about the security of individuals and communities rather than the security of states, and it combines both human rights and human development. (Kaldor, 2007) The UNDP 1994 Report³⁸ introduces a new concept of human security, which equates security with people rather than territories, with development rather than arms. It examines both the national and the global concerns of human security. (United Nations Development Programme (UNDP, 1994)

The Report identified seven core elements, which together made up the concept of human security – economic security, food security, health security, environmental security, personal security, community security and political security. (Kaldor, 2007) Traditional notions of security, shaped largely by the Cold War, were concerned mainly with a state's ability to counter external threats. Threats to international peace and security were also usually perceived as threats from outside the state (see, for example, chapter 7 of the United Nations Charter). More recently, the approach to security has shifted. In Africa, for example, such shifts can be traced to the internal struggles of African people against

³⁸ The Report envisaged the establishment of a new paradigm of sustainable human development, capturing the potential peace dividend, a new form of development co-operation and a restructured system of global institutions. It proposed that the World Summit for Social Development approve a world social charter, endorse a sustainable human development paradigm, create a global human security fund by capturing the future peace dividend, approve a 20:20 compact for human priority concerns, recommend global taxes for resource mobilization and establish an Economic Security Council.

According to the Report, increasing human security entailed:

- Investing in human development, not in arms;
- Engaging policy makers to address the emerging peace dividend;
- Giving the United Nations a clear mandate to promote and sustain development;
- Enlarging the concept of development cooperation so that it includes all flows, not just aid;
- Agreeing that 20 percent of national budgets and 20 percent of foreign aid be used for human development; and
- Establishing an Economic Security Council.

colonial rule and occupation, whether in Algeria, Angola, Cape Verde, Kenya, Mozambique, Namibia, South Africa or Zimbabwe.

Views on security were shaped by the experiences of colonialism and neocolonialism and by the complex processes through which internal and external forces combined to dominate and subjugate people. The enemy came from within the state, and the conditions under which people lived every day placed them in chronic insecurity. These experiences introduced into the debate such issues as whose security matters and under what conditions, and what are the moral, ethical and legal bases for what is now termed a "just war."

These experiences and perceptions were important in shaping such disparate-seeming issues as how the women's movement mobilized against oppression and what form reconstruction, development and reconciliation would take in newly independent countries. Notable in Africa was the way the women's movement linked struggles for national independence and security to the struggle for equality and social equity. The persistent marginalization of countries in Africa from processes of economic growth and development, however, reinforced perceptions of exclusion and vulnerability. For these reasons, development, poverty eradication and greater social equality were increasingly linked to conflict resolution, peace-building and state building in Africa.

The concept of security broadened from an exclusive concern with the security of the state to a concern with the security of people. Along with this shift came the notion that states ought not to be the sole or main referent of security. People's interests or the interests of humanity, as a collectivity, become the focus. In this way, security becomes an all-encompassing condition in which individual citizens live in freedom, peace and safety and participate fully in the process of governance. They enjoy

the protection of fundamental rights, have access to resources and the basic necessities of life, including health and education, and inhabit an environment that is not injurious to their health and well-being. Eradication of poverty is thus central to ensuring the security of all people, as well as the security of the state.

This understanding of human security does not replace the security of the state with the security of people. It connects the two aspects as mutually dependent. Security between states remains a necessary condition for the security of people, but national security is not sufficient to guarantee peoples' security. Consequently, the state must provide various protections to its citizens. However, individuals also require protection from the arbitrary power of the state, through the rule of law and emphasis on civil and political rights as well as socio-economic rights. Significantly, such thinking on security takes place alongside the development of renewed initiatives focusing on regional and continental cooperation and regeneration. A convergence in how individuals understand issues of security and how they see the effects on their lives is already evident in the founding documents of the African Union, the New Partnership for Africa's Development, the Conference on Security, Stability, Development and Cooperation in Africa, and the reformed Southern African Development Community, including its Organ on Politics, Defence and Security.

However, this does not represent an end to the debate about the role of the state in security management. Rather, it reinforces the point that without popular participation in shaping agendas on security, political and economic elites will go alone in a process that will further marginalize and impoverish the people of Africa. It is against this background that the idea of human security must become a tool and instrument to advance the interests of humanity, particularly in Africa. Rethinking security in ways

that place people and their participation at the centre is an imperative for the 21st century. (Ginwala, 2002)

Security is facing new challenges. In the past, security threats were assumed to emanate from external sources. State security focused mainly on protecting the state— its boundaries, people, institutions and values— from external attacks. Over the last decades, the understanding of state security and the many types of threats has broadened. In addition to securing borders, people, values and institutions, it is possible to understand the dangers of environmental pollution, transnational terrorism, massive population movements and such infectious diseases as HIV/AIDS. Most significant, there is a growing recognition of the role of people—of individuals and communities—in ensuring their own security.

The broadening of security reflects the changing international and national environments. Internal conflicts have overtaken interstate wars as the major threats to international peace and security. The globalization process has deeply transformed relationships between and within states. Although more people than ever have access to information and essential social goods, the gaps between rich and poor countries—and between wealthy and destitute people—have never been greater than today. The exclusion and deprivation of whole communities of people from the benefits of development naturally contribute to the tensions, violence and conflict within countries.

To achieve peace and stability in today's interdependent world, the prevention and mitigation of the impact of internal violent conflicts are not sufficient. Also important are upholding human rights, pursuing inclusive and equitable development and respecting human dignity and diversity. Equally decisive is to develop the capability of individuals and communities to make informed choices and to act on their own behalf. In

many respects, human security requires “including the excluded.” It focuses on the widest possible range of people having enough confidence in their future— enough confidence that they can actually think about the next day, the next week, and the next year. Protecting and empowering people is thus about creating genuine possibilities for them to live in safety and dignity. Seen from this angle, human security reinforces state security but does not replace it.

At the beginning of the 21st century, the international community is at a dangerous crossroads. In response to the threat of terrorism and the spread of weapons of mass destruction, states may revert to a narrower understanding of state security—rather than foster human security. The credibility and legitimacy of the multilateral institutions and strategies are being questioned, and long-standing alliances among states are eroding. Under the guise of waging a war against terrorism, human rights and humanitarian law are being violated. Even commitments to earlier international agreements are being reviewed.

Humanitarian action now also seems to be in crisis. Few situations better reflect these new developments than the ongoing Palestinian-Israeli conflict. The denial of access to humanitarian actors to reach civilians, the closing off of whole communities, and the willful destruction of civilian properties, as in the Jenin refugee camp in 2002—all imply that people are being held hostage to protect state security needs. Too little attention, as in the case of Iraq, is given to the impact on civilians and the possible implications for maintaining the principles of impartiality, neutrality and independence guiding humanitarian action. The provision of life-saving humanitarian assistance should not be used as a bargaining tool in weapons issues, as in the case of the nuclear armament of the Democratic People’s Republic of Korea.

In a world of growing interdependence and transnational issues, reverting to unilateralism and a narrow interpretation of state security cannot be the answer. The United Nations stands as the best and only option available to preserve international peace and stability as well as to protect people, regardless of race, religion, gender or political opinion. The issue is how to make the United Nations and other regional security organizations more effective in preventing and controlling threats and protecting people, and how to complement state security with human security at the community, national and international levels.

It is frightening that the dangers of war loom as large as ever—that hundreds of millions of people do not feel secure enough to rebuild their houses or plow their fields or send their children to school. The agenda, vast and complex, must be tackled starting from the pervasive and critical threats confronting people today. Now, more than ever, human security is essential. (Ogata, 2003)

Many important aspects of human development relate also to people's security: loosely defined as people's freedom from fear and freedom from want in a broad sense. Applying a human security approach offers an opportunity to analyse many issues in an informative way. This note explains how one might go about doing that. Human security relates to much more than security from violence and crime. A report team wanting to look at the security of people's livelihoods (economic, food, environment or health security) might apply a human security approach. Human security can also be used to look into personal, community and political security. Indeed, human development reports from around the world have applied the approach in other innovative ways. However, on each occasion, these reports have analysed a threat, or groups of threats, and how they affect particular groups of people. Therefore, if one is interested in preparing a human development report that is focused on

one or more of the threats people face, then a human security approach is worth considering. (UNDP, 2015)

Fifty years ago, Albert Einstein summed up the discovery of atomic energy with characteristic simplicity: "Everything changed." He went on to predict: "We shall require a substantially new manner of thinking if mankind is to survive." Although nuclear explosions devastated Nagasaki and Hiroshima, humankind has survived its first critical test of preventing worldwide nuclear devastation. Five decades later, it is clear that humanity has been witnessing another profound transition in thinking—from nuclear security to human security. The concept of security has for too long been interpreted narrowly: as security of territory from external aggression, or as protection of national interests in foreign policy or as global security from the threat of a nuclear holocaust. It has been related more to nation-states than to people. The superpowers were locked in an ideological struggle—fighting a cold war all over the world. The developing nations, having won their independence only recently, were sensitive to any real or perceived threats to their fragile national identities. Forgotten were the legitimate concerns of ordinary people who sought security in their daily lives. For many of them, security symbolized protection from the threat of disease, hunger, unemployment, crime, social conflict, political repression and environmental hazards. With the dark shadows of the Cold War receding, one can now see that many conflicts are within nations rather than between nations. (United Nations Development Programme (UNDP), 1994)

There is also a fear that existing institutions and policies are not able to cope with weakening multilateralism, falling respect for human rights, eroding commitments to eradicate poverty and deprivation, outdated sectarian perspectives in education systems and the tendency to neglect

global responsibilities in an increasingly interrelated world. (Ogata & Sen, 2003)

1.4 Definitions of human security

The concept of human security emerged in the post-Cold War era in order to ensure security and alleviate human suffering. Although Mahbub ul Haq first mentioned the concept of human security in 1994 (Redaelli, "Freedom from Fear, Freedom from Want and Freedom from Need": il concetto di Human Security e la libertà religiosa 2015), Art. 22 of the Universal Declaration of Human Rights had already emphasized the existence of the right to social security, meant as the right that "Everyone, as a member of society, [has] to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality."

The concept is associated with the "pre-eminent progressive values of the 1990s: human rights, international humanitarian law, and socio-economic development based on equity". (Suhrke 1999)

According to Antonio Papisca social security is not only a fundamental right that should be guaranteed, but also an essential tool to create and ensure social cohesion. As well as social security, human security is considered a fundamental tool for fostering social inclusion and for policy formulation and implementation. (Ogata 2014) Since the beginning of the 21st century, the definition of human security was strictly linked to humanitarian, military, and political issues. As the concept of security has been evolving, the definition of human security became much broader and started referring to the economic, social, and health aspects as well. When defining human security, former United Nations Deputy Secretary-General, Louise Frechette, claimed "What do we mean by human security? We mean, in its most simple expression, all those things that men and

women anywhere in the world cherish most: enough food for the family; adequate shelter; good health; schooling for the children; protection from violence whether inflicted by man or by nature; and a State which does not oppress its citizens but rules with their consent." (Frechette 1999)

In 2004, Ramesh Thakur, Director of the Centre for Nuclear Non-Proliferation and Disarmament in the Crawford School and UN Senior Vice-Rector at the Assistant Secretary-General level, addressed the concept of human security, highlighting the various dimensions it refers to. Specifically, he noted, "Human security refers to the quality of life of the people of a society or polity. Anything which degrades their quality of life – demographic pressures, diminished access to or stock of resources, and so on – is a security threat. Conversely, anything which can upgrade their quality of life – economic growth, improved access to resources, social and political empowerment, and so on – is an enhancement of human security." (Thakur 2004)

Former UN Secretary-General Kofi Annan remarked the evolution of the concept of human security in relation to the most recent conflicts. Initially, it was associated with the defence of a specific territory, whereas now it has shifted towards a more human-centred approach due to the danger that weapons of mass destruction have been posing to the international community. Together with the nuclear threat and the military, social, economic, and environmental threats that could contribute to human insecurity, Kofi Annan also identified the lack of efficient political and security mechanisms to prevent and address the aforementioned threats as an essential factor that often contributes to the escalation of tensions and, therefore, to the rise of conflicts. Aligned with the definition of human security, Kofi Annan also emphasized the evolution of the concept of peace related to security. As he pointed out, peace does not mean absence of war only. It should also embrace the dimensions of economic

development, environmental protection, social justice, democratization, demilitarization, and respect for human rights as well as the rule of law, thus requiring a more coordinated and efficient action from the international community. Therefore, every step towards the guarantee of human security represents also a step towards the eradication of poverty, the prevention of conflicts and mass atrocities, and the boost of economic growth. (Annan 2001) In agreement with former Secretary-General Kofi Annan, Sadako Ogata made a clear statement on the elements that are key to make up human security at the Asian Development Bank Seminar "Inclusion or Exclusion: Social Development Challenges for Asia and Europe." More specifically, he identified four key elements that each individual should be provided with, without discrimination, abuse or oppression. The first one concerns the possibility that all citizens should have to live safe and in peace within their own borders. The second one includes all the rights and duties that all citizens should enjoy with no discrimination. The third one regards the equal access that all citizens should be guaranteed with to actively participate in the political, economic, and social policy-making processes, which Ogata refers to as "social inclusion." The fourth and last element is "the establishment of rule of law and the independence of the justice system," (Ogata 1998) as all citizens should be equally subjected to the same norms and regulations. (Ogata 1998)

Because human security cannot be guaranteed when it does not involve the participation of the entire international community, Prof. Caroline Thomas, member of the Department of Politics at the University of Southampton, classifies human security as an indivisible right that "cannot be pursued by or from one group at the expense of another." (Thomas 2001) The Canadian government, which has become one of the leaders in the promotion of the concept of human security, defined human security as "freedom from pervasive threats to people's rights, safety and lives."

Based on this definition, it proposed five concrete foreign policy priorities aimed at advancing human security: protection of civilians, peace support operations, conflict prevention, governance and accountability, and public safety. By highlighting the major international priorities to enhance the importance of human security, the Canadian government stressed the need to build a global society in which the security of each individual represents a motivating force for coordinated and effective action. Even though the concept of human security is still evolving due to the threat that ongoing challenges have been posing to the entire international community, this research will embrace the 1994 Human Development Report definition of human security as people's "safety from chronic threats and protection from sudden hurtful disruptions in the patterns of daily life," thus carefully analyzing its seven main components: economic security; food security; health security; environmental security; personal (physical) security; community security; and political security. (Annan 2001)

These definitions should assist the continuation of the research that will look at the deconstruction of the principle and the analysis of the various indicators that allow the measurement of the notion and its applicability.

2. Deconstructing human security

“Human Security is like “Sustainable Development”,
everyone is for it, but few people have
a clear idea of what it means.”

Roland Paris (Paris 2001)

2.1 The deconstruction of human security

As mentioned in the first chapter, the notion of human security started to become popular in the first half of the 1990s. The international community, when facing a new phase of global order, optimistically started hoping that the 1941’s words of President Roosevelt ‘freedom from want’ as well as ‘freedom from fear’ would be enhanced. (Shaw, MacLean e Black 2006)

As Lloyd Axworthy wrote in 1997 “the end of the Cold War was hailed by many at the time as the beginning of an era of unparalleled peace and prosperity. There was enormous optimism that the international community, released from the grip of superpower rivalry, would turn its attention to global problems, such as poverty, the environment, and population growth.” Axworthy, Minister of Foreign Affairs of Canada at that time, wished with his words to open a debate on the need for leadership in the promotion of human security. Human security was, by many at the time, including Axworthy, a possible response to the problems generated by the income gap between industrialized and developing countries and the new security threats, which included transnational crime, proliferation of weapons of mass destruction, and the multiplication of intrastate conflicts based in religious or ethnic discord. As already suggested in the previous chapter, the dichotomy between the

notion of State and the one of individual security enshrined the Social Contract into the clear understanding that "individual survival trumped state sovereignty and that to the extent that a state could not protect its citizens, its sovereignty was correspondingly diminished." (MacFarlane e Khong 2006, 59)

The 1994 UNDP Human Development Report, which stressed the necessity to embrace the concept of human security, defined human security as freedom from fear and freedom from want. (UNDP 1994) This definition could found its origins in the speech that Franklin D. Roosevelt made in his Annual Message to the Congress on January 6th, 1941 addressed to highlight the four freedoms that all individuals possess. As he pointed out, every citizen of the world should have the freedom of speech and expression, the freedom of worship God in his or her own way, the freedom from want, meant as reaching the right economic comprehension to ensure peace and security, and the freedom from fear referred to the global reduction of armaments to prevent the rise of armed conflicts. (Roosevelt 1941) As enhanced in the Human Development Report, the concept of human security is made of seven components that contribute to its empowerment. Respectively, these are economic security, food security, health security, environmental security, personal security, community security, and political security. (Nishikawa 2010)

To guarantee these rights, there has been an attempt to involve institutions and policy-makers in shifting the concept of human rights from a territorial perspective to a "people-centred approach." Specifically, there is a need to reorient the legal, economic, and social actions and to set the objectives based on the consequences that they will have on the individuals. The spread of human rights and the advancement of human development have been already pushing for this shift, which implies both

a “top-down” and a “bottom-up” approach. (Commission on Human Security 2003)

When examining the concept of human security, it is relevant to analyze its main components as well. Indeed, the right to human security will only be guaranteed when States and the international community as a whole provide individuals with economic security, food security, health security, environmental security, personal security, community security, and political security. Economic security refers to the right of individuals to be provided with insured basic income and employment as well as access to such social safety net. Food security includes the access that all individuals should have to basic nutrition and food supply. Defining health security may be more complex as it refers to a broader category of issues. Some peculiar examples of health security that should be guaranteed to all individuals concern “access to safe water, living in a safe environment, access to health services, access to safe and affordable family planning and basic support during pregnancy and delivery, prevention of HIV/AIDS and other diseases, and to have basic knowledge to live a healthy life.” (UNDP 1994)

Compared to health security, which is more difficult to define, as it refers to a broader variety of issues, environmental security is simpler to define as it covers “the prevention of water pollution, the prevention of air pollution, the prevention from deforestation, irrigated land conservation, the prevention of natural hazards such as droughts, floods, cyclones, and earthquakes.” (UNDP 1994) Community security should be provided to allow all individuals to preserve their traditions and cultures, as well as their languages and values. Additionally, it incorporates the eradication of ethnic discrimination, the prevention of ethnic conflicts, and the protection of indigenous people. (UNDP 1994) Last but not least, the concept of political security is associated with the protection of human rights and the

well-being of all individuals. Hence, it includes the guarantee of the freedom of press, freedom of speech, and freedom of voting as well as "the abolishment of political detention, imprisonment, systematic ill treatment, and disappearance." (GDRC 2015)

As mentioned above, human security is aimed at protecting and enlarging people's fundamental freedoms. It entails the protection of all individuals "from critical and pervasive threats" (UNDP 1994) and their empowerment people in taking full control of their own lives. The term 'protection' is referred to the set of norms, regulations, policies, and institutions that are crucial for the human survival. Therefore, the protection of people is characterized by a 'top-down approach,' such as the rule of law and democratic governance. The term 'empowerment' is referred to the role that all individuals play as actors of the international community, thus implying a 'bottom-up approach.' (Roberts, Human Insecurity: Global Structures of Violence 2008)

As the implementation of human security includes the contribution of both the states and the individuals, it certainly does not replace state security, but rather it complements it. States have the primary responsibility of providing security to their citizens, even though they often fail in fulfilling this obligation or are even the principal cause of threat to people. The countless conflicts and the extreme poverty show that states are unable to be secure when the security of their people is at risk. At the same time, as the numerous failed states in the world demonstrate, people cannot be secure when there is the lack of a strong, democratic, and responsible government. Examples of these situations are Palestine, Iraq, and Afghanistan.

The concept of human security also emphasizes the close nexus between human rights violations and domestic and international insecurities. The

genocide occurred in Rwanda can be defined as one of the worst cases of human security failure. As a result, twenty-two years later, it is still possible to see the impact that the Rwandan genocide had on the Great Lakes region of Africa. Thus, becoming aware of the importance to promote human rights represents a crucial step towards the protection and the empowerment of all individuals. Human security also gives a contribution to an important aspect of the development thinking. As stated by the Indian economist Amartya Sen, "Development can be seen as a process of expanding the real freedoms that people enjoy." (Sen 1999) When analyzing the downside risks, it is important to note that human security emphasizes that all individuals should be protected in the case of unexpected and profound downturns in their economic and social life. Indeed, human security is not only concerned in relation to 'growth with equity,' but also to 'downturns with security.' (GDRC 2015) When there is the lack of security in unexpected downturns, people tend to face serious and persistent challenges that might provoke the escalation of tensions and, therefore, the rise of violence and the occurrence of conflicts. Examples of these situations are the ones in most Asian and Latin American countries in recent years.

If the definition of security includes protection, conflict prevention, promotion of human rights, and eradication of extreme poverty, there is an urgent necessity to reach a new agreement on security. This consensus is a fundamental responsibility that the entire international community has.

Human security represents a motivating force for all states, both developed or developing countries, to reconsider the existing concept of security taking into account the existing economic, development, and social policies with the aim of creating authentic opportunities for the safety, livelihood and dignity of all individuals. (Roberts, Human Insecurity: Global Structures of Violence 2008) To reach these objectives,

it is also necessary "to overcome the existing compartmentalization of policies and programmes along institutional divisions of work - along security, development and assistance lines". (GDRC 2015) To do so, there is the need to carefully rethink and rearrange the existing institutional activities and policies in a way that, instead of compartmentalization, integration will be the favoured mechanism.

Today, when there is a choice of hard military power over soft power and, therefore, over the promotion of democratic principles and of the respect of freedoms and human rights, the call for a new security agreement may seem incongruous. Nevertheless, hard military power alone cannot be used to win the minds and confidence of people. Indeed, there have been emerging efforts by civil society organizations and community leaders in supporting soft power as most efficient tool to respond to the ongoing challenges. Thus, it is clear that states are not and cannot be the only actors responsible for security issues. Individuals themselves are in fact expected to accept increasing responsibilities referred to the comprehension of their own interests, ambitions, and security. (Commission on Human Security 2003)

As the concept of human security was only born twenty-two years ago, there is still a heated debate around its definition and its components. The expanding faction of scholars assessing the structural determinism in the human security debate includes Fen Osler Hampson, who also believes that human security is partially determined by human-inhabited structures. (Sukhre 2004) According to Hampson, "the problems of human security are often [...] structurally dependent [...] They are rooted in political and social structures and ecological conditions." While human security itself is directly connected with variable social and political structures, there is also a broader linkage, where human security becomes essential to international security and, therefore, it cannot be only referred to the sovereignty and viability of states. (Sukhre 2004)

If some scholars are beginning to embrace the concept that the human should be the fundamental security referent, they still remain divided on how to define the concept of human security. Some of them still prefer to attribute to it a narrower approach because it is more convenient for research methods that can then be converted into policy. Some others keep maintaining the idea that certain ineffectiveness applies to this approach, as the range of the possible threats to human security is too broad to include environmental and health issues that are not directly controllable by the humankind. Notwithstanding with this discrepancy, there may be a middle path that considers structural breadth, but still delimiting the security threat in a way it results identifiable and assessable, offering the opportunity that policy could be positively affected towards change. (Roberts, *Global Governance and Biopolitics: Regulating Human Security* 2010)

It is also possible to find relevant similarities between the concept of human security as expressed in the development studies/UN framework and the Galtung's theory of structural violence and human psychosomatic potential. Indeed, Sabine Alkire, Director of the Oxfam Poverty and Human Development Initiative, identifies the goal of guaranteeing human security as necessary "to protect the vital core of all human lives in ways that advance human freedoms and human fulfilment," which is a definition that could be easily associated with the Galtungian's view of human development. (Sukhre 2004) Even though development and security share similar issues concerning their definition and breadth, the focal point of the analysis focuses on the social structures of violence. According to Edward Newman, Professor of International Security in the School of Politics and International Studies at the University of Leeds, "exploring the relationship between human agency and structure in solutions to human

security challenges is a pressing next step in the human security discourse.” (Sukhre 2004, 358-359)

Newman’s ideology of examining the linkage between human agency and structure as a solution to human security seems to present certain limitations regarding the methodological constraints and theoretical disagreements. However, Taylor Owen, International Peace Research Institute, suggests a “threshold-based definition” that tackles the “paradox [by which] the closer the concept [of human security] gets to its original conceptualization, focusing on all threats to the individual, the more difficult both human security theory and policy become.” (Sukhre 2004) Specifically, Owen claims that it is possible to use a threshold-based conceptualization to limit the threats by their danger rather than their cause. By doing so, all possible harms will be considered, although they will be prioritised according to the “security” label. He also noticed that the 1994 UNDP philosophy was not focused on improving security, but on moving forward from the Cold War period as there were real threats that could have killed people. Indeed, the initial role of human security was to cover the most basic threats to favour and foster development, which would have then addressed the societal well-being. (Sukhre 2004) In concluding his thought, Owen identifies the key problem in the definitional and conceptual disagreement. Most importantly, he states that the main issue concerns the following statement: “human security is the protection of the vital core of all human lives from critical pervasive, economic, food, health, personal and political threats.” (Sukhre 2004)

Opposing Owen’s ideology, Dr. Jerome Liotta, E. Levy Chair of Economic Geography and National Security at the US Naval War College, addresses the issue of “creeping vulnerability” in human security. (Liotta 2002) By focusing on this concept, Liotta expresses its concerns in reopening the

debate on issues like unsustainable urbanization in countries belonging to the developing world. Even though his analysis of the concept of human security goes beyond the one of some other scholars, it still lacks the examination of the role played by human agency in raising vulnerability and, therefore, insecurity. Instead of questioning the influence of institutions in the development of vulnerability and, thus, of human insecurity, Liotta focuses its work on the assessment of already existing forces. In particular, he analyzed concepts of sustainable development and long-term investment strategies that could contribute to the guarantee of human security. However, he does not mention the real factors of contemporary, actual strategic thinking or the modern development approach of human insecurity. Liotta's decision on focusing on the sectorial classification of vulnerability gives definitely a contribution to the development of human security. Nevertheless, his research still misses the analysis of the dimension concerning the human causation for the creation of insecurity and vulnerability from which it is possible to build a long-term strategy to counter it and foster human security and human development. (Roberts, *Human Insecurity: Global Structures of Violence* 2008)

Professor of Government at Harvard University, Gary King, and Professor of Global Health at the University of Washington, Christopher Murray, also searched for definitional clarity. They offered a "simple, rigorous, and measurable definition of human security, [as] the number of years of future life spent outside a state of "generalized poverty" [that] occurs when an individual falls below the threshold of any key domain of human well-being." (King e Murray, *Rethinking Human Security* 2002) The approach that they chose focuses on the life expectancy destabilized by poverty, where poverty is meant as specific aspects of ill health. Although their analysis seems very accurate, they identified poverty as the only component of human security; and they do not address any debate on the

human, institutional or structural factors that may cause the escalation of poverty and health vulnerability. Additionally, the research lacks a reference to the concept of lethality. Finally, the methodology the authors chose is mostly quantitative as the work includes an assessment of the numbers of years of life outside poverty. This choice transformed the research in a complex mathematical formula, thus excluding the qualitative impact of the social structures of violence. Hence, as well as other scholars above mentioned, King and Murray have identified only one component of the concept of human security, as there are no efforts to isolate and examine any human agency, institutional organization, and ideational determinism in justifying poverty creation or wealth destruction.

Realizing the weaknesses of previous works, Mark Duffield, former Director of the Global Insecurities Centre at the University of Bristol, and Nicholas Waddell, Senior Laboratory Safety Specialist-Chemistry at Northwestern University Office for Research, decided to consider a Foucauldian conception of bio-politics to the human security debate that could be connected with global governance, a specific argument in Duffield's work. Duffield and Waddell explained bio-politics as "those varied economic, educational, health and political interventions aimed at improving the resilience and well-being of people whose existence is defined by the contingencies of 'underdevelopment.'" (Duffield e Waddell 2006) As a situation of underdevelopment refers to a political condition where 'underdevelopment' becomes a key component of the concept of human insecurity, bio-politics can be assessed as a reasonable framework for evaluating human security. By considering bio-politics, it is also possible to notice how broad the concept of human security could be. In conclusion, Duffield and Waddell's suggestion was to realign and rearrange the extant Northern international institutions, such as NGOs and states, whose activities would then focus on those populations located in the global and underdeveloped South, whose human security needs have

not being met by the state systems in which they live. Their suggestion, therefore, recalls the concept of the responsibility to protect as it represents a motivating push for the international community to secure/protect individuals where the State is unable or unwilling to do so. (Roberts, Human Insecurity: Global Structures of Violence 2008)

When assessing the evolution of the concept of human security and of its implementation since 1994 when it first appeared in the UNDP's Human Development Report, it is clear that it has secured a place on the agenda of the international community. Notably, UN Secretary-General Ban Ki-moon has recently called for human security to be integrated more fully into the UN system, as it should play a central role in the post-2015 development agenda. (UNSG 2013) (Bacon and Hobson 2014:1) As a result, UN Member States decided to adopt the suggestion by reinforcing human security through the drafting of the 2030 Agenda for Sustainable Development, which is based on the premise that "there can be no sustainable development without peace and no peace without sustainable development."

2.2. The seven dimensions of human security

The Human Development Report defined human security as a set of actions able to provide safety for the people from hunger, diseases, oppression and other chronic threats as well as protecting them from sudden and hurtful disruptions in the patterns of daily life. In describing the seven distinct dimensions of human security, Economic, Food, Environmental, Personal, Community and Political, the Report stressed the necessity to change the concept of security from state-oriented to human-oriented approach. This Chapter aims at deconstructing the seven dimensions of human security, focusing on each of these individually, still recognizing the necessity to look at them as intrinsically related. These are, as previously mentioned, economic security, food security, health security, environmental security, personal security, community security, and political security. As stated by Hari Srinivas, "Among the seven elements to human security, there are considerable links and overlaps. But that one element of human security is likely to travel like an angry typhoon to all forms of human security." (Global Development Research Center 2013)

The exploration of the seven dimensions will also try to incorporate the explanation of the indicators for measurement collected by the Global Development Research Center.

<p>Economic security</p> <p>Income</p> <p>Level of Income</p> <p>Access to social safety nets</p> <p>Reliability of incomes</p> <p>Sufficiency of incomes</p> <p>Standard of living</p> <p>Employment</p> <p>Share of employed/unemployed</p> <p>Risk of joblessness</p> <p>Protection against unemployment</p>	<p>Food Security</p> <p>Availability and supply of food</p> <p>Access to basic food</p> <p>Quality of nutrition</p> <p>Share of household budget for food</p> <p>Access to food during Natural/man-made disasters</p>
<p>Environmental security</p> <p>Assessment on pollution of water, air</p> <p>Prevention of deforestation</p> <p>Land conservation and desertification</p> <p>Concern on environmental problems</p> <p>Ability to solve environmental problems</p> <p>Protection from toxic and hazardous wastes</p> <p>Prevention of traffic accidents and related impacts</p> <p>Natural hazard mitigation (droughts, floods, cyclones or earthquakes)</p>	<p>Health Security</p> <p>Assessment of the health status</p> <p>Access to safe water</p> <p>Living in a safe environment</p> <p>Exposure to illegal drugs</p> <p>Access to housing: shelter from natural elements</p> <p>Accessibility to healthcare systems (physical and economic)</p> <p>Accessibility to safe and affordable family planning</p> <p>Quality of medical care</p> <p>prevention of HIV/AIDS and other diseases</p> <p>Health trends</p> <p>Basic awareness and knowledge on healthy lifestyles</p>
<p>Personal security</p> <p>Fear of violence (physical torture, war, ethnic tension, suicide etc.)</p> <p>Prevention of accidents</p> <p>Level of crime</p> <p>Security from illegal drugs</p> <p>Efficiency of institutions</p> <p>Prevention of harassment and gender violence</p> <p>Prevention of domestic violence and child abuse</p> <p>Access to public information</p>	<p>Community security</p> <p>Fear of multinational/multiregional conflicts</p> <p>Fear of internal conflicts</p> <p>Protection of indigenous people</p> <p>Conservation of traditional/ethnic cultures, languages and values</p> <p>Abolishment of ethnic discrimination</p>

Political security

Level of democratization

Protection against state repression (freedom of press, speech, voting etc.)

Respect of basic human rights and freedom

Democratic expectations

Abolishment of political detention, imprisonment, systematic torture, ill treatment, disappearance etc.

(Global Development Research Center 2013)

2.2.1 Economic security

The belief that uncertainty concerning economic prospects creates anxieties and causes the worsening of people's condition is the foundation of all issues about economic security. This idea is anchored in two logical grounds: first of all, individuals are threatened by large economic losses; then, people who suffered from losses without a sufficient level of buffering, also suffer from hardship, especially if the losses were unexpected. There are many theoretical and empirical studies dedicated to the examination of these two areas: from economics and political sciences to sociological fields, scholars have tried to demonstrate a wide range of aspects of Economic Security: income instability, perceived insecurity on individual well-being, labour market behaviours, savings aspirations and political attitudes. (Tang, 2015)

The economic dimension represents one of the main aspects that a State has to protect in order to guarantee a higher level of maximization of human life. The relevance of economic security is undeniable, as recalled from UNESCO that points out that "poverty is one of the most serious and persistent threats to human security (...) [since] it affects all aspects of human security understood in terms of 'freedom from want.'" (Intersectoral Group on Human Security (IGHS) 2008: 66) A State with a higher economic development has more possibilities to strengthen internal variables to fight poverty and ensure a human-secure environment, safe from chronic threats to individual vulnerability. Economic indicators help analyze the challenges that the State, within the borders of its responsibility, has to face to protect the well-being of human beings and face societies' troubles.

"[...]in the light of recent economic and social developments that imperil security in new and pervasive ways, security should become a high

priority policy matter everywhere. Security matters, also, because freedom and dignity matter. To be clear, real freedom cannot exist unless a certain level of economic security — basic security — exists. One only needs to have clear pictures of freedom and dignity, and of basic security, to see that this is so. In this chapter, we detail those pictures; freedom first, because the contours of basic security are shaped by the nature of freedom.” (International Labour Organization 2004)

In the field of Economic Security, *Income* and *Standards of Living* represents the most meaningful indicators to consider. *Income* includes measurement of level of income, access to social safety nets, reliability of incomes, and sufficiency of incomes; whereas *Standard of living* is meant as the set of employment, share of employed/unemployed, risk of joblessness, and protection against unemployment. Employment helps people escape from poverty and is useful to build stronger and more cohesive communities, develop skills, and give people a sense of purpose. Employment is much more than a paycheck; it represents the basis for both the fertility of economies and the fullness of human lives.

Employment is a complex concept, as it combines income-earning and reproductive activities, caring of the family and, in a broader sense, of the community and society. Additionally, it is related to State production, survival and development. Economic security is much more than employment, and work security itself encloses a large field of ideas and aspects. The International Labour Organization has fully described all the shadows underneath work security: *labour market security*, as adequate employment opportunities guaranteed by the state; *employment security*, as a protection against arbitrary attitudes; *job security*, meant as occupation or “career”; *work security*, as the protection against accidents and illness at work, safety and health regulations, limits on working time, etc.; *skill reproduction security*, as the presence of opportunities to gain

and retain skills; *income security*, as the protection of income through minimum wage, wage indexation and comprehensive social security; *representation security*, meant as the protection of the existence of independent trade unions and employer associations. (International Labour Organization 2004: 14)

Employment can improve people's capabilities and give them opportunities to value. However, there is no direct link between employment and human development. It is the *quality* of work – not just the amount, – which determines whether employment enhances human development. (United Nations Development Programme 2015) Therefore, it is a state primary responsibility to guarantee incomes, welfare, and employment to its population.

Income and employment guarantees are deeply linked with sustainable development issues, such as the reduction of poverty, as stated in Millennium Development Goals. Fragile States often have failed in reducing poverty and in reinforcing Economic Security.

According to Axworthy, "Human security includes security against economic privation, an acceptable quality of life, and a guarantee of fundamental human rights." (Axworthy, 1997: 184) The economic dimension within human security is an intuitive idea. Indeed, people need an adequate level of economic resources in order to satisfy all basic needs; economic resources could come from activities producing income or from welfare structures and the State has the duty to protect, reinforce, and guarantee all the rights that provide individuals with sufficiency of resources and employment for all.

Poverty represents the first threat to human security under the economic lens. It represents the impossibility to satisfy even the basic needs,

creating a huge network of “negative spill-over” on every other aspect of life. For instance, if a poor is forced to work for an excessive amount of hours to gain a modest level of income, he may eventually become ill due to the fatigue and loss of his skills. In addition, the cost of treatments and medicines could be seen as a heavy burden in many low-income countries. Within the international law framework, the Employment Policy Convention drafted in 1964 enhances the existence of the right to work and to fair condition of employment. Specifically, the General Conference of the International Labour Organisation adopted above mentioned Convention “[w]ith a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and under-employment[; therefore,] each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.” (Art 1)

Poverty is still one of the biggest challenges for the majority of the world’s people and nations, even if the term of reference of the World Bank’s Poverty Line has shifted from 1,25\$ in 2009 to 1,90\$ in 2015.³⁹ Although this shift is a significant step forward, it is clear that it is not enough yet. (Cruz, et al. 2015) Analysis on global poverty in 2015 suggests that despite all the efforts to eradicate poverty (for instance, through programmes connected with the Millennium Development Goals), more than one billion people continue their struggle to survive. Poverty is a strong amplifier that incorporates the need to reinforce economic security.

«Poverty of income is often the result; poverty of opportunity is often the cause. Poverty of opportunity is a multi-dimensional concept, embracing lack of education and health, lack of economic assets, social exclusion and

³⁹ Cruz M., Foster J., Quillin B. and Philip Schellekens (2015), Ending Extreme Poverty and Sharing Prosperity: Progress and Policies

political marginalization. It is only through a full understanding of poverty of opportunity that we can begin to sense why people remain poor. [...] Poverty cannot be treated as a mere flu; it is more like body cancer. We cannot leave intact the model of development that produces persistent poverty and wistfully hope that we can take care of poverty downstream through limited income transfers or scattered poverty reduction programmes. If the poor lack education, if they lack critical assets (particularly land), if they lack credit institutions do not bank on them, if they are socially excluded and politically marginalized, then a few technocratic programmes downstream are not the answer. The answer lies in a fundamental change in the very model of development so that human capabilities are built up and human opportunities are enlarged.»⁴⁰ Fighting poverty was, is, and will be an uncontested priority, but building a real economic security dimension means much more, as it would both offer protection to and empower poor people in less developed countries.

To open the discussion on economic security, it is necessary to highlight that economic security should not be provided in developing countries only. Indeed, it is not a “top issue” in low-income and underdeveloped countries only, as it is interconnected with a set of different insecurities related to different geographical contexts. A clear example could be represented by the financial crises that has brought heavy consequences both in Greece and Ireland, (on private properties and hard-earned pensions) even if people there live with more than 1.90\$ a day.

Unemployment and underemployment, as well as the weakening of the job market, which are recurrent mostly in developed societies, represent destabilized factors. They push individuals to accept underpaid and underqualified positions, generating personal disappointment and a spread

⁴⁰ Mahbub ul Haq (1997), No Global Human Security Without Poverty Eradication, Keynote Address, Japan-UNDP Joint Seminar, 17 October 1997, Tokyo

resentment against governments that failed to provide employment or to establish a social minimum wage. According to Art. 1 (2) of the Employment Policy Convention:

"The said policy shall aim at ensuring that:

- (a) There is work for all who are available for and seeking work;*
- (b) Such work is as productive as possible;*
- (c) There is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin."*

When the state fails to provide its citizens with the aforementioned economic security, a lack of state legitimacy and political support usually occur, negatively affecting the central power and leading to political dissatisfaction and mistrust in the government. There is a clear link between economic security and political power that becomes evident when economic security moves away from poverty in an absolute sense.

As well as employment, inequality in income creates tensions both in developing and developed economies. Some scholars also suggest that an increase of income inequality represents one of the causes of economic and social ills, such as low consumption or social and political unrest, leading to profound damages to both state and human development and to welfare.

The level of wealth of a country has a strong impact on the efficiency and effectiveness of the provision of economic security. Indeed, by having a larger amount of available resources and capabilities, developed countries are more prone to guarantee economic security. On the other hand, being characterized by poverty, malnutrition, and fragile situations, less

developed or developing countries can hardly provide it. After the fight for independence of developing countries from European colonies, there was little agreement on the economic responsibility or even capacity. Many countries had and still have no idea of the meaning of 'social protection,' and, for some of them, it is also negatively perceived, as it might represent a tool that developed countries adopt for self-enrichment. (Roberts, 2008)

Based on the numerous debates on this matter, it is possible to claim that there is no "one-size" solution. Thus, economic security should be strengthened in different ways and by using different approaches, in relation to the available tools. For instance, Britain, known for being responsible in protecting its population from impoverishment, adopted the National Social Welfare Policy since after the Second World War. This policy was an early experiment of social security that goes "from the cradle to the grave." This life-long protection became a mantra for Western governments, apart from very few rich countries that chose not to adopt it.

The State has the duty to protect more vulnerable citizens from inequalities in the access to essential needs, in different regional influences, and in different life experiences. Going back to Thomas Hobbes's "social contract," states must protect their populations from external threats. The concept of human security extends this 'contract' to internal threats as well. This is also the reason for providing (considering a wide range of reluctance and enthusiasm) money support to unemployed people, tax credits to poor families, emergency care and protection, pensions, and so on. (Roberts, 2008)

At this point, it is clear that the actor that plays the fundamental role in implementing and strengthening efforts is always the State. Even if

human security concerns the human dimension, promoting a shift from a state-centric perspective to an individual/community-based approach, the State is still the main provider of economic security. Although it is possible to move from theories built on "small presence" to more interventionist ones, the state must still fulfill its obligation, ensuring the security and safety of its people. The more the state is able to implement its mandate and to fulfill its duties, the better human security is guaranteed. If economic security needs good governance, protection from an excessive "globalization," equitable distribution among population, the state should be the main actor promoting and enforcing them.

Therefore, as Grigovera and Garifova state, "Economic security is a basis of the national security of the State. The national security ensuring is a primary responsibility of the State, which is being implemented in close collaboration with the economic agents. The national security reflects the ability of relevant political, legal and economic institutions of the State to protect the interests of its key entities in national economic traditions and values."⁴¹

⁴¹ Grigoreva E., Garifova L., (2015), The economic security of the state: the institutional aspect, *Procedia Economics and Finance* 24, p. 266

2.2.2 Food security

The concept of human security builds on the idea that all basic needs of people have to be satisfied and protected in order to reinforce individual freedom and rights. Food, among all the others, represents one of the top priorities due to its deep connection with livelihood, health, and satisfaction.

The world population is constantly growing, probably reaching 9 billion people in 2050. The higher the number of people on Earth, the higher the consumption will be. Additionally, there will be an increasing demand for processed food, meat, dairy, and fish, thus putting pressure on the supply chain of food. The raising of population proposes challenges for food producers as well, as they are continuously competing for land, water, and energy. The increase in both population and producers' competition creates also an urgent need to mitigate all the negative effects of food production on the environment. It becomes then essential to understand the effects of this process on the climate and how mitigation and adaptation measures may affect the food system and food security.⁴²

Climate change and competition for land are only the "tip of the iceberg:" energy security and water scarcity represent, among all, challenges to food security. The Rome Declaration on Food Security, which was adopted at the World Food Summit in 1996, includes the following statement: "We, the Heads of State and Government, [...] reaffirm the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger."

⁴² H. Charles J. Godfray et al. (2010), Food Security: The Challenge of Feeding 9 Billion People, SCIENCE, vol.12, pp. 812-818

Hunger is both a violation of human dignity and an obstacle to social, political, and economic progress. International law recognizes that everyone has the fundamental right to be free from hunger, and 22 countries have enshrined food rights in their constitutions. According to Art. 1 of the Universal Declaration on the Eradication of Hunger and Malnutrition, "Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties." Hence, national governments should adopt and implement measures aimed at ensuring that people have the physical and economic access to the right quantity and quality of food to have healthy and active lives.

The enormous added value of food security is that, due to the affinity of food with the individual dimension, it could be seen as a standpoint of all emancipatory possibilities for people.

Food is completely part of daily life of every person and security entails the great potential for advancing a political agenda of emancipation and human well-being: for these reason, food-as-security may help starting a transformation in political procedure, especially at a national level, that broadens the capacity of people involved to influence their future and the course of their lives. (Richardson e Nunes 2015)

Food is a security problem: this idea is worldwide accepted the research for a collective response is an in-action process.

The Millennium Development Goals (MDGs) includes, as first goal, the promotion o the right to access adequate level of food as well as the fight of hunger across the world. Target 1.C highlights that the International Community shall put all possible efforts in order to:

"Halve, between 1990 and 2015, the proportion of people who suffer from hunger. [Considering that]: the proportion of undernourished people in the developing regions has fallen by almost half since 1990; globally, about 795 million people are estimated to be undernourished; more than

90 million children under age five are still undernourished and underweight.”

The Post-2015 Development Agenda has emphasized even more the need to eradicate hunger. New objectives have been established through the Sustainable Development Goals (SDGs), which represent a “fil rouge” of continuity with the previous MDGs. The international community has agreed on the new list of goals, including with the second Sustainable Development Goal,⁴³ known as the “Zero Hunger” objective, concerning the promotion of food security, improved nutrition, and sustainable agriculture.

“But what is “food security” and how can it be measured? [...] Originally, the term “food security” was used to describe whether a country had access to enough food to meet dietary energy requirements. [...] The use of the term food security at the national and global level tends to focus on the supply side of the food equation. The question raised is: is there enough food available, where food is usually interpreted to mean dietary energy? But availability does not assure access, and enough calories do not assure a healthy and nutritional diet. The distribution of the available food is critical. If food security is to be a measure of household or individual welfare, it has to address access”. (Pinstrup-Andersen 2009)

Food security policies and programmes have helped bringing the target of halving the hungry share of the population within reach, but we need

⁴³ The SDG #2 will include, among all the targets: «2.1 - By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round; 2.2 - By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons».

more efforts to achieve full internationally agreed objectives. Food insecurity and malnutrition are complex issues and require a defined and efficient actions carried out by the international community as a whole. Different contexts may require different approaches at local, national, and regional level.

Looking at the “state of the World” in relation to food security, the overall progresses hide marked differences across regions. The right to food does not imply that a State should provide its citizens with free food. A common misunderstanding is that the right to food requires the State to feed its people. Direct food assistance is mainly called for in emergencies, such as natural disasters or war. When a country cannot meet this need through its own resources, the State must request international assistance. In general, the State must respect and protect the rights of individuals to feed themselves.

The recent 2007-2008 food-prices crises has shifted the concept of food security from the ‘increase in production’ approach to a more sustainable one. The problem is not only related to the quantity of food, but to the food quality and its distribution as well. Food security includes five main components, which should be addressed to have food security guaranteed. Cecilia Rocha suggests that food security must be composed by:

*«Availability – food in sufficient amounts to meet people’s needs;
Accessibility – assured physical and economic access to food;
Adequacy – food that is nutritious and safe, needed to maintain health, and produced in environmentally sustainable ways;
Acceptability – food that is culturally acceptable; food produced and obtained in ways that do not compromise people’s dignity, self-*

respect and human rights; and Agency – policies and processes that enable the achievement of food security.» (Rocha 2008)

In relation to this definition, many policies in response to Food Security challenge seem to be very fragmented: the discourse around food security is very fluid and it involves a wide range of actors with different interests. This condition leads to disagreements on the priorities that states should address when providing food security. More specifically, food security seems to be a concept strongly related to development studies, natural sciences, sustainable economics, and health research. Consequently, the goals and the priorities that should be addressed to reinforce food security are still undefined, thus mining the effectiveness of a collective approach. Is the focus on the amount of food production or on the need of a more equitable distribution considering the sustainability? Is food security just a nutrition issue, or it needs also instrument from the social protection to achieve it? The only response to these questions could be given taking into account all the aspects of food security through a comprehensive multidimensional approach.

It is understood that the global endeavour for improving food security can only be successful as part of a global commitment to eradicate poverty, which will be pursued by the Millennium Project under the overall guidance of the UN Secretary-General Kofi Annan and the United Nations Development Programme (UNDP). This project, which will stimulate collaboration and provide a focus on specific action by governments, agencies and individuals, will essentially consist of the following four elements.

- I. A set of time bound targets for poverty elimination. Drawing upon data on the nature, dimensions and location of poverty, the world's leaders should commit themselves to remove absolute poverty everywhere by the year 2020.

- II. Policies and programmes in different regions and countries. Evidently, the public sector will need to play a central role in providing and coordinating essential services.
- III. Allocation of responsibility for implementing its policies and programmes. For the plan to succeed, it must rely on distinctive contributions by many parties.
- IV. Regular monitoring of progress in achieving targets for poverty elimination.

Food security under the lens of human security can be measured through the set of the following indicators, which are related not only to food quantity but also to food quality: availability and supply of food; access to basic food; quality of nutrition; share of household budget for food; access to food during natural/man-made disasters.

Another option of measurement is the “Food and Human Security Index” (FHSI) that includes as indicators: individual and societal well-being; ecological sustainability; food dependency; nutritional well-being; food-system market concentration. This index was developed to change the conventional way food security was understood, reminding that the improvement of people welfare should be the principal objective of any food system.

States have the responsibility to enhance food security as a fundamental tool to strengthen human well-being. In the International Law framework, state responsibility and right to food are stressed and highlighted in many international legal instruments.

The Universal Declaration of Human Rights of 1948 emphasizes, in Art. 25 (1), that “Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food.” The 1976

International Covenant on Civil and Political Rights, in Art. 1 (2), underlines that "In no case may a people be deprived of its own means of subsistence;" in addition, Art.6 says that "Every human being has the inherent right to life." There is a clear reference to the right to adequate food as a basic need among other necessities for sustaining life.

Article 11 of the International Covenant on Economic, Social and Cultural Rights affirms that States:

"1. [...] recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food [...] to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. 2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food [...] (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need."

The article defines the responsibility that States have in order to take action in the guarantee of access to food and alleviation of hunger as core element of human well-being. The Committee on Economic, Social and Cultural Rights, in its General Comment no.12 of 12 May 1999, confirms that:

"4. [...] the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human

Rights. [...] 6. That the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. [...] 15. The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, to protect and to fulfill."

Obviously, different States face different challenges; therefore, the monitoring and implementation of food security needss different approaches. National governments can approach to food security in many different ways within their countries, enhancing it or worsening it. Programmes are usually designed to improve the nutrition status of particular categories of the population (school meal programs, child feeding programs, nutrition education programs). However, for the creation of a well functioning society, the government do not have to directly feed its citizens, but to assure that they live in a social context where they can easily provide adequate food for themselves. This idea is stressed also from the human rights view:

"Human rights are mainly about upholding human dignity, not about meeting physiological needs. Dignity does not come from being fed. It comes from providing for oneself. In any well-structured society, the objective is to move toward conditions under which all people can provide for themselves." (Kent 2005)

Kent also believes that the State is to main actor that should completely fulfill food needs and security. Indeed, according to him, "The things that governments can do to strengthen food and nutrition security may be usefully divided into four broad categories: respect, protect, facilitate, and provide." (Kent 2005)

On the other hand, the fluidity of the concept, referring to the analysis of the economic and developmental perspectives of food security, shows its undoubted cross-borders dimension:

"The dominant approach to development and therefore to promoting human security is more deeply rooted in neoliberal values and policies than ever before. The key to the reduction of global poverty and hunger is identified as global economic integration via free trade and the free movement of capital." (Thomas, Global Governance, Development and Human Security: The Challenge of Poverty and Inequality 2000)

A global and cooperative approach must be strongly implemented, as stated recently in many international fora, without leaving behind all State responsibility. Indeed, the danger concerns the fact that too big mechanisms could easily forget the "daily struggle" for hunger, while the State has the concrete duty to protect every single citizen.

During the 2009 World Summit of Food Security held in Rome, five main principle were defined in order to implement an effective strategy based also on the parallel work of State and international community/actors:

- Principle 1: Invest in country-owned plans, aimed at channelling resources to well-designed and results-based programmes and partnerships.
- Principle 2: Foster strategic coordination at national, regional and global level to improve governance, promote better allocation of resources, avoid duplication of efforts and identify response gaps.
- Principle 3: Strive for a comprehensive twin-track approach to food security that consists of: 1) direct action to immediately tackle hunger for the most vulnerable; and 2) medium and long-term

sustainable agricultural, food security, nutrition and rural development programmes to eliminate the root causes of hunger and poverty, including the progressive realization of the right to adequate food.

- Principle 4: Ensure a strong role for the multilateral system by sustained improvements in efficiency, responsiveness, coordination and effectiveness of multilateral institutions.

Principle 5: Ensure sustained and substantial commitment by all partners to investment in agriculture and food security and nutrition, with the provision of necessary resources in a timely and reliable fashion, aimed at multi-year plans and programmes.⁴⁴

⁴⁴ Declaration Of The World Summit on Food Security, 2009, Rome, WSFS 2009/2

2.2.3 Health security

Health is an essential component in the definition of the individual and social well-being. The enormous value of the issue could be summarized by a simple statement, used commonly in old popular saying: "Health is everything." This worldly wisdom is very often reclaimed and reconsidered, also at higher decisional level; it represents a basic idea on which health policies must be built on. "The axiom 'Health is Wealth' is relevant in all ages, for it is on the health of the people, that the wealth of a nation and the survival of its people depends." (Balan 1989)

Being in good health and living in a healthy environment are key features of individual and community well-being and their presence is a fundamental precondition to reach complete human security scope. This intrinsic and simple consideration hides a more difficult level of challenges that the State must struggle in order to guarantee health security.

Health security is more complex, and covers many different issues, such as access to safe water, living in a safe environment, access to health services, access to safe and affordable family planning and basic support during pregnancy and delivery, prevention of HIV/AIDS and other diseases, and to have basic knowledge to live a healthy life.

In 1978, the International Conference on Primary Health Care, with the Alma-Ata Declaration, stated that, "[...] health, which is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important

world-wide social goal whose realization requires the action of many other social and economic sectors in addition to the health sector.”⁴⁵

The Alma-Ata Declaration represented the international legal enrichment of the World Health Organization’s programme “Health for All” that, from the words of the Director General of WHO at that time, Dr. H.Mahler, “[it] does not mean that [...] doctors and nurses will provide medical repairs for everybody in the world for all their existing ailments, nor does it mean that in the year 2000 nobody will be sick or disabled. It does mean that there will be an even distribution among the population of whatever health resources are available. And it does mean that essential health care will be accessible to all individuals and families, in an acceptable and affordable way, and with their full involvement.”

It means that health must be shaped in every single moment and space of daily life: at home, in schools, at the workplace, giving tools to people in order to plan better actions for preventing illness and avoiding diseases and disabilities. To reach universal health, it is necessary to consider three fundamental factors: the health services that are needed, the number of people that need them, and the costs that whoever must pay. In general, State is the main actor addressed to provide this security component.

The arising of the awareness around the importance of the right to health and its connection with human security has been a long process experienced by the state-identity, assuming its own responsibility in the field, followed by an evolution that now can list international alliances of state and non-state actors.

Within the framework of international relations and foreign policy, the idea of security has always been linked to national security or, most

⁴⁵ Art. 1, Declaration of Alma-Ata, International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978

importantly, to the security in response to military and violent threats. Diseases, epidemics, plagues were not traditionally considered challenges for national security, and historically health and security have never established any kind of policy relationship. It is only in the last decades that the complex analysis of the concept of security has allowed for a “securitisation” of the public health,⁴⁶ thus becoming included in the more complex description of human security. Over the last two decades, States have experienced a public health revolution that started a process of redefinition of health-related issues, both as a development and a security concern, considering them as essential components of economic stability, prosperity, and growth.

The presence of conditions of insecurity, provoked for example by unexpected crises or sudden deprivations, could easily cause health deterioration and lead to a decreasing level of population’s ability of supporting their own wellbeing. Undoubtedly, conflicts and natural disasters damage health systems and infrastructures, and reduce the access and the ability of giving adequate responses to important health crises. In this way, health threats could easily cross the borders of the directly affected State. Most of the contemporary conflicts happen in countries with fragile health services, characterized by weak infrastructures and inefficient governance. Low-income and lower-middle income States are, in addition, disproportionately hit by natural disasters.

It is clear that there is a need of promoting health security before the explosion of a crisis, ensuring the existence of an effective health system, sustaining it during and after a conflict, and helping the access to health system to the population. Even if contexts may largely vary, similar

⁴⁶ WHO defines public health security as «the activities required, both proactive and reactive, to minimize vulnerability to acute public health events that endanger the collective health of national populations» (WHO 2007 Global Health Report)

questions on which would be the best way to facilitate and provide safe and effective health services always raise.

Obviously, poor health level has direct and indirect negative effects on the security enjoyed by individuals and communities. All these considerations highlights that there is interdependence between health and human security and that it is a fundamental feature for peace, development and state security, contributing also to the achievement of both the Millennium Development Goals and the Sustainable Development ones.

Over time, health security has been incorporated under the definition of 'human development rights,'⁴⁷ thus providing a framework aiming at connecting development to the realization of human capabilities in a healthy surrounding. In the case of health, human security clearly implies that human beings should have the guarantee of the right to a certain standard of health that allows them to fully develop their potential.

⁴⁷ With this view, we can refer to art. 25, par.1-2, of the Universal Declaration of Human Rights, where it is stated: «everyone has the right to a standard of living adequate for [...] health and wellbeing of himself and his family, including food, clothing, housing, medical care and the right to security in the event of [...] sickness, disability [...] Motherhood and childhood are entitled to special care and assistance.». The 1969 International Covenant on Economic Social and Cultural Rights strengthened the definition of the right to health in art.12: « 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2.The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness» . The Right to Health has also been affirmed in many regional and International Treaties, such as in the "African Charter on Human and People's Rights", the "European Social Charter", the "Convention of the Rights of the Child" (CRC), the "Convention on the Rights of Persons with Disabilities" (CRPD) and the "Convention on the Elimination of All forms of Discrimination against Women" (CEDAW).

Governments should include the right to health in their constitutions as well as legal instruments connected to the health system, as a leading principle in their national priorities and guidelines. If until the 1990's the right to health seemed to be "something apart" from other rights such as sanitation, water, housing, it was only at the beginning of the new Millennium that it was included into the broader dimension of 'social determinants of well-being,' and hence solidified in the international law.⁴⁸

Over the last decades, there has been a growing attention on the relationship between health, human security and human development analyzed under the lens of a global perspective. This attention has allowed the shifting from the national dimension on the security-discourse to the wider international community interest, which has started to implement policies and strategies in respect to the need of people to be protected from illnesses and insecurities brought by health deficiencies and hazards, conditions often related to poverty, violence and underdevelopment. Very often, poor countries do not have access to or do not take enough advantage from globally available resources for implementing an effective health response. This condition has created the need for a global health and human security planning and strategy in order to provide public health solutions around the whole world without any discrimination. In addition to poverty conditions, the increasing diffusion of global-epidemic illnesses represent a huge challenge as it cannot simply be stopped by the existence of state borders. The revision in 2005 of the WHO International Health Regulation (IHR) is, for instance, one of the international community responses to strengthen the collective-working activities. The Regulations was issued for the first time in 1969, when it started to become clear that epidemics could have been considered a global threat; it was revised after the increasing knowledge gained in the 1990s in

⁴⁸ Franklyn Lisk, Annamarie Bindenagel Šehović & Sharifah Sekalala (2015) Health and human security: a wrinkle in time or a new paradigm?, *Contemporary Politics*, 21:1, 25-39

relation to challenges provoked by changes in the human and microbial world, the natural environment and human behavior.

"Art. 2. The purpose and scope of these Regulations are to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.

*Art. 3(1). The implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons."*⁴⁹

It clearly represents an agreed code of conduct that responds to the request of prevention and control of global threats, providing also a public health response to them and avoiding interferences with international trade and traffic. The clear message underneath the IHR is the awareness that a single country (even if it has the capabilities, it is wealthy and technologically advanced) cannot prevent, detect, or respond alone to all health threats. (WHO, World Health Report 2007) Sometimes, it could be possible that a health threat may be hidden to national entities, and it might require a global risk assessment and effective coordination at the international at the international level.

"The new IHR differ from the traditional approach reveals a governance strategy unprecedented in the history of international law and public health.[...] The new IHR engage State and non-State actors, address numerous public health threats and draw together objectives found in multiple international legal regimes-specifically those concerning infectious disease control, human rights, trade,

⁴⁹ World Health Organization (2005), International Health Regulations, Second Edition, Geneva

*environmental protection and security-and configure them in a way that has no precedent in international law on public health. The manner in which the new IHR involve a range of actors, apply to diverse health threats and incorporate public health, economic, human rights, environmental and security concerns reveals an approach to global governance that echoes constitutional law perhaps more than international law.*⁵⁰

Conducting a historical analysis,⁵¹ it comes out that the last century was characterized by an increasing number of illnesses, viruses, and epidemics that were assessed as global threats. One of the best examples regards the HIV/AIDS epidemic, as it had a global impact on the health system as well as on human security. HIV/AIDS was considered an “exceptional” disease because of its characteristics: sexually transmitted, potentially multiplied with continued transmission, affecting economic social stability, economic productivity and security. Nowadays, it is possible to state that HIV/AIDS was not so exceptional, mostly because it has not lead to any state implosion; however, its “destructive potential” (in particular on vulnerable groups, such as children and women) has raised the interest of the international community and most security activists in an unprecedented way.

HIV/AIDS was presented to the global attention as having “social, economic, demographic, cultural and political impact” that threatened “production, development, children, gender, and reproductive rights.” As a

⁵⁰ Fidler, David P., "From International Sanitary Conventions to Global Health Security: The New International Health Regulations" (2005). Articles by Maurer Faculty. Paper 397

⁵¹ Going back in centuries, it is possible to state that the awareness of the need of protect “a collective dimension” of health has always existed: think about the 14th Century, when quarantine was first used as a solution to avoid the diffusion of the bubonic plague from crossing borders [Heymann, David L et al. (2015), Global health security: the wider lessons from the west African Ebola virus disease epidemic, The Lancet, vol. 385, issue 9989, pp.1884-1901]

consequence, it could have had a profound impact on the way societies were organized,⁵² and would have put in danger all efforts done in development prospects and in the research for a stronger stability without the involvement of all international community. Many mechanisms were created in order to help low-income countries, to provide them medicines at no cost: the Global Drug Facility, the Global Fund to Fight AIDS, Tuberculosis and Malaria, and UNITAID. Notwithstanding with all the efforts of agencies and organization, the access to safe and effective products and services remained (and still remain) a struggle. Among threats it is possible to list fake, or counterfeit medicines, and the growing problem of antimicrobial resistance. These issues need effective global shared and sustained solutions, avoiding an increasing in collective and individual health security risk.

Recently, the international community feared the possible global diffusion of the Ebola virus. The Ebola crisis demonstrated how important was the goal of a reduction of the vulnerability of societies against infectious disease threats that could easily go beyond national borders.

"Ebola will not be the last new and lethal pathogen to emerge. In today's globalising world, we have new contexts for infectious pandemics—larger human populations, unprecedented volume of transnational movement, rapid travel, and growing global inequalities in economics and health."⁵³

In 2014, the Ebola epidemic was defined as "a threat to international peace and security" by the UN Security Council,⁵⁴ which placed again health security at the top of the urgent-issues in the global agenda. Universal health coverage is a fundamental tool in order to meet universal and equitable access to health care, but it is important to bear in mind

⁵² Global Programme on Aids (The World Health Organisation). (1992). Report of the external review of the World Health Organisation Global Programme on AIDS. Geneva: World Health Organisation.

⁵³ Heymann, David L et al. (2015), Global health security: the wider lessons from the west African Ebola virus disease epidemic, *The Lancet*, vol. 385, issue 9989, p. 1887.

⁵⁴ *UN Security Council Resolution 2177* (2014).

that collective and universal dimensions are made by the sum of all individual health security. Thus, all global actions must be addressed to provide to every human-being access to essential health care.

"Human security depends on health security. We know the coming years will see unexpected new disease outbreaks. That is certain. We just do not know where, when and how they will strike."⁵⁵

In September 2015, United Nations Secretary-General Ban Ki-Moon stressed the deep relation between health security and human security, underlining how inspiring for a healthy future strongly depends on the reinforcement of security.

The ongoing international migration flows, the impacts of climate change, the extant disparities within and between populations, the vulnerabilities related to more fragile groups such as children, the elderly, and indigenous communities increase the number of threats to security. The urgency of embracing a human security approach is becoming even more paramount when referring to threats related to health; the integration of these two concepts seems to represent a natural progression of the human security concept.

States and societies must play an active role, structuring their health systems as an effective response to face this challenge because of the core position health systems cover in the security of countries. Social, economic, and environmental conditions shape the efforts that states make in providing their citizens with an efficient health and prevention; states should commit themselves to halt conditions that can delay progresses in this critical area. The promotion of a multidimensional

⁵⁵ UN Secretary-General Remarks, 26/09/2015, Event: Resilient Health Systems to Fight Epidemics and Ensure Healthy Lives, New York

approach can help both highlight the specific set of factors that include major threats to national security and find out actors and variables that can lead to an effective improvement of health status of people and communities.

Governments are responsible for the health of their citizens that can be fulfilled only by the provision of adequate health and social measures. (Alma Ata) Health seems to be one of the issues that is more interconnected with human security, as it is strictly linked to the individuals' life; thus, efficient public health systems could provide tools for a better understanding of the concept of human security, developing proper practices and clearer definitions of national security. For instance, health promotion can strengthen communities, as it can empower the individuals at the personal, family, and social level; the spread of prevention practices, communication activities, regulations, and enforcement actions could favour the creation of national consensus and foster the multi-sector coordination in order to implement and promote policies development.

2.2.4 Environmental security

Environmental conditions have always placed constraints to people and, due to their natural variability, have always represented threats to human security; storms, floods, and droughts have historically been considered among the major determinants of mortality and disasters. Although in modern societies progresses in technologies have weakened the impact that local environment may have on individuals and on social security, industrialization, increase in consumptions, and productions have created more complex challenges to human security.

"Noting that the relationship between man and his environment is undergoing profound changes in the wake of modern scientific and technological developments; aware that these developments, while offering unprecedented opportunities to change and shape the environment of man to meet his needs and aspirations, also involve grave dangers if not properly controlled [...]; convinced of the need for intensified action at the national, regional and international level in order to limit and, where possible, eliminate the impairment of the human environment and in order to protect and improve the natural surroundings in the interest of man." (Bodansky, Brunnée, & Hey, 2007: 614-617)

When mentioning the environment, it is necessary to point out that it can include different levels of analysis. Indeed, actions related to its preservation could be either linked to the world as a whole big eco-sphere or to the more detailed dimension of a specific local habitat. Defining the meaning of environment and the elements it may include is not simple.

"Environment has been described as a term that everyone understands and no one is able to define. There is no one consistent

definition of the term in the legal authorities. In International Environmental Law, it can mean any system from a microscopic wetland to the cosmos of outer space, from a wilderness area to an urban ghetto, from the Himalayas to the deep seabed.” (Nanda & Pring, 2012)

The issue of environmental protection has emerged as a stronger priority after World War II. In the 1946 General Agreement on Trade and Tariffs, although there is no direct reference, the international community started realizing the urgent need to safeguard the nature. The General Agreement points out that “prevent the adoption or enforcement by any contracting party of measures [...] necessary to protect human, animal or plant life or health [or] relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.”⁵⁶

It is only in the 90’s that a more structured and complex definition started its shaping-process. For instance, in the 1991 Convention on Environmental Impact Assessment in a Transboundary Context by the United Nations Economic Commission for Europe (UNECE), the notion of environment includes “human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.”⁵⁷

⁵⁶ See General Agreement on Trade and Tariffs, (1947), art.XX, par. (b) e (g).

⁵⁷ See Art. 1 (vii) of the Convention. The Convention is commonly called Espoo Convention, from the name of the Finnish city where it was signed in 1991; it stated that every State part has the duty to evaluate the environmental impact of the activities listed in the text of the agreement.

This definition shows the existence of an intrinsic connection with the human security concept, as it is stated that environment is deeply related to "human health and safety." Individuals within communities need to live in a safe and healthy environment to fully enjoy their social, economic and cultural life. This simple idea represents the basis of environmental security. A more challenging question is related to the lack of an agreement of what environmental security should address. On the one hand, strategies are intended as tools to fight threats to national security connected with environmental degradation; on the other hand, they could be interpreted as measures to prevent putative threats to the individuals' security and to the environment itself.

Insecurity associated with instable environment is part of the broader problem of environmental degradation, both from a physical and a social point of view. For a long time, the connection between global environmental change and human security has been widely underestimated. The first cause is related to the consideration of global environmental change inside the large frame of science, which focuses on the deepening and on the understanding of the earth system, rather than on people's needs, rights, and values. During the last decades, this compartmentalization has allowed the introduction of global environmental change in politics and social issue and, as a consequence, in human security as well. It is only in recent years that the increasingly ambitious international environmental agenda has pushed for a deeper and stronger consideration of the role of the environment in human security. Nowadays, great challenges, such as climate change, represent a kind of strong "bogeyman," which might destroy social communities and lives.

Global environmental change is a social problem and, hence, affects environmental security. As a consequence, it has the potential to undermine the whole human security dimension, including needs, rights,

and values of people and communities. Many social processes related to environmental change could lead to human insecurity, lowering the level of people's ability to respond to sudden and incremental environmental changes. Obviously, communities who are more dependent on natural resources and ecosystem services for their livelihoods are the most sensitive to environmental change.

Water and air pollution, deforestation, natural disasters, loss of biodiversity and animal species, ozone depletion, degradation of terrestrial and marine ecosystems are part of the long checklist of contemporary environmental challenges that have been clearly influencing the entire humanity. When analysing the environment, it is evident that both the individual and collective dimensions should be taken into account. Indeed, environment represents a challenge that has to be addressed from a small-scale perspective, but also under the lens of a larger habitat, such as the one of the state. Very few environmental threats could be considered completely 'domestic' in their origin or impact. Most of them are considered global challenges, thus needing a global response. Due to externalities or to the fact that they may affect areas beyond national jurisdiction, environmental threats are related to the international dimension and to the transboundaries state responsibility.

The use of indicators could help understand how and on which field a State should put more emphasis to make a stronger impact of the human security approach on environmental issues. Results from indicators analysis could address State governance for environmental security on the basis of human security approach. Implemented strategies should have the potential to expand the capacity of people to adapt, both as individuals and part of a larger community. Adaptation to environmental changes needs efforts aimed at reducing human and societal vulnerabilities and at helping resilience processes; reaching these

objectives would also serve the interests of the classical security concept of managing conflict and mitigating violence.

COP21 in Paris has progressed the global effort to tackle climate change, culminating in a landmark new climate agreement. "No Plan B;" this short sentence, appeared on the Tour Eiffel during the summit, clearly summarizes the urgency of developing a clear, feasible, and effective strategy to solve the issue. In Paris, it seems that the International Community found a way to strengthen an agreement on the need of decreasing the level of emission and global warming through stressing the responsibility of every single State to protect the environment under the lens of human security.

The drafting of the agreement was not as simple as it was thought. Indeed, countries' differences in wealth and development represented the main challenging issue, enhancing that every State should consider its own responsibility to address environmental threats, even under a common international framework.

"This Agreement [...] aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by: (a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; (b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; (c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient

*development. 2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.*⁵⁸

Once again, State responsibility should be considered when addressing the environment protection, as the latter is an essential feature for the implementation of the concept of human security.

The Paris agreement was expected to bring effective changes in the way States face environmental challenges, especially in relation to peculiar issues that are under the international spotlight; however, the effectiveness of the agreement was weakened by the inability to meet all the expectations. Most importantly, there is no reference to a stronger definition of environmental migration and climate change refugees, although it is mentioned that the rising sea levels and increasing droughts will have a great and negative impact on migration phenomenon.

COP21 negotiations did not help the process of both recognizing climate changes or natural disasters as ground for asylum requests and reaching a wider definition of refugees that include climate migration. Environment has always had a huge impact on human migration, as shown by the most ancient migratory flows - the Anthropocene migration due to the large-scale climatic change (Ice Age). However, it was only in the last 30 years that the international community has concretely identified the wide range of implications that environmental change has on human migration and mobility. In the 1990 "First Assessment Report", the Intergovernmental Panel on Climate Change (IPCC) warned that "the greatest single impact of climate change could be on human migration." (Intergovernmental Panel on Climate Change (IPCC), 1990) In 1992, the International

⁵⁸ Art. 2, Paris Agreement, 12 December 2015 (FCCC/CP/2015/L.9)

Organization of Migrations (IOM) pushed for the creation of the first example of policy framework on the issue with the Migration and Environment Report, in which is affirmed that:

"Large numbers of people are moving as a result of environmental degradation that has increased dramatically in recent years. The number of such migrants could rise substantially as larger areas of the earth become uninhabitable as a result of climate change." On the other side the empirical connection between climate change, environmental degradation and migration in contemporary society has superficially been explored."⁵⁹

Focusing on the specific dimension of refugees, it has already been told that the international law framework does not include environmental disasters in causes referred to the refugee status. Nevertheless, in 1985, the United Nations Environmental Programme (UNEP) adopted a definition, where environmental refugees were described as:

"[T]hose people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/ or seriously affected the quality of their life. By 'environmental disruption' is meant any physical, chemical and/or biological changes in the ecosystem (or the resource base) that render it temporarily or permanently, unsuitable to support human life." (El-Hinnawi, 1985)

Due to the lack of a general measure differentiating environmental refugees from other types of migrants, UNEP definition was strongly

⁵⁹ International Organization for Migration (IOM), 1992, Migration and the Environment, IOM and the Refugee Policy Group (RPG), Geneva

criticized, mostly for its vagueness and its uselessness. Notwithstanding with the criticism, both the international community and the UN estimated that, in the near future, the world would be characterized by the movement of millions of individuals due to environmental challenges. In 2008, the President of the 62nd session of the United Nations General Assembly warned:

*"Without question, there is now a substantial and growing body of evidence on climate change and its consequences. The UN has warned that by 2010 the international community should prepare for 50 million environmental migrants - some predict up to 200 million by 2050."*⁶⁰

Environmental migration represents a core-risk for security, a ready-to-go trigger for instability and violence, enhancing the competition for natural resources as well as ethnic and cultural tension. Climate migration, both internal and external, can easily encourage social unrest and conflicts, mainly when it takes place in countries or areas that are facing other forms of social instability, posing limited ability of social and economic adaptation, and worsening the human security dimension as a whole. Appropriate measures at the national and international level should be implemented, starting from the creation of a legal framework of recognition and protection; the safeguarding the human security (to both migrants and locals) requires the aforementioned action.

Over the past years, there have been some attempts to obtain the environmental refugee status, but no important results have been reached. For instance, in 2015, a New Zealand case concerning an

⁶⁰ United Nations General Assembly. (2008). *Statement by the President of the 62nd session of the United Nations General Assembly at the thematic debate on climate change and the most vulnerable countries*. United Nations Headquarters, New York. Retrieved October 12, 2009

application for refugee status due to effects of climate change was not successful, even though it had a strong international appeal. The applicant did not want to go back to his country, Kiribati Islands, considering the obstacles the country was facing (over-population and sea-level rise caused by climate change.) The judgment of the Supreme Court of New Zealand highlights that "Although the Tribunal accepted that Mr Teitiota's concerns about Kiribati and its future were justified, it dismissed his appeal, holding that he was neither a refugee within the meaning of the Refugee Convention nor a protected person within the meaning of the International Covenant on Civil and Political Rights."⁶¹

⁶¹ Teitiota v Chief Executive of the Ministry of Business, Innovation and Employment [2015] NZSC 107 (20 July 2015, https://www.courtsofnz.govt.nz/cases/ioane-teitiotov-the-chief-executive-of-the-ministry-of-business-innovation-and-employment/at_download/fileDecision)

2.2.5 Personal security

Personal security is deeply connected with the desire that individuals have of feeling safe and protected from all the threats that the surrounding environment could cause. This dimension of human security may be considered as the one that is closest to the “freedom from fear” principle due to its more intimate nature.

President Roosevelt’s idea of “freedom from fear” was based on the 1941 Atlantic Charter, in which it is stated that:

"After the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want."

The word “fear,” in a political context, immediately connects individuals with threats, such as conflicts, extended wars, escalation of violence, and domestic crime. These preconditions might develop the idea that personal security is an issue of fragile states only. On the contrary, all states should be interested in providing this security, no matter if they are upper, middle, or lower-income countries. Personal security has, hence, a universal dimension and implies the guarantee of the right to protect every human being. It permanently covers each aspect of every individual’s life, and should be applicable everywhere in the world, whether one lives in in a city, town, or village.

The field in which personal security is included places itself in contrast to the principal areas of policy attention in the last century, which mostly concern national security and economic growth, and which are farer from

a realistic human security approach. (Gasper e Gomez 2015) When first assessing this issue, it is of fundamental importance to identify it as a responsibility that states should recognize to secure the populations from physical violence, conflicts, crimes against life and private properties, accidents, and abuses. Every form of violence raises the need for human security, which becomes a priority for individuals involved in violent situations, even when one person's security could put in danger the security of others. Human security research, in this case, starts from below. Conflict situations pose real threats to people and are source of the development of an individual-centered approach.

"When the individual is the focal point of security, we have to take the instinctive need for human self-preservation as a starting point. According to Thomas Hobbes this human urge to self-preservation was in fact the only natural right. But, so reasoned Hobbes, while trying to preserve their individual power, men are forced to compete with their peers; the security of one person, or group of people, may well lead to the insecurity of others." (Faber e Dekker 2013)

What becomes clear is that the individual security has to deal with the concept of personal freedom: "I want to feel secure, but the search for security must not cross other individuals freedom of looking for their own security dimension." This statement summarizes the personal security-freedom dialogue at the individual level. Security and freedom are inextricably linked, but absolutely not interchangeable. Without freedom individuals cannot feel secure, but too much or too little freedom could increase insecurity. Again, although the focus is on the individual-centered approach (far from the realistic idea of national security), it becomes clear that the State has the duty to regulate the relation between individual

security and freedom, giving a sense of protection and avoiding overlaps in freedom field.

The linkage existing between freedom and personal security is a milestone in this discussion. In 2003, the Commission on Human Security strongly stressed the mission of human security in its final report Human Security Now:

"To protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment. Human security means protecting fundamental freedoms – freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build on people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity."

Referring to personal security as an individual's concern, connections with migration phenomenon are evident. On the one hand, reflections could be done on the fact that irregular migrants' flows pose many challenges for states, intensifying the insecurity and vulnerabilities of the population living within the borders that migrants cross; on the other hand, there is a general awareness that states should protect the rights of migrants as human beings and, hence, as owners of human rights. In the spotlight of personal security, migrants have to face countless adverse consequences: they could be victims of trafficking (especially more vulnerable categories, such as women and children), or they could be exploited in domestic and agricultural work or in sex industry. Such abuses of human rights represent a clear attack to personal security of individuals.

"In a world in which it is primarily through state obligations that we have constructed a sufficiently solid legal architecture to uphold the human rights of all persons, it would seem that responsibility for protecting the rights of migrant persons ought to be allocated according to certain criteria, such as physical proximity to or residence in a state. This, in any case, is to focus on the question of the distribution of obligations rather than on the existence and applicability of such rights." (Estrada-Tanck 2013)

The analysis of human security focusing on personal security is related to the question "whose security?," to which it is possible to respond that it concerns the security "of each of us and of all of us." Thus, human security starts and ends with human beings.

Examining the seven dimensions of the concept of human security, it is clear that there is an overlapping among fields: food, health, environment, and economic security have a lot to share with the personal/individual status and contribute to achieve a complete shield of personal security. Although the nature of personal security is very complex as well as the one of all the other dimensions of human security, there is a thin label in which personal security is placed. Personal security is mainly referred to individuals' security from violence and armed conflicts, which represent the forefront of many debates.

The analysis of human security should be a tool for enrichment of the individual dimension, which could lead to deepening and widening bottom-up actions that would give a stronger attention to individuals. The international legal framework often reminds states of their duty to protect individuals by starting with providing them with personal security as well as human rights.

Art. 8 of the 1998 Rome Statute of the International Criminal Court, in reference to war crimes, highlights:

*"2. For the purpose of this Statute, 'war crimes' means: [...] (b.) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts: [...] (vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or **serious personal injury**; [...] (xxi) Committing outrages upon **personal dignity**, in particular humiliating and degrading treatment; (c) In the case of an armed conflict not of an international character [...] any of the following acts committed against persons taking no active part in the hostilities [...] (i) Violence to life and **person**, in particular murder of all kinds, mutilation, cruel treatment and torture; (ii) Committing outrages upon **personal dignity**, in particular humiliating and degrading treatment."*

In the report of the International Commission on Intervention and State Sovereignty (2001) on the Responsibility to Protect, there is a clear reference to human security when it is stated the following:

*"2.22 This Commission certainly accepts that issues of sovereignty and intervention are not just matters affecting the rights or prerogatives of states, but that they deeply affect and involve individual **human beings** in fundamental ways. One of the virtues of expressing the key issue in this debate as "the responsibility to protect" is that it focuses*

*attention where it should be most concentrated, on the **human needs** of those seeking protection or assistance."*

In this debate, one of the stronger issues still remains the practice of torture and inhumane treatment. Art. 3 of the European Convention on Human Rights, in its conciseness, includes the powerful message that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." An extension of this right can be found in Art. 2 of the Inter-American Torture Convention, which states the following:

"Torture shall be understood to be any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a mean of intimidation, as a personal punishment, as a preventive measure, as a penalty, or for any other purpose."

Torture represents one of the cruelest threats to personal security, integrity and dignity. After this premise, ensuring human security means full protection from inhumane treatment, which is detrimental for human beings, not only to their physical integrity, but also to the psychological one. Sometimes, the psychological aspects of the human security are underestimated, although the "feeling safe and secure" starts from the mind.

Going back to the physical integrity, an interesting phenomenon that shows how concretely the State tries to provide protection to individuals is the one of Gated/Security Community. The latter are secured areas, delimited by gates, with checkpoints at every gate. Gated Communities are typical features of fragile states, where ethnic conflicts and social division create continuous challenges to personal security. It is easy to find them in mega-cities as well, mainly where

the level of crime is very high and rich people want to build their "security bubble." The creation of this security bubbles as well as the emergence of Gated Communities represent a backward to the mentioned "freedom from fear:"

"[...] rapid demographic, economic and social change [...] has resulted in a fear about the future, in vulnerability and uncertainty about the stability of neighborhoods – all of which are reflected in an increasing fear of crime. The need to fortify against perceived rising crime levels and threats to personal security have resulted in the creation of a "fortress society" as gates assuage the fear of random crime." (Hook e Vrdoljak 2002)

As previously stated, violence could be present within the state, the region, the city or the village. It is usual to relate citizen security to personal security when analyzing threats at the city level. However, the problem remains always the same, as the lack of citizens' security has numerous negative impacts on human development. Crime, violence, and fear pose strong limits to individuals' capabilities and freedoms, to the way in which they manage their lives in society, and to the way they develop their relations with state and other institutions. Fear negatively impacts people's behavior, limiting their use of public space, their freedom of movement, and their recreation. The negative impacts can be simply summarized as decrease in individuals' quality of life.

Additionally, insecurity undermines people's support for the rule of law. On the one hand, there could be the preference for the enforcement of stronger laws and policies; on the other hand, there is an increasing demand for efficient, short-term responses against

criminals that, combined with a lack of professionalism in police forces, may lead to human rights violations.

Human security creates a strong link between individual rights and state sovereignty and, ultimately, a possible interpretation of a reversing process in the overhead position of sovereignty on individual rights. Sovereignty needs a redefinition in line with the ethical responsibility to defend and safeguard the interest of every human being living in a delimited territory.

The wide range of threats to personal security in the sphere of the larger dimension of human security allows for countless political initiatives addressing different challenges. Due to the complexity of the issue, the State has to pay attention to the fact that any limited or bounded initiative will miserably fail in front of the boundless needs and imperatives linked to human security.

The strategies that may be adopted to enhance protection and empowerment could include:

- Rule of law;
- Explicit and enforced protection of human rights and civil liberties.

The capacities needed to plan and develop both short-term and long-term strategies could include:

- Coping mechanisms;
- Adaptive strategies;
- Memory of past disasters.

2.2.6 Community security

Community security is one of the seven dimensions of human security highlighted in the 1994 Human Development Report and included in the definition of human security in the Outcome Document of the 2005 World Summit, in which global leaders recognized that “development, peace and security and human rights are interlinked and mutually reinforcing.”

Community security refers to the preservation of traditional and cultures, languages and commonly held values. It also includes protection of indigenous people and abolishment of ethnic discrimination, prevention of ethnic conflicts, as stressed by The UN Office for the Coordination of Humanitarian Affairs, which defines threats community security as “inter-ethnic, religious and other identity based tension.” (UNOCHA 2009)

“Human Security today puts people first and recognizes that their safety is integral to the promotion and maintenance of international peace and security. The security is essential, but not sufficient, to fully ensure the safety and well-being of the world’s peoples.” (Axworthy, Human Security and Global Governance: Putting People First 2001) Thus, a community should find its core identity on the creation process of a shared moral and physical interest among people living together in a determined space in nature or in time; moreover, it should be meant as a “place” where conflicts associated with social and economic organizations are interdependent.

A Community, as the name suggests, is a movement that may both unify individuals with common values and traditions and not, create divisions, promote cooperative activities, teach good practices, protect vulnerables, help less knowledgeable individuals become acquainted with ongoing issues. (Olivetti, L'ordine politico delle Comunità 2014) (Olivetti, Il

cammino della Comunità 2013) A community must be considered as a place where people can express and develop themselves, where they can feel secured from dangers and threats. A community can be defined starting from the local to the national level, even though the different-level definitions imply the need to refer to different actors for the enforcement of security.

Addressing and achieving community security represents an inherently complex challenge due to the existence of other concepts, such as power, identity, state sovereignty, human development, security, and democracy, which may interfere with its protection. Because of its complexity, ensuring community security needs a comprehensive human security approach, able to supply a wide range of multilevel responses from different actors.

"Community security is a concept that seeks to operationalize human security, human development and state-building paradigms at the local level. [...] The contemporary concept of community security, narrowly defined, includes both group and personal security. The approach focuses on ensuring that communities and their members are 'free from fear.' [...] Like community safety and citizen security, it promotes a multi-stakeholder approach that is driven by an analysis of local needs. One advantage of the community security concept is that it bridges the gap between the focus on the state and other concepts that focus on the individual. At its core is the objective of developing effective states that are accountable to citizens for the effective delivery of services." (UNDP 2009)

This definition represents a more expanded notion of community security, as it was developed 15 years after the first one, which was designed in 1994 and was narrower. Dissimilarly from the first one, the broader

definition of community security combines both group and personal security, focusing on aspects linked to the “freedom from fear” approach (threats from the state, from other states in the case of war, ethnic tensions, dangers from individual or gangs, mainly to women or children, suicide, drug use). As stated previously, women and children are considered among vulnerable groups, as well as ethnic groups. Furthermore, when referring to social issues that influence communities (use of drugs, gangs’ violence), this definition includes features of the “freedom from want” approach.

Community security tries to identify and gives responses to local perceptions of security using, as operative tools, both formal and informal control and management structures, without excluding the possibility of using them together to fill the respective gaps. Based on this approach, one of the interpretations of community security could be addressed through a decentralizing process of security that, instead of focusing on states, focuses on the wide range of local, national, global, and glocal interactions.

Setting the provision of human security as main objective, it is necessary to expand the responsibility that, consequently, would not be only associated with the state, but to informal authorities as well. If people are at the core of human security protection, non-state actors should play a relevant role in supporting state responsibility and, specifically, the provision of human security. Therefore, the public sphere should be engaged in the process of articulating, planning, and implementing security concerns and responses.

The assessment community security approaches cannot be universal, even though it is possible to identify some causes of insecurity that affect most countries. More importantly, ethnic and religious conflicts seem to be

one of the most relevant and recurring causes. Prontzos reminds us that “while less dramatic than military violence, structural violence actually accounts for far more deaths than does war.” (Roberts, 2008, p. 66).

As cultural differences have become an important cause of both ethnic and religious conflicts, there is a urgent need to implement effective strategies aiming at strengthening social cohesion. In 2009, the UNDP has developed a proper strategy to reinforce community security through social cohesion, contributing to raise awareness about this issue at the international level.

The strategies that states should adopt to enhance protection and empowerment include:

- Explicit and enforced protection of ethnic groups and community identity
- Protection from oppressive traditional practices, harsh treatment towards women, or discrimination against ethnic/indigenous/refugee groups

There are lots of specific policies aiming at protecting and empowering security undertaken by the international community, but sometimes it is difficult to look at them as specific community security measures due to the extent of the notion of community security. We refer, for example to: the implementation of the Responsibility to Protect principle, based also on the idea that state sovereignty is not to be seen as a right, but it is a real responsibility of protecting people and the State itself; it is also interpreted as a justification of humanitarian intervention and as an innovative frame to place individual/communities protection from State’s abuses; the establishment of the International Court in 2002, considered as a

tool of an international mechanism tailored on community protection; the 1999 Security Council Resolution 1265 on the Protection of Civilians in Armed Conflicts, as the mile-stone in the Protection of Civilians approach. (Caballero-Anthony 2015)

The capacities needed to plan and develop the aforementioned strategies include:

- Social capital
- Coping mechanisms
- Adaptive strategies
- Memory of past disasters
- Local non-governmental organizations or traditional organisms

The concept of human security and the recognition of the need to strengthen community security, as a fundamental step in a state evolution, have shifted at the global level. The adoption of development strategies and the promotion of the protection of human rights have made important improvements, reaching a more cohesive strategy for community security. What is clear is that, although there have been many efforts from the international community to contribute to the provision of community security, it is true that states are the actors that should guarantee human security by starting from their community.

2.2.7 Political security

"In securing security of all things, therefore, we must also, of course, secure the political as well; that is to say, not only make it certain and unquestionable, but also make of it an enterprise which is itself preoccupied with realising the securing of security. It comes to maturity as just that in the subjectivised and technologised theory and practice of the modern State. [...] To recover the political means to respond to that very subjectivising technologisation of politics as a security project, which has reached its apogee in the international security politics of the modern State system, by calling into question the security imperative itself through recalling the obligatory freedom of human being." (Dillon 1996)

Political security refers to the protection of human rights and to the well being of all individuals. It also includes protection against people from state repression such as freedom of press, freedom of speech, and freedom of voting. Abolishment of political detention, imprisonment, systematic ill treatment, and disappearance are also covered by political security.

Political securitization related-issues seem to emphasize the concentration of power in the hands of the State. The consequence of the concentration of power might lead to a misunderstanding of the concept of national security that, instead of enhancing it, could represent a threat to the security of individuals. The 1994 Human Development Report highlights that "one of the most important aspects of human security is that people should be able to live in a society that honours their basic human rights." (UNDP, 1994, p. 32)

The duty of the state to protect and promote human rights finds its root in the 1948 Universal Declaration of Human Rights, which represents the cornerstone in the human rights field. Adopted thanks to the General Assembly Resolution 217A, the Declaration clearly affirms for the first time that fundamental human rights have to be universally protected. Its Preamble includes that the General Assembly "proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations."

The protection of human rights represents both a right for every person and a duty for every nation-state. As Art. 1 stresses, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Sovereign states have absolute authority in domestic affairs; thus, they are the most useful and efficient actors that can offer protection for political and human rights. However, the authority makes sovereign states the main actors that could prevent the provision of human security and the promotion of human rights. Indeed, sovereign states have the power to halt the respect of rights, and to prevent the external intervention of supranational institutions when they are unable (or even unwilling) to safeguard the rights of their own population. State is in nature a "Janus Bifrons:" it can be both the best defensor and the worst violator of human rights. Bearing this ambivalent nature in mind, state stability is an absolute precondition for human rights protection.

The reinforcement of the concept of political security finds its basis on the International Covenant on Civil and Political Rights, adopted by General Assembly in 1966 with Resolution 2200A (XXI), which encloses commitments for Member States regarding the full protection of civil and political rights of all individuals. Specifically, emphasis was put on the right to life, freedom of religion, freedom of speech, freedom of

assembly, electoral rights, and rights to due process and a fair trial. It is relevant to recall once again that the Covenant refers to principles as equity, freedom, justice and respect of human dignity. Art. 2 clearly highlights the duty of the State to protect and reinforce the civil and political rights of each and every individual:

"Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

The connection between the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights emphasizes that, with the passing of time, the concept of political security has drastically evolved. Indeed, nowadays, it includes the prevention of government repression, reiterated abuses and violations of human rights, and threats from military intervention. The response to these prevention activities seems to be only one: democratization. Compared to other types of governments, democratic states are considered more capable to plan, develop, and implement more substantial strategies to address all these challenges.

Since the early 80's, there has been a process of democratic transition worldwide, as the majority of military dictatorships and one-party governments became civilian administrations and multi-party realities. Notwithstanding with the spread of democracy, there are still situations of insecurity and lack of protection. Therefore, even democratic states, supported by the international community, are required to dedicate themselves to the reinforcement and implementation of strategies aimed at guaranteeing political security.

Democracy represents one of the important factors to address political security, as an alternative form of government may contribute to the rise of tensions and/or state vulnerability. The implementation of the human security concept led to a shift from the traditional approach of national security as protection from external threats to a broader approach, which includes the protection of individuals from threats of intrastate wars, nuclear proliferation, as well as revolutions to challenges such as disease, natural disasters, poverty, violence, human rights abuses, and genocides. (Owen 2010) The notion of political security was, hence, turned into a commitment to human dignity.

"The tolerance of human rights violations for the sake of economic development or social stability has no place in the human security paradigm. This emphasis on human dignity should not be surprising; for it owes to four major developments which have converged behind the emergence of the human security idea. These are: (1) the growing incidence of civil wars and intra-state conflicts which now far outnumber conventional inter-state conflicts (with the former more likely to cause civilian suffering than the latter); (2) the spread of democratization (democracies constitute a majority of state actors in the international system today); (3) the advent of humanitarian intervention, or the principle that the international community is justified in intervening in the internal affairs of states accused of gross violation of human rights; and (4) the widespread poverty, unemployment and social dislocation caused by the economic crises of the 1990s which have been blamed on the dynamics of globalization." (Acharya 2001)

Political security should promote reassurance, rather than deterrence, emphasizing transparency over secrecy and dialogue over confrontation. A sustained development of political system should be orientated towards

human rights, democracy, and global governance. This approach seems to follow the pathway of the structural idea of "Western liberal democracy," which could appear as a relativistic-approach more than a widespread acceptance of a universalism, following the "New World Order" mantra.

"Democracy only has an emancipatory meaning (in the sense of the realization of fundamental human rights) when it is seen in its international dimension, when the citizen is treated as a world citizen – with all of the consequential rights and duties. [...] The realization of international democracy in this emancipatory sense was unfortunately not approached in the current situation. Interests are not deferred upon the basis of moral considerations but are rather retracted only as the result of the effective use of power. [...] It is self-evident that "democracy" and "the rule of law" become instruments of cynical Realpolitik when used under such circumstances. [...] Democracy is then demanded if a regime conducts itself insubordinately and if a violation of its sovereignty needs to be justified." (Köchler 1993)

Under this lens, political security may imply that only the universalization of Western liberal democracy could be an effective response to create international peace. Interpreting political security as a prevention tool for government repression, the prevention of systematic violations of human rights and the removal of threats from militarization have contributed to the emergence of a process of reification, putting more emphasis on the "freedom from fear" and providing space for interventionist attitudes.⁶² As the main objective is the safeguarding of human rights on a people-centered security approach, a State should intervene also to protect individuals, who are located outside its borders, from:

"(1) Mass slaughter of the population by the state, (2) decimation through starvation or the withholding of health or other services, (3) forced exodus and (4) occupation and the denial of the right to self-determination." (UNDP, 1994, p.57)

However, twenty years of democracy-spreading narrative did not help spread democracy all around the world. In addition, established democracies have also faced huge crises that caused a popular lack of self-confidence and conviction. The 2016 Freedom in the World report summarizes by regions the most important causes that have been weakening both democracy and political security.

- In the Middle East and North Africa, the increase in number of conflicts seems to be in large part caused by entrenched rulers that put their own interests and security above the safety and well being of their people. In peaceful countries, many leaders act in the same short-sighted way, feeding the risk that they could descend into disorder as well;
- Sub-Saharan countries have experienced setbacks in democracy and violences mostly due to African leaders' manipulation of term limits of political mandates;
- In many Asian countries, political security is undermined by various forms of religious nationalism or extremism;
- In Europe, high pressure was caused by the unstoppable migration crisis that has challenged EU's principles of liberty, solidarity and full respect of human rights, enhancing the deep gaps in institutional capacities all over the region as well as an increasing number of populist and extremist political tendencies;
- Latin America suffered from electoral reversal, corruption scandals, and inability to stem violent crime;

Notwithstanding with some democratic election processes, many Eurasian countries have faced slumps in economic and security threats related to foreign conflicts and oppression of dissent parties. (Freedom House 2016)

2.3. Human security: complexities and opportunities

«Existing definitions of human security tend to be extraordinarily expansive and vague, encompassing everything from physical security to psychological well-being, which provides policymakers with little guidance in the prioritization of competing policy goals and academics little sense of what, exactly, is to be studied. [...] human security is powerful precisely because it lacks precision and thereby encompasses the diverse perspectives» (Paris 2001, 88).

The seven dimensions of human security that have just been elucidated are indeed complex subjects to measure and evaluate. Freedom from fear, freedom from want, and freedom to live in dignity are the clarion calls that epitomize the very goals of human security. These fundamental freedoms are rooted in the core principles of the United Nations Charter and in the founding treaties of regional organizations and specialized agencies of the United Nations, and have encouraged a shifting process where the focus of security moved away from the State and approached to individuals as primary unit of analysis. Security is not explained in terms of “national security,” considered as territorial integrity, power, sovereignty or economic interests; it conceives human beings, emphasizing the protection of their lives, the satisfaction of their basic needs and their safety.

Human Security follows the pathway of the “inclusiveness” with a holistic approach: as described before, the seven dimensions embrace a complex set of needs and rights that goes from food, primary health and job to respect of human, cultural, social, economic and political rights. What is clear is that, notwithstanding the attempt of “compartmentalization”, every dimension has a lot to share with the others: very roughly, an individual cannot be in good health without eating, he cannot work if he is not in physical force and, furthermore, he cannot receive an income for its

subsistence without employment; it is a vicious circle that connects every aspect of human life. Human Security could be described as a big interconnected and interdependent network of approaches and strategies aiming at the protection of the human being, as an individual and as a part of a community. What comes to light from the sectorial analysis is that the main actor designated to safeguard the whole complexity of Human Security is always the State. Indeed, the State can be considered as “the main” but not “the only” actor that plays this role. At this point, the network becomes even more articulated. The state plays the core role of “provider” of human needs and rights, but in a multilevel scheme: considering individuals and communities means always bearing in mind their local reality and dimension to reach effective goals; on the other hand, it is useful to remember that the concept of human security was born as a response of the international community to the global threats arising in the early 1990’s. National, local, and global: Human Security intertwines its net on these three levels, always starting from the State.

The comprehensive analysis of Human Security has shown all the strengths of the concept as well as the potential of its full implementation, underlining also weaknesses that could be filled with more efforts in the near future. With this view, a useful guideline could be considered the definition of the seven key principles associated with human security outlined by Kayode Fayemi⁶³:

1. There is a need for conceptual clarity through a comprehensive approach to security sector reform in policy and development circles;
2. There is a need to adopt a regional approach to security sector reform;

⁶³ Kayode Fayemi is a former Director of the Centre for Democracy & Development and the former Governor of Ekiti State, Nigeria.

3. Policy instruments must recognize the need to reconcile economic and social development and enhance the input of non-state actors;
4. Recognition of legitimate security needs of nation-states must be factored into the human security approach to poverty reduction;
5. Policy instruments must problematize the link between globalization and conflict, rather than assume that it is always going to be positive in the promotion of pro-poor growth;
6. Policy instruments must locate the security agenda within the democracy and development framework and reflect the link between politics and economics, and between security and opportunities;
7. There is the need for democratic control, not just civilian control of military and security establishments in democratizing polities.

The following of this pathway could be an effective strategy for an enhancement of Human Security concept: the stronger is the idea, the better the State can implement it, avoiding the "perilous path" of the overburden The deconstruction of the seven segments of human security.

3. Human Security and the risks of overburdening the State infrastructures

As this research attempts to underline, there has never been a universal definition of "security." Security has always been a controversial concept between various research fields. As Otmar Höll described at the Conference "Studying Jihadism" in 2011, before and after World War I, the dominant security concept was Great Power politics and geopolitics. (Höll 2011) After World War II, the concept of security changed and started emphasizing its role as the one referring to state or national security against external threats of hostile actors. Although this perception was weakly conceptualized, it was during the Cold War that the meaning became politically powerful. According to Höll in the 80's the notion of security started widening as the idea of international security emerged and acquired more and more importance. This idea included economic and environmental issues. At this time, the scientific discourse shifted its emphasize from "peace" to "security."

The term "comprehensive security" came into existence. The approach focused on the societal and economic underpinnings of security. Focusing on military security was inadequate because young states experienced problems of internal legitimacy that could be solved only by having economic policies that delivered. Moreover, many of these societies were ethnically heterogeneous, requiring public policies that were acceptable to the various ethnic groups. In Southeast Asia, for example, ASEAN demonstrated this comprehensive approach to security by articulating the importance of "national resilience," which was in turn seen as the prerequisite for "regional resilience." (MacFarlane e Khong 2006).

The dimension of human security in today's interdependent world cannot be rationalized only from the point of view of statehood. States, which still keep the role of superior actors of the international community and main responsables for the government of their populations, have constantly been eroded of their exclusive sovereignty by the supremacy of interconnections that regulates trade, communications, and movement of people and ideas. National and regional dimensions are always more interdependent. This is also true in the field of human security. As this research moves into the definitions of the synergies between human security and state sovereignty, it becomes clear the need to delimit the cases it wants to look at to pursue its thesis. The objective of this chapter will be the analysis of both the States that have demonstrated little attention to the constitution of human security premises, their ability in responding to internal crisis or emergencies, and international organizations that are somehow involved in the mitigation of these states' fragility. Amongst the gravest outcomes of manmade fragility are atrocity crimes. Etzioni sustains that "a good society combines respect for individual rights with the expectation that members will live up to their own responsibilities to their families as well as to the community at large". (Etzioni, Foreword 2002) The gravest form of not attending responsibilities towards a self-community is avoiding the prevention of mass atrocities. Nazi-Germany, Cambodia, Rwanda, and Former Yugoslavia are some of the countries that have experienced aberrant conditions of fragility that led societies into genocide and the total dismatling of the human rights principles.

According to Ezioni "Basic individual rights are inalienable, just as one's social obligations cannot be denied. However, it is a grave moral error to argue that there are no rights without responsibilities or vice versa. Thus, a people who evade taxes, neglect their children, or fail to live up to their social responsibilities in some other way are still entitled to a fair trial,

free speech, and other basic rights. There may be fewer rights than some claim, but our constitutionally protected rights are not conditional.” (Etzioni, Foreword 2002) States are the main executors and responsables for preserving the existence of these constitutionally protected rights.

The reference here is not primarily to legal commitments, enforced by courts and by the police, but to moral expectations. (Etzioni, Foreword 2002) Inability by the state's institutions to provide human security needs to be seen as state weakness. (Kanhutu 2014) In this sense, human security needs to be seen as a constitutive part of national security, able to preserve order and obedience to basic human rights by both sovereigns and population, and not as an alternative. In this research, the human security lens should also be useful in critiquing the acts of commission or omission by the states but also by the international community. Kantuhu, when focusing his studies on the Democratic Republic of the Congo (DRC), has undelined the “State weakness to ensure from the self-defeating short-term survival strategies adopted by postcolonial states to deal with their lack of legitimacy at independence. These strategies led to the decimation of any institutional capacity that had been bequeathed to them by colonialism.” (Kanhutu 2014)

This chapter will therefore try to better explain the conditions of state fragility also by giving some useful examples but as well try to focalize - anticipating some of the principles that will be carefully examined in the next chapter – on the principle of the Responsibility to Protect (RtoP).

3.1 Assessing risk

Assessing risk is one of the key elements in understanding human security. Risks related to human security can result from a variety of political, economic, civil or social factors. Understanding and identifying what these risks are is a critical starting point, and helps concerned authorities in the public and private sector to take measures to minimize the risk and to assess whether any actions may heighten risks faced.

The perception of human security is particularly associated with 'visible' aspects such as violence. Depending on the situation and the locality, violence can be widespread or limited to a particular area. Risks associated with the potential for violence need to be identified by developing a coalition of public and private sector entities, and civil society organizations. Understanding the patterns of violence and associated risks will be critical for predictive and preventive purposes, as well as facilitating awareness raising and capacity building actions.

Transparency and accountability in public actions (particularly those associated with police, paramilitaries, and other law enforcement entities) to reduce risks associated with violence go a long way in confidence building in the general public to understand and deal with these risks. Understanding the capacities and capabilities of public authorities to respond to violent situations also helps minimize the associated risks. Accountability in violent situations is particularly significant in terms of judicial capacities to bring to justice those responsible for violence, and also protecting the rights of the victims. Ultimately, identifying and understanding the root causes and nature of local conflicts, and the legal and administrative recourses available will be key to the development of strategies for managing risk. Such assessments of risk should also consider the potential for future conflicts.

The new security agenda may be viewed precisely as a reaction against increasing dissatisfaction with human rights norms, seen by some as floundering in the face of numerous challenges: weak enforcement institutions and under-implementation at the national level; the pursuit of civil and political rights at the expense of economic, social and cultural rights, or developmental rights; cultural relativist challenges to their universality and indivisibility; the inherent ambiguity of rights themselves; debilitating rights-litigiousness in some countries; and the politicisation of judiciaries expected to enforce rights. In this light, the human security agenda may be directed towards reclaiming the core objective of human rights – human dignity – through prisms other than a predominantly rights-based one. Even so, it is important to acknowledge that the drafters of the main international human rights treaties deliberately incorporated the substance of ‘human security’ into human rights law. (McAdam & Saul, 2009)

Human security, as first set out in the 1994 UNDP Human Development Report, is meant to offer a holistic perspective, one that places equal weight on vulnerability caused by physical violence and that triggered by other factors, such as poverty, underdevelopment or natural disasters. Some have critiqued this as being overly broad, instead arguing that the remit of human security should be limited to a concern with physical violence. Yet doing this would largely defeat the purpose of adopting a human security approach in the first place. As noted, a fundamental premise underlying the doctrine is that vulnerability caused by hunger, disease or environmental damage can be just as detrimental to the safety and well being of people as direct physical violence. In the case of natural disasters, in many ways the human consequences are not that dissimilar to those caused by war: widespread death, massive destruction, extensive displacement and heightened vulnerability. If the objective of human

security is to reorientate 'our understanding of security towards incorporating the most severe and immediate threats that people face, it makes little sense to arbitrarily prioritise one kind over the other' (Hobson 2014a, p. 22) (Bacon e Hobson, Human Security and Japan's Triple Disaster: Responding to the 2011 earthquake, tsunami and Fukushima nuclear crisis 2014).

Human beings have a unique characteristic that concerns their ability to adapt and evolve. History teaches us that men were capable of adapting to enormous social, economic, and cultural changes, reaching today's *status quo*. Sometimes, despite these great abilities, it might happen that men's violent and "inhumane" side takes control, leaving the floor to the most aggressive dimension of the human being, which is characterized by hatred and destructive instinct. (Zoja, Paranoia. La follia che fa storia, 2011) The main cause of this switch is strongly related to men's inability to accept an individual that may be seen as "different." This diversity is often due to an individual's experience of both a different evolutionary path (Hinton, 2002) that led him or her to develop alternative beliefs and values and a diverse physicality containing features that may highlight the distinction even more. Genocide (Schabas, 2000) is a direct consequence of men's "inability of managing" what is different.

Throughout history, no effective solution has been found to prevent all the intentional and brutal mass atrocities. It may be that there is still a need to raise total and complete awareness about the necessity for a "real" and tangible preventive tool that can manage and discourage men's aggressive side. Even though there is an established international normative framework and a set out criminal justice system, it is evident that an actor, a point of reference, a tangible heart devoted to genocide prevention is still missing. Hence, the need for either a multinational or international body to educate on prevention is increasingly urgent. The

educational process should be addressed through the development of specific strategies focused on the spread of tolerance towards diversity. Defining “the other” different from “us” is the first step in discouraging the possibility to comprehend and accept the diversity, thus pushing an idea of “difference” that is definitely wrong. Therefore, a process of compartmentalization starts and reiterates annihilating the opportunity to educate to the concept of the “other” and to understand that the diversity is not danger but richness.

At the international level, indeed, the main actions for genocide prevention start from the dissuasion regarding the putative development of radical definition of categories, which stresses the differences among the groups. In 1998, Barbara Harff carried out a research aimed at assessing the risks of genocidal violence to design early warning and preventive measures. The outcome of her work includes the six elements belonging to the genocide and politicide structural models, which are prior genocides and politicides, political upheaval, ethnic character, ideological character of the ruling elite, type of regime, and trade openness, respectively.⁶⁴ Benjamin A. Valentino, in his book *Final Solutions. Mass Killing and Genocide in the 20th Century*, argues that the main cause of mass killing or genocide is usually attributed to a relatively small group of powerful leaders and is often carried out without the participation and support of the majority of society. In *Becoming Evil: How Ordinary people Commit genocide and Mass Killing*, James Waller provides the common reasons for genocide, offering a more complex and comprehensive psychological perspective of how any individual can potentially be a perpetrator of genocide or mass killing. Gregory H. Stanton argues that, compared to hurricanes, genocide can be prevented. (Ginsburg, 2012) Stanton is the author of an influential article presented to the American

⁶⁴ Harff, Barbara. “Assessing Risks of Genocide and Politicide: A Global Watch List for 2012.” Web. 27 Apr 2016. http://www.genocidewatch.org/images/Global_Watch_List_-_Harff_2012.pdf

State Department in 1996, "The 8 Stages of Genocide", (Stanton, 1996) to which two other stages have been recently added. (Stanton, The ten stages of genocide, 2013) This research will deeply analyse Stanton's work and offer effective counter-steps to design a possible preventive action.

Stanton's article is composed of a list of steps through which the idea of genocide is usually planned and developed. In addition, the list includes solutions and actions aimed at stopping the occurrence of genocide in the tracks or, at least, at reducing the damages it may cause to a "different" group.

"Genocide is a process that develops in ten stages that are predictable but not inexorable. At each stage, preventive measures can stop it. The process is not linear. Stages may occur simultaneously. Logically, later stages must be preceded by earlier stages. But all stages continue to operate throughout the process." (Genocide Watch, 2012)

The first stage, Classification, is strongly linked to the anthropologic conception of the "other" seen as "different." In most of the cultural experiences, it is possible to track down the definition of categories that stresses the distinction between "us" and "them" based on ethnic, religious, and national characteristics. The stronger the polarization is, the higher the risk of genocide becomes, meaning that there could be a higher possibility to see the "other" through the violent dimension of the human being. Classification is the initial and necessary step that may lead to the occurrence of genocide, but it is not a sufficient stage to demonstrate that it will take place. The definition of categories is often based on a logical framework of the political power and is the consequence of the strong desire of one group to take control over another one, which is usually an expression of minority. Thus, the search for a "common ground" becomes

crucial in genocide preventive tools and, in general, in spreading both the sense of non-distinguished and belonging among separate groups. The most appropriate preventive measure may be interpreted as the planning and development of a universal institution far from ethnic or racial division aimed at promoting reciprocal comprehension and tolerance, thus favouring dialogue and sharing, and pushing for the embracement of the diversity as richness of a common ground. Overall, strategic preventive tools to share information and to discourage the fear and the lack of awareness about the brutal consequences are essential measures that should be adopted during this first stage.

Following the classification of one group or, more specifically, a minority, the second step concerns the conversion of who is different into an "object." Stanton defines this stage as Symbolization, describing this process as a practice that implies the association of a symbol to a specific group. Consequently, one word or an emblematic figure makes concrete and real the classification of one group. As for the first stage, the symbolization involves a "normal" and natural process. Men have always been looking for distinctive signs that, instead of strengthening relationships, develop fears and aversion to diversity.

The symbolization process usually leads to the beginning of a complex path that does not directly imply the occurrence of genocide, unless the symbol becomes a tool for dehumanization. The symbol, either material – a yellow clothe - or genetic – a particular nose or head shape, may include an extreme danger. However, because of its visibility and tangibility, the capability to annihilate the symbol steadily increases. A symbol that shows diversity and incites to hatred can be legally prohibited as well as any public speech that includes incitement to violence and hate towards specific groups or minorities. A long process such as the one of symbolization usually requires a strong popular support, thus representing

a push towards a cultural transformation based on the individuals' inability to understand that a coloured clothe does not define a human being.

In case the fear of committing an unlawful action does not represent a deterrent and efficient preventive tool, Discrimination, Stanton's third stage of genocide, usually occurs. Most importantly, the dominant group takes advantage of power to create new legislations, customs, and determinant policies that deny or tend to deny other groups' rights. For instance, there might be a limitation in the recognition of civil rights and nationality, up to the point that the right to life will not be guaranteed any longer. Similarly to the strategies for the symbolization process, the preventive measures for the discrimination include the definition of a legal framework that promotes and strongly pushes for the respect of all human rights, without any discrimination. In the European context, the document on the protection of all human rights based on the principle on non-discrimination is the European Convention of Human Rights. The European Court of Human Rights (ECHR) has made a clear statement about its position on the impossibility to accept any kind of discrimination, mainly concerning ethnic and racial discrimination. In the sentence *Sejdić e Finci c. Bosnia-Herzegovina* held on the 22 December 2009, the Court claimed: "No difference in treatment which is based exclusively or to a decisive extent on a person's ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures" (Caligiuri, 2010). Even though there is no clear evidence of complete immunity from the occurrence of genocide, today's democratic dimension, which does contrast the discrimination of minorities, is considered not to be an ideal environment for the development of an acceptable idea of genocide.

The forth stage of genocide, the Dehumanization, defines the complete denomination of the weaker group as "object." The stronger group or the

one that has the power denies the human characteristic to all individuals who are considered different or do not have their same features. As a result, these individuals are usually treated as animals, insects, and dangerous beings. At this point, there is the materialization of the other's vision as inferior and, hence, as "something" to be eliminated. Killing becomes one of the only possible solutions to overcome the sense of aversion. This stage, then, represents the step in which the possibility of genocide to occur becomes concrete. In most of the populations there are classifications, attribution of symbols, and different kinds of discrimination, but the process becomes almost irreversible when a group is not considered "human" anymore.

During this stage, a deep propaganda based on hatred starts to spread an idea of the other as a microbe or a cancer of the system that has to be annihilated. Publications, radio broadcasts, use of negative urban terminology are only some of the countless practices that should be stopped to prevent the spread of hatred and violent resentment – Luigi Zoja defines this phenomenon as *paranoia*, a feeling that might become impossible to manage and control with the passing of time. Consequently, there is a paramount necessity of an immediate intervention by one specific and powerful actor, or a series of actors, able to block these practices from happening and, hence, stop the conflict escalation.

The "non-action" towards a possible propaganda inciting hatred and dehumanization leads to the next stage of genocide, the so-called Organization. No matter if it implies casual or planned actions, genocide is a group crime and, therefore, is always organized. More specifically, the organization process might imply that a State hides itself behind the recruitment of militia, thus reducing its responsibilities to the minimum or that an informal and decentralized organization takes the control to conduct the genocide. However, in both cases, the genocide is carefully

planned and organized. Intervening to prevent the occurrence of a genocide in this stage becomes more complex and, hence, requires the presence of a strong actor, which should be able to stop the militia before it starts acting, arrest all the individuals involved in the organization and planning of the genocide, and verify the efficiency of the preventive actions in the long term. Additionally, Stanton clarifies that the freedom of association is a fundamental right that should not be confused with the possibility to gather in organizations or associations aiming at committing genocide. Monitoring and preventing strategies should, therefore, also focus on this crucial distinction.

The development of a well-structured and organized dimension inevitably leads to the beginning of a polarization process within society. As a consequence, Stanton's sixth stage of genocide concerns the Polarization of society, meaning that the most extremist elements of society firmly push for a total and complete division from the other group or minority. New banning practices, such as marriage or, even worse, interactions between individuals belonging to different groups, replace the already existing spread propaganda. Both the extremists' goal and the concretization of the polarization process regard the intimidation and, then, the killing of the "popular" individuals who are considered the ones thanks to whom the dialogue among different groups is possible. By doing so, the extremists aim to interrupt any kind of contact between the groups. During this stage, the international pressure and responsibility should be effective, efficient, and immediate as polarization clearly represents the beginning of the genocide towards a distinct "enemy."

Stanton's last stages concern the most concrete and tangible dimension of the genocidal process. The lack of a preventive strategy implemented in the previous stages may bring to an irreversible spread of hate and violence and, therefore, may represent the failure in preventing genocide.

Preparation is the definition of what is usually interpreted as “final solution.” The main goal is to “purify,” to cleanse the “impurity of society” through an ethnic cleansing, or to lead disguised actions from “antiterrorism” actions.

According to Benjamin Valentino, the Preparation stage includes all those concrete phases of the repression process led by the stronger group to conduct the genocide as a mechanism to interrupt any possible intent to challenge the regime in power. (Valentino, 2005) Most importantly, the Preparation stage includes the armament as well as the preparation of the tools that will be utilized for the final annihilation. In addition, this step involves the indoctrination of the population through the use of a specific slogan that pushes for the killing of the weaker group as the only solution for survival. In this case, the preventive action “appears to be” international. Concretely, prevention means placing embargos on the selling of weapons, which are usually not produced internally but exported, rather than on raw materials used for the development of the conflict. A strong international actor should implement efficient punishing and banning policies aimed not only to prevent the occurrence of genocide, but also to determine a deterrent action, as the existence of a “real” punishment may represent a limitation to the spread of violence. Art. 3 of the Convention on the Prevention and Punishment of the Crime of Genocide adopted in 1948 can be considered at the core of a preventive action during the Preparation stage.

The Persecution stage includes a sort of “marking” process of the victims. There is identification and separation of the “others” based on ethnic, national, racial, and religious diversity – Raphael Lemkin would have also included cultural and political diversity. The individuals belonging to the “marked” group are usually forced to wear specific and recognizable symbols, suffer from the expatriation of assets, and go live in detention

areas that, with the passing of time, will become real ghettos. In addition, these individuals' houses are marked and the access to basic human needs that the "others" used to have is dramatically reduced. Persecution means to offend, to complete the dehumanization process in a way that the "other" cannot enjoy human rights and share their habitual actions with the rest of the society. The actual genocidal massacre usually begins during this stage with the planned extermination of small elements belonging to the different groups.

Persecution represents the absolute and irreversible point of all the stages, where it is impossible not to act, as the emergency of the development of genocide is real. The rise of violent actions is the consequence of a well-organized plan. Thus, international organizations, regional organizations, and powerful actors should intervene immediately, contrasting and reacting to the explosion of violence. The required intervention includes both the use of force and the planning of a strategy aimed at addressing the humanitarian intervention. Due to the need of implementing a multifaceted strategy to react to genocide, a global intervention based on coordination and cooperation is necessary to avoid the spread of massacres.

The second-last stage is the Extermination, which includes the radicalization of the violence associated with mass atrocities. This stage marks the shift from the historical meaning of genocide to the legal meaning of the term. The word "extermination" reminds of the animal world in which the inferior categories, the "non-humans," are the ones to die. This action is carried on with the aim of purifying the society, as it is considered to be a positive evolution process of the society that, through the genocidal process, will reach its perfect structure, free from "different" individuals. During this stage, it may happen that genocide assumes a bilateral structure when both of the groups, pushed by a reciprocal

approach to revenge, carry on the extermination. The latter is the most complex phase to manage, as it is evident that the necessity for a military intervention on the ground is the only solution to end the conflict.

According to Stanton, the international pressure on the governments of the countries involved in the genocidal massacre is a crucial element to favor the development of an efficient solution. The most relevant issue rising from this necessity concerns the lack of an international army to be employed in the intervention process and, therefore, the lack of an effective and immediate action led by the international community.

However, the creation of the United Nations is strictly linked to the evolution of the concept of sovereignty. In fact, the United Nations emerged as a mechanism for governments to take action on the issues of States and individuals to ensure international peace and guarantee international security. Over the years, by signing and ratifying the UN Charter, 193 Member States recognized both the need to partially renounce to their sovereignty and to accept the principle of sovereign equality among all States. Even though Art. 2 (7) of the UN Charter points out that "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter," it is true that the principle of non-interference or non-intervention established in the Peace of Westphalia is no longer applicable when addressing mass atrocities. Indeed, according to the Genocide Convention, to existing human rights instruments and to the UN Charter, the United Nations has not only the responsibility to maintain international peace and security by using peaceful means or force at a last resort, but also the responsibility to

protect civilians and non-combatants that might find themselves indirectly involved in intrastate conflicts.⁶⁵

Within the United Nations, the Security Council (UNSC) is the only organ able to authorize and legitimize the use of force. Indeed, as it is highlighted in Art. 39 of the UN Charter, "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security." The Security Council is thus responsible for choosing the adequate peaceful means to employ for restoring international peace and security. In case the measures adopted reveal inadequate, the Security Council "may take such action by air, sea, or land forces." (Art. 42, UN Charter) However, as Art. 46 points out, "Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee."

The Security Council is a UN organ made of five Permanent Member States (Russia, the United States, China, United Kingdom, France) and ten-non permanent countries, which the United Nations General Assembly elects every two year. The main role of the Security Council is to promote and maintain international peace and security in order to ensure a timely and efficient action by the United Nations. (Art. 24, UN Charter) According to Art. 27 of the Charter:

- "1. Each member of the Security Council shall have one vote.*
- 2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.*

⁶⁵ Since the last decades, the nature of conflicts has evolved. From interstate wars, it is now likely to find more and more cases of intrastate conflicts, meant as continuous political violence between an armed group representing the state and one or more non-state groups.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting."

In the aftermath of World War II, when the UN Charter was drafted, the five UNSC Permanent Member States were granted with the right to veto. Hence, if only one of the Big Five expresses a negative vote, the resolution or decision cannot be passed or approved. Consequently, being too often paralyzed due to internal political pressures, the UNSC becomes unable to make decisions or recommendations, thus worsening an ongoing genocide or increasing the fragility of a State.

At this point, the United Nations General Assembly (GA) can play a crucial role in maintaining and/or restoring international peace and security. Indeed, when adopting Resolution 377, which is known as "Uniting for Peace," in November 3, 1950, the General Assembly aimed at responding to the strategy of the Union of Soviet Socialist Republics (USSR) to block any willing of the Security Council to protect the Republic of Korea against the aggression of the military forces from North Korea. The most innovative part of the resolution is included in section A, which highlights that in case the Security Council, because of the lack of unanimity of the Big Five, fails to ensure the maintenance of international peace and security, the General Assembly should seize itself of the matter. Specifically, section A of the resolution affirms:

"[The General Assembly]... Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace,

breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security."

Regional organizations also play an important role in both promoting and maintaining peace and security, as they can conduct specific actions thanks to the efficient tools they have available to counter and react to the escalation of violence. Indeed, Art. 52 of the Charter says:

"Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations."

Among others, relevant examples of regional organizations that have carried out specific missions to maintain and/or restore international peace and security are the North Atlantic Treaty Organization, known as NATO, the Economic Community of West African States, which is known as ECOWAS, and the African Union. Specifically, NATO led successful missions in Libya⁶⁶ and Macedonia⁶⁷, ECOWAS in Liberia⁶⁸ and Mali⁶⁹, and the African Union in Sudan⁷⁰.

⁶⁶ After the Qadhafi regime started targeting civilians in February 2011, NATO decided to answer the United Nations' call to the international community to protect the Libyan civilians. Hence, in March 2011, a group of NATO Allies began enforcing a no-fly zone and offering protection to civilians from armed attack or threats of attack in Libya under Operation Unified Protector (OUP). OUP successfully ended on October 31, 2011. (http://www.nato.int/cps/en/natolive/topics_71652.htm)

⁶⁷ NATO's Operation "Essential Harvest" was launched on August 22, 2001, and concretely started on August 27. It was a 30-day operation, which involved approximately 3500 NATO troops sent to Macedonia to disarm ethnic Albanian groups.

The international responsibility to act and to protect should push the international community to go beyond the national interests when millions of people are dying. Because of the importance of this responsibility in ending crimes such as genocide, the entire international community should become more aware of the necessity to embrace this responsibility and, thus, to adopt it as an efficient principle for prevention and intervention.

The last stage of genocide is Denial. It concludes the genocidal process and characterizes each and every step of Stanton's list. It is possible to find the denial in the others' ghettoization, in their persecution that will cause the explosion of extreme violence, and in the gradual but massive killings. However, the final denial represents the evidence of the occurrence of genocide. The death bodies are usually hidden and the

⁶⁸ The Economic Community of West African States (ECOWAS) was established in May 1975 to promote the development of the sub-region. The 16 Member States are: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo. In 1990, Ecowas decided to intervene in the civil war in Liberia. Its strategy to solve the conflict was based on two different but mutually interconnected channels — building and enforcing peace. The first channel involved negotiations and arbitration, whereas the second one concerned the deployment in August 1990 of 3,000 strong multinational troops to monitor a cease-fire. (<http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=2538768>)

⁶⁹ ECOWAS carried out regional interventions supported by the African Union, the UN and the rest of the international community to solve the crises in Mali. As a result, Malians territories occupied by the terrorist groups after the military coup of March 2012 and the rebel uprisings in the north of the country were successfully mitigated by the allied forces, led by France and supported by troops from Chad, Mali and the African-Led International Support Mission, AFISMA, contributed mainly by ECOWAS Member States. (<http://realnewsmagazine.net/africa/ecowas-interventions-in-mali-reviewed/>)

⁷⁰ The African Union/UN hybrid operation in Darfur, referred to by its acronym UNAMID, was established on 31 July 2007, when the Security Council passed resolution 1769. UNAMID has the protection of civilians as its core mandate, but is also tasked with contributing to security for humanitarian assistance, monitoring and verifying implementation of agreements, providing assistance for an inclusive political process, promoting human rights and the rule of law, and monitoring and reporting on the situation along the borders with Chad and the Central African Republic. (<http://www.un.org/en/peacekeeping/missions/unamid/>)

threats to the witnesses are just some of the actions that perpetrators take advantage of to deny the crime. Even though there is evidence of the occurrence of genocide, most governments supporting mass atrocities tend to dissimulate any kind of elements that could refer to the existing violation. For instance, they minimize official data, justify the number of killings as deaths caused by starvation, natural disasters, poverty, or as associated with tribal conflicts that the central authority was not able to manage. Some other examples include the consolidation of the idea that the “targeted victims” received an honorable treatment; the statement that perpetuated violence does not imply the occurrence of genocide; the blame of the victims as initiators of uprisings against the government; and the blame of international organizations for their incapacity to act and intervene. The denial struggles with the duty to punish the crimes that governments and internal or non-state actors perpetuate.

Stanton’s analysis stresses the necessity of a more active and strong international presence on the prevention of and reaction to mass atrocities and, most importantly, genocide. Although such crimes are usually country-based, depending on the context, time, and space, Stanton’s model facilitates the identification and the development of genocide, thus promoting specific tools to be implemented for preventing the occurrence of genocide in each and every Stanton’s step (Budapest Centre for the International Prevention of Genocide and Mass Atrocities, 2013). As Luigi Zoja states, there is a clear asymmetry between Good and Evil in all human relations. Whereas it is relatively easy “to do in Evil,” both at the technological and psychological level, acting Good requires a complex system of long-term initiatives. A complete preventive process implies, hence, a complex system of actions. On the other hand, as Zoja suggests, prevention can also be considered as the sum of all the actions aimed at “doing Good.” Thus, it becomes a set of relatively simple concepts and policies (Zoja, 2000).

To understand the simplicity of prevention, it is necessary to examine a situation in which the risk of genocide is low and where it is possible to recognize only the Classification stage, the first one in the Stanton's model. In this case, prevention can be structured through planned initiatives around education, meant as fundamental tool for the consolidation of the society and for the creation of lasting sustainable peace among the members of society. Through education, new generations will become acquainted with the value of mutual respect, recognize the importance of the historical path of other groups, and learn how to identify the factors that usually lead to the escalation of tensions between different ethnic groups.

Analysing the following stages of genocide, the awareness and both the legal and social structure of respect can prevent the Symbolization stage, reducing the possibility to create and then spread wrong stereotypes. In case some individuals identify some differences between their group and another group, the juridical system should carry on an efficient preventive action inviting these individuals to embrace tolerance and mutual respect and stressing the concept of equality. By doing so, there will be a common and fundamental element at the core of a stable and respectful society that embrace diversity as part of humanity.

To directly tackle the Discrimination stage, genocide prevention may be carried on through an inclusive action. Even in compact societies it may happen that governments may promulgate laws denying specific fundamental rights to a group of individuals. For example, the Rom population has always been discriminated all around Europe since the creation of the first nation-state. The legislation, therefore, should guarantee equal opportunities and duties to all individuals in every circumstance.

The promotion of dialogue at the global level is a significant deterrent to the Dehumanization stage. While the supporters of genocide tend to spread the idea that the victims are not and cannot be considered as humans, dialogue would consolidate the identification of the victims as human beings with freedom to speech, with their ideas, culture, identity, historical path, fears, worries, and a legitimate place within the society. Where the genocidal process reaches the Organization stage, prevention may concern the disarmament at both the national and international level. It is well known that the availability of weapons has been a crucial factor for the escalation of violence. Through the implementation of an embargo on the selling of weapons and through the promotion of rigorous regulations concerning the access to weapons, it would be possible to increase the success of atrocity crimes prevention.

In case the genocidal process reaches the Polarization stage, the promotion of an anti-genocidal idea or cause would favour the diminishing of tensions. Whenever the goal of the extremists is ensuring that the civil society stands for or against genocide, it is relevant to be aware of the fact that people's tendency pushes towards the use of violence in those situations in which the escalation of violence is already predominant. Based on this tendency, the opposition to the extremist mentality may rely on the promulgation of anti-genocidal narratives and initiatives about reconciliation between the rival sides, as well as on the description of the advantages of living in and having a stable societal system. The mediation carried on by the neighbour countries and the regional organizations plays a focal point in avoiding the escalation of tensions. (Kaldor, *Le nuove guerre. La violenza organizzata nell'età globale*, 2001) However, a successful mediation depends on the efficient tools that both the neighbour countries and the regional organizations adopt to carry on an immediate and preventive intervention.

When the genocidal societies begin the so-called Preparation of the mass killings, an effective prevention should imply the willingness of the international community to support the principle of the Responsibility to Protect. The role of the international community becomes paramount with the beginning of the persecution process. Initiatives as the creation of safe areas or buffer zones and the support of the principle of legitimate defence of the vulnerable groups are some of the preventive actions that the international community could develop, as well as the concession of humanitarian aid to the entire population, the conclusion of negotiations with the supporters of genocide to immediately end the intensification of violence, and the creation of investigative missions to identify the main perpetrators of the mass atrocities crime.

As Stanton highlighted in his work, the only solution for the extermination includes an intervention on a major scale. According to the principle of the Responsibility to Protect, the international community has the duty, through the UN (Ramcharan, 2008), to organize humanitarian missions (Hehir, 2010) aimed at ending on-going atrocity crimes. (Boutros-Ghali, 1992) Among their main goals, the "United for Consensus" (United Nations, 2015) movement and the "UN Security Council Veto Restraint" (Global Center for the Responsibility to Protect, 2015) initiative stress the need to increase the efficiency of the formal preventive action as well as the necessity to ensure that the five Permanent Members of the UNSC renounce to their veto power when addressing mass atrocities crime.

When the genocide has already occurred, the demand for a preventive vision of future crimes represents a primary objective. More profoundly, this vision should refer to the duty to punish the supporters of the genocide with the aim of preventing the denial of the crime. The creation of ad hoc tribunals and commissions of reconciliation, as well as the

appeal at the International Criminal Court, is of fundamental importance to judge the perpetrators of the crime of genocide in front of their population and of the international community. (Cassese, 2005) The predisposition to dialogue at the local level to favor and encourage reconciliation, the development of collective memory, and the improvement of the educational system are some putative tools for the prevention of future conflicts.

Education, mutual Respect, Inclusion, Dialogue, Disarmament, Promotion, Responsibility, Protection, Intervention, and Duty are ten counter-steps that could promulgate an efficient preventive action to address the intensification of atrocities. To end mass atrocities (May, 1987) the international community should adopt a holistic (Hamburg, 2010) and long-term approach, where the prevention of crimes against humanity should concern all the societal levels. By doing so, the preventive strategy regarding each stage of the genocidal process does not apply to one stage of genocide at a time, but it evolves within a “recycling” process in which every implemented preventive action ends up being effective in all the other different stages.

Education, for example, has a positive impact not only on the Classification stage, but also on the comprehension that the “other” is a human being (preventing the development of the Dehumanization stage), thus playing an essential role in the Denial step.⁷¹ Analysing the “circularity” of genocide prevention, it is crucial to address the importance of the principle of the Responsibility to Protect (M., Kimaro, Lyons, Rothchild, & Zartman, 1996). This principle, which emerged in 2000 from

⁷¹ Focusing on the use of education as a preventive tool during the Denial stage, it is possible to mention the precious work that the International Holocaust Remembrance Alliance, known as *The International Task Force for International Cooperation on Holocaust Education, Remembrance and Research*, carried on to educate on the Holocaust and, therefore, to avoid the occurrence of the Denial stage

the United Nations Agenda (Bellamy, 2009) to react to all the failures in the protection of civilians subjected to mass atrocities, is composed of three pillars that highlight the interconnections between the responsibilities of the State and the international community (Orford, 2011). The first pillar makes a reference to the primary responsibility of the States to protect its population from crimes against humanity, genocide, ethnic cleansing, and war crimes. The second pillar addresses the responsibility of the international community to encourage and assist States to guarantee the protection of their populations. The third pillar stresses the responsibility of the international community to use all possible means, respectively diplomatic and humanitarian tools, to protect individuals from all the crimes cited above. In addition, it highlights that, in case a State is unable or unwilling to protect its population, the international community should intervene in a collective manner (Bellamy, *The Responsibility to Protect and World Politics: From Words to Deeds*, 2011) and in accordance with the Charter of the United Nations (Strauss 2009).

The prevention, hence, starting from its “to do Good” dimension that Zoja supports, includes simple actions and initiatives based on a holistic and complex approach. By adopting this vision, all the actions and initiatives will become an interconnection of solutions applicable to different stages, resulting still efficient in the general and omni-comprehensive dimension of the genocidal model. To provide a successful preventive action, these solutions should be the outcome of a collaborative and multilevel process between the State and the international community (Task Force on the EU Prevention of Mass Atrocities, 2013). These tools should also be applied as a long-term process that includes adaptability, evolution, and continuous changing with the aim of becoming an effective and efficient tool for future generations as well.

No country and no society, no matter the kind of government, could ever be immune to the risk of genocide. This principle should reinforce the need to plan and develop a preventive strategy in every society, which should be carried on regularly and efficiently. Although the resources used for the development of the preventive action may appear intangible at first, they will soon become essential pillars for the growth of the society and for the consolidation of the institutions that regulate it. The existence of the Responsibility to Protect outlines the necessity of humanitarian response. The international community, hence, has an indissoluble and evident duty to prevent. "Responsibility from all is to be paralleled by responsibility for all" (Etzioni, Foreword 2002).

Sustainable and durable development aimed at building resilience within societies is one of the key factors contributing to upstream prevention of state fragility in general, and of mass atrocities in particular. In the context of developing countries and development assistance, the Budapest Centre for the International Prevention of Genocide and Mass Atrocities has identified so called "fragile situations" or "fragile states" as the most risk prone environments. (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014) Indeed, reducing fragility is an important part of the development agenda and at the same time a key part of the agenda for the prevention of mass atrocities. While good international engagement in contexts of fragility may produce extremely positive effects likewise for development and security, bad engagement in contexts of fragility may backfire with catastrophic outcomes for both international actors and receiving societies. Thus, efficient engagement in situations of fragility in part overlaps and in part should be complemented with a lens that specifically addresses mass atrocities (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014).

3.2 Introducing State fragility

State fragility and violent conflict are among the most daunting challenges that the international community has been facing nowadays. Currently, there is no universally accepted definition of “fragility.” Most definitions agree that fragile states are those underperforming in (1) effectiveness of state structures, (2) authority (understood as efficiency in enforcing monopoly of the use of force), (3) and legitimacy. Other definitions also seem to agree that fragility is not an “all or nothing” issue, but rather a spectrum along which the status of a state can clearly move towards more or less fragility. (Fabra Mata e Ziaja 2009) Despite disagreements, practitioners mostly use, as working definition, the one provided by the Organization for Economic Co-operation and Development (OECD), which identifies fragility as a situation in which “state structures lack political will and/or capacity to provide the basic functions needed for poverty reduction, development, and to safeguard the security and human rights of their populations.” (OECD, 2011) Bilateral agencies and scholars may use different definitions. For example, DFID’s definition of fragile states is designed to cover those situations “where the government cannot or will not deliver core functions to the majority of its people, including the poor.” USAID has developed a less sophisticated definition of fragility that includes “a broad range of failing, failed, and recovering states,” distinguishing between vulnerable situations and situations where the crisis already broke out. Scholarly definitions also include the one by Stewart and Brown (Fabra Mata e Ziaja 2009), which interpret fragile states as those “failing, or at risk of failing, with respect to authority, comprehensive service entitlements or legitimacy.” (Fabra Mata e Ziaja 2009, 6)

However, current definitions of fragility are still incomplete. In an increasingly liberal international environment, in which States are no

longer the only actors in international relations arena, the Budapest Centre for the International Prevention of Genocide and Mass Atrocities believes that future definitions of fragility should lessen the focus on the State and reinforce the attention on the responsibility of civil society actors. This view is supported by a broad interpretation of the second pillar of RtoP. In case of state failure, the responsibility to protect falls in the hands of the international community, which comprises states, as well as regional IGOs, the UN system, and a broad array of private actors. If these actors are bearers of responsibility in the context of the second pillar of RtoP, then it should follow naturally that national civil society organization and other actors partially hold responsibility for the implementation of the first pillar of RtoP in their own national context.

Therefore, current definitions of fragility fail in including non-state actors in the picture. Further research may explore to a deeper extent the role of national civil society actors in promoting or reducing fragility, and thus assess the actual possibility of redrafting the concept of fragility in a less state-centred approach.

3.2.1 Measuring fragility

Directly measuring fragility is clearly impossible, since the phenomenon cannot be observed *per se*. Most indexes of fragility rely on a wide array of second-level indicators that measure performance of states in the above-mentioned areas. Fabra Mata and Ziaja (Fabra Mata e Ziaja 2009) categorize these indicators in three groups: input indicators (measuring the existence and quality of enabling structural conditions, such as division of powers, ratification of human rights treaties, etc.), process indicators (measuring the efficiency in the process of producing certain output, such as health expenditures, military expenditures, education-related statistics, etc.), and output indicators (measuring the actual outcome of such actions, such as the number of conflict related deaths, number of violent civil society initiatives, unemployment, etc.). Each index measures these variables, assigns them a weight, and then aggregates them into a single variable considered to be the best proxy possible for fragility.

As noticed by Fabra Mata and Ziaja, institutions engaging in efforts to measure fragility take in account a range of factors that are very different among each other, and can be grouped into broader categories (they identify more than forty elements). (Fabra Mata e Ziaja 2009) For the purpose of this research, it is necessary to further group these categories of factors in four higher-level categories, namely: violence related factors (armed conflicts, coups, militarization, terrorism, violent repression of social unrest, political violence, crime, etc.), governance-related factors (civil and political freedoms, rule of law, democracy, corruption, government capacity, infrastructures, foreign aid, etc.), social factors (education, health, mortality and life expectancy, social cleavages, political culture, etc.) and economic factors (unemployment, trades as a share of GDP, development of financial institutions, poverty, foreign

investment, etc.). (Fabra Mata e Ziaja 2009)

Detailed discussion on the different ways of measuring fragility is beyond the scope of this research. It is clear that different indexes produce different results depending on the background assumptions, on the variables measured, on the interests of the producers, and on a wide array of other methodological issues. What is relevant to this paper is the clear nexus between fragility and insecurity, and thus the need for intervention to alleviate the root causes of fragility. Indeed, many of the factors considered as root causes of fragility are also those factors taken into account by indexes of mass atrocity risk used by relevant agencies, such as the UN Office of the Special Advisor for the Prevention of Genocide (OSAPG), the OSCE, and the EEAS. These include, but are not limited to, factors influencing inter-group relations (mostly, latent conflict running along identity lines and patterns of exclusion), factors limiting state capacity for prevention (existence, independence, and efficiency of the judiciary, law enforcement institutions, national human rights institutions, media, civil society organisations, etc.), presence of armed groups and weapons (and consequently, strength of the state monopoly on the use of force), and political/economic cleavages resulting in political violence (especially in proximity of triggering events such as elections, natural disasters, sudden economic recession, etc.).

Scholars have also engaged in making significant efforts to model those factors that are most likely to be good indicators of mass atrocity risk. Milestone studies in this field are those by Harff (2003), Fearson and Laitin (2003), and Collier and Hoeffler (2004), who successfully argue for ethnic polarization as one of the main preconditions for ethnic conflict and mass atrocities. In the framework provided by Collier and Hoeffler, "greed and grievances" are considered as key to understand ethnic conflict and, eventually, mass atrocities. Esteban and Ray (Esteban e Ray, *On the Salience of Ethnic Conflict* 2008) (Esteban e Ray, *Linking Conflict to*

Inequality and Polarization 2011) and Esteban, Morelli, and Rohner (Esteban, Morelli e Rohner, Strategic Mass Killings 2015) have developed more sophisticated models that include, as explanatory variables, factors like ethnic polarization, intergroup and intragroup inequality, uneven distribution of natural endowment (Bannon e Collier 2003), share of GDP derived from export of primary goods, external constraints for democratization, and a few other minor factors. Other scholars, such as Østby (Østby, Polarization, Horizontal Inequalities and Violent Civil Conflict 2008) (Østby, Horizontal Inequalities and Political Violence 2011) and Østby, Nordås, and Rød (Østby, Nordås e Rød, Regional Inequalities and Civil Conflict in Sub-Saharan Africa 2009) focused on inequality in educational attainment as a principal factor determining across/within group inequality, and provided further empirical evidence on the soundness of the above mentioned models (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014).

3.2.2 Measuring the performance of development assistance in contexts of fragility

There is a clear overlap between root causes of fragility and possible risk factors of mass atrocities, with almost all factors of mass atrocity risk representing possible root causes of fragility. Weakness of state institutions, weak monopoly of the use of force, and low levels of legitimacy have been identified as key features shared by most definitions of fragility. In light of this connection, fragility reduction is clearly an important part of upstream prevention. Since fragility reduction is mostly operated through international cooperation for development, it is clear that the latter can be considered a privileged instrument to translate the “duty to cooperate” under pillar II of RtoP into practice. Conversely, any development action that neglects to prioritize prevention is likely to experience serious efficiency losses. Fragility alleviation is already a key factor in the decisionmaking process regarding development aid allocation and policy design.

3.2.3 Fragility as a key determinant of international intervention

The analysis in the above sections pointed out the existence of a broad array of tools and indexes to measure fragility. These tools are mostly used by policymakers, donors, development agencies, and other actors to make decision regarding their engagement in different contexts. In this respect, the most relevant index of fragility is the Country Policy and Institutional Assessment (CPIA) by the World Bank. This index includes sixteen indicators to measure countries' performances in policy and institutional areas. The CPIA was not designed to be an index to measure fragility. However, it is now broadly accepted that countries falling below a certain threshold are considered to be "fragile states." Allocation of multi-lateral development aid is often based on CPIA performance. This index also shapes decisions taken by bilateral donors and other agencies. (Rocha De Siqueira 2014, 271) (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014)

3.2.3.1 The Fragile State Principles (FSPs)

While a very significant portion of development aid flows to countries perceived to be "fragile," international engagement in contexts of fragility is, in very many respects, far from full efficiency. Part of this inefficiency could be solved by increasing the attention to the security dimension of development aid, which joins development and security as intertwined concept that cannot be achieved one without another. The OECD has launched an extensive effort to measure international engagement in contexts of fragility. With a decision of the OECD Council of Ministries in 2007, the organization established a set of ten Principles for Good International Engagement in Fragile States and Situations (for short,

Fragile State Principles, or FSPs). The first report on the Fragile State Principles was published in 2009, (OCSE 2010) and presented the state of the art regarding international engagement in six developing and fragile countries. The most recent report was published in 2011, surveyed international engagement in eleven developing and fragile countries (Burundi, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Guinea-Bissau, Haiti, Liberia, Sierra Leone, Somalia, South Sudan, Timor-Leste and Togo) and included an evaluation of the progress made in the two years elapsed since the first report. (OECD, 2011)

The FSPs can be considered as a cornerstone in a broader pattern towards greater awareness of Western donors regarding the importance of intertwining development and security. This pattern started in the mid-1990s as a consequence of tragedies in Rwanda and in the Western Balkans, and mostly revolved around the idea of promoting human security. In the post-9/11 Scenario, the connection between security and development has been articulated mostly as efficient strategies to build resilient societies and states that would not offer support to undemocratic government or organizations that may be potentially dangerous to international peace and security. (Thede 2013)

The FSPs recognize a clear link between security and development, and call for actions specifically designed “to help national reformers to build effective, legitimate, and resilient state institutions, capable of engaging productively with their people to promote sustained development.” (OECD, 2011) State building is, thus, presented as the main objective of development actions in situations of fragility. This guiding idea, together with many other features, hint to the fact that the OECD is pushing for a major process of revision of aid policies to include lessons learned from the past. Principles as “take context as the starting point” and “do no harm” are, indeed, products of self-reflections on failures in recent history. Similarly, the strong focus on state building is the product of

profound awareness of the limits of development actions that replaces local institutions rather than empowering them. (Manning e Trzeciak-Duval 2010) (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014)

3.2.4 The risks of foreign development intervention

Recent history is sadly filled with instances where development actions did more harm than good. (Mayersen 2011) Development intervention (unintentionally) happened to worsen situations of fragility by overcomplicating the policy framework in already weak states; by altering internal and international macroeconomic equilibria; by contributing to the brain-drain from developing countries; by promoting extremely liberal trade policies that overexposed infant economies to international competition; by substituting for local governments rather than empowering them; and by making aid too volatile. (Manning and Trzeciak-Duval, 2010) In contexts at risk of mass atrocities, development intervention happened to increase risk by abruptly altering inter-group dynamics through external constraints for democratization and redistribution; (Esteban, Morelli e Rohner, Strategic Mass Killings 2015) by exposing aid flows to aid capture that ultimately favoured clientelism to the detriment of minorities; (D'Exelle 2009) by further legitimizing undemocratic rulers through continued interfacing; (Staub 2011) and other such practices. (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014)

BROADLY ON-TRACK	Promote non-discrimination as a basis for inclusive and stable societies (#6)
PARTLY ON-TRACK	Align with local priorities in different ways in different contexts (#7)
PARTLY OFF-TRACK	Take context as the starting point (#1)
	Focus on statebuilding as the central objective (#3)
	Prioritise prevention (#4)
	Recognise the links between political, security and development objectives (#5)
OFF-TRACK	Do no harm (#2)
	Agree on practical co-ordination mechanisms between international actors (#8)
	Act fast... but stay engaged long enough to give success a chance (#9)
	Avoid pockets of exclusion (#10)

Despite growing awareness in the development community, *the 2011 Monitoring Survey on the Fragile States Principles* by the OECD highlighted a rather discomfoting picture, with room for broad improvement in many areas, including some of the most fundamental ones. According to the survey, performance is either broadly or partially off-track for eight out of ten principles (#2,8,9 and 10 evaluated as "off-track"; #1,3,4, and 5 evaluated as "partially off-track"). FSP #6 seems to be the only one "broadly on-track." Furthermore, the report detected a

scaling back in performance in five out of ten FSPs. #1 and 5 scaled back from “partially on-track” to “partially off-track.” #8 and 9 scaled back from “partially off-track” to “off-track.” #2 scaled back from “partially on-track” to “off-track.” (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014)

Comparison between the 2009 and 2011 reports is clearly unfair, mostly due to the significant broadening of the sample used (from six countries to eleven countries), but also due to a wide number of other factors. For example, the global recession hit hard on the whole development industry, making efficient engagement increasingly difficult. (Lotz, 2011, p. 1) Nonetheless, results clearly show broad room for improvement for international engagement in contexts of fragility, especially in some of the most fundamental areas and, most notably, in the implementation of the “do no harm” principle. (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014)

The Responsibility to Protect – as the research will deeply explore in the next chapter – is meeting increasing consensus in the intentional community. While its main assumptions are firmly grounded in the very notion of sovereignty and, more concretely, in the post-WWII corpus of human rights treaties, its adoption is a welcome novelty in the international relations framework. Some tenants of RtoP are not fully crystallized norms in international law and should be regarded as *lex ferenda*. These yet-to-be norms include the “duty to cooperate” for prevention of mass atrocities, mentioned in the second pillar of RtoP.

International cooperation for development is a privileged tool to reduce insecurity and enact upstream prevention within the meaning of Pillar II, especially in light of the “duty to cooperate” clause. Fragile states and vulnerable situations are those contexts in which development actions should give explicit priority to human security and RtoP. Firstly, factors determining fragility clearly overlap with mass atrocity risk factors.

Secondly, international engagement in context of fragility had so far a quite poor rate of success, with some sadly famous examples that brought to a major revision of policies to prioritize the “do no harm” principle. (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014) Lastly, other much more influential organizations, such as the OECD, are financing studies to support better international engagement in situations of fragility, the main tenants of which are security and state-building efforts aimed at creating resilience.

Therefore, there is a urgent necessity to recognize the link between development and security objectives (as stated in FSP #5). In its research the Budapest Centre endorses the Fragile State Principles by the OECD, especially those that specifically focus on the potential of development intervention for effective prevention. “Doing no harm” (FSP #2) by prioritizing prevention (FSP #4) is a key aspect of development action in contexts of fragility (and beyond). Furthermore, the Centre has now for a long time advocated for context specific strategies for prevention and development, as suggested in FSP #1 (“take context as the starting point”). There is indeed no one-size-fit-all solution to deeply rooted preconditions of conflict and fragility. Similarly, the idea of promoting state building should be the central objective of development action (FSP #3). Involving, training, and empowering local institutions in the process of development is clearly the only possible strategy to achieve durable and sustainable solutions that consolidate resilience within societies. (Budapest Centre for the International Prevention of Genocide and Mass Atrocities 2014)

Development practices are increasingly calling for participation on behalf of receiving communities in development planning and implementation. (Hayman, 2011) However, studies grounded on game theory underline the need for close monitoring action on behalf of external actors to avoid the risks associated with elite capture, corruption, and other undemocratic

practices. (D'Exelle & van den Berg, 2012) These risks are concrete for both small-scale actions (i.e. local distribution of resources to a single rural community) and much larger ones (i.e. significant financial inflows to governments). Despite good intentions, participatory development plans that do not adopt a mass atrocities lens may have the negative effect of exacerbating rather than lessening mass atrocities risk factors. (Mayersen, 2011) For example, international efforts to achieve democratic empowerment or poverty alleviation may be considered by dominant groups within a society as a serious setback vis-à-vis marginalized minorities, and thus trigger plans for their annihilation (Chalk e Jonassohn 1990). As a consequence, prevention should seek political stability via the expansion of governing capacity, facilitating economic (re)development, and the containment of political strife between opposing societal groups. (Dorussen, Kirchner e Sperling 2009)

3.3 Fragile states and the failure to implement human security

Fragile states seem to be, par excellence, contexts where the human security's shield comes undone. One of the more explicative examples could be given by the case of Haiti, where human security protection has been continuously "under attack." Haiti represents a case of failed-state that has suffered, since its independence, from the subsequent presence of authoritarian and violent leaders, devoted to the use of paramilitary apparatus to instil fear in population and intimidate opponents. Fragmentation, violence, and deep instability were constant features in the political situation of a state that was the first source of insecurity and private militias, which acquired even more power. Women in the country were particularly at risk, due to the high number of sexual abuses. The widespread presence of HIV/AIDS in Haiti is both a proof of the diffused sexual violence and the incapacity of the state to provide an adequate level of health services. Haiti was, and still is, one of the poorest countries in the world, with around 8 million people living in extreme poverty and experiencing food insecurity.⁷² The humanitarian assistance and development projects faced and still face countless obstacles due to the absence of a concrete action in the demilitarization of armed groups. Haiti represents a vicious cycle where many elements of insecurity coexist, reinforcing fragility and the impossibility to implement an effective strategy to protect the human security dimensions. In addition to this complex framework, Haiti has experienced a terrible earthquake in 2010 that has worsened the scenario as well as the human security defense background even more profoundly. With about 316 000 deaths, 300 000 injured people, and 1.5 million displacements, Haiti experienced an enormous disaster; its troubled history was complicated by the natural threat. In the complete vacuum of a working state, human security

⁷² Data from World Bank and World Food Programme

protection was destroyed, opening the door to the “reassessment” of a new attempt of human security implementation, this time as a strategy of the international community aimed to help the country stand up and reinforce its institutions. The role of the international community was, and still is, challenging in a destructuring environment such as the one of Haiti; in fact:

“In addition to the problems for governance arising from the lack of local ownership and accountability, international administration can lead to two more pathologies for development. First, it can create a culture of dependency; and second, it can undermine the sustainability of governance reforms.” (Zaum, 2007)

South Sudan gained independence from Sudan on 9 July 2011 as a result of a 2005 agreement that ended Africa's longest-running civil war. It achieved independence in a condition that made it one of the most fragile and underdeveloped countries in the world. It has inherited all the problems and challenges that existed in the old Sudan long-before independence was obtained. Human security implementation and South Sudan could appear as an antithesis: the path to a real security would require efforts in order to address challenges presented by the current conflict and all the old unresolved questions. The present leadership, incapable of giving shape to a real institutional-apparatus, is continuously challenged by other leading political figures guiding ethnic groups. Instability is a present-day reality. The country is deeply affected by corruption, the inability to carry on any kind of political party reform, inter-communal violence, and strong tensions about oil-sharing revenues with Sudan; the oilfields produce big quantities of oil, but it is massively exported out, giving no possibilities to local communities to benefit from exploitation. Investment in infrastructure, medical services and education, are absent. Young South-Sudanese people have very few opportunity of

development, and usually are recruited by political representatives in order to join militias and fight against each other.

Violence is fed also by the easy access to weapons and ammunition. Inter- and intra-communal violence is a persistent feature in the country, caused by access to water and grazing land between pastoralist communities. The country is affected by mass killings, sexual violence, abuses and war crimes. The description above summarizes one of the most meaningful cases where human security has been, and probably will be, absent for a long time. In practice, the scenario lacks all the dimensions of human security. The negative and difficult environment does not help the international community make efforts to improve the conditions. The deep and reiterated lack of human security has left South Sudan into a "descend into chaos."

Moving geographically to the East, East Timor could represent another interesting example of failures in safeguarding human security. East Timor, one of the many countries where the decolonization process went wrong, was declared independent from Portugal in 1975, but after only nine days, Indonesia invaded it; the result was a twenty-four years-long war with more than 250,000 deaths, many of them related to hunger and diseases. Obviously, mass killing and abuses of children and women characterized the war period. The conflict reached its peak in 1999, attracting the attention of the U.N., which could not more overcome the increased humanitarian challenge. A tripartite talk among the U.N., Portugal, and Indonesia led to a direct ballot in order to determine the future of East Timor. The ballot was accompanied by the absence of a dimension of political security, where votes were conditioned by the violent military presence of Indonesia, conducting kidnappings and tortures. After months of a *crescendo* of violence, Indonesia accepted the international peacekeeping operation in East Timor.

In 2006, the country experienced a wave of turmoil, accompanied by gang violence that caused mass insecurities among population. The result was a big number of internally displaced individuals, who fled their homes. The attempt to address human security as a post-conflict strategy did not give positive results. Recovery strategy was addressed to the State and not to individuals: it has been assumed that the institutional apparatus would have provided public safety for the people, but the international community was much trustful in the capabilities of a State whose personnel was trained in a very short period. No democratic elections, persistent gaps between rural and urban areas, gender inequalities, lack of investments in infrastructures, cultural and language differences, food and health insecurities were the main factors affecting the civil society.

"Increasingly, we are seeing the military overtake and influence the functions of civilian institutions. In humanitarian work, reconstruction and development, the military is often partnered with or replaces civilian organizations as the lead institution. Needless to say, when this happens, the military and its members bring their own socialisation to these processes. In other words, civilian institutions, such as the UN, are being militarised. But this militarisation has a male face." (Vijaya 2005)

Unmitigated security threats will lead to unprecedented security scenarios, as it is likely to trigger a number of tipping points that would lead to further accelerated, irreversible, and largely unpredictable changes. (Witschel, et al. 2010)

3.4 Human security as a condition for all

The risks posed to States by their inability to respond to human security requests are real and their impacts are constantly affecting the international community as a whole. The core challenge is that human security threatens to overburden states and regions that are already fragile and conflict prone. Recent events have demonstrated that this challenge is also posed to major democracies with a perceived stability. The cases of Japan and the USA might be, in this sense, the most appropriate ones in describing the challenges posed by the application of human security standards.

Japan, along with Canada, has been one of the biggest international supporters of the notion of human security. There has been an underlying assumption of its policymakers that human security was a concern for others. Its policies of international cooperation have fully endorsed human security. Leveraging on its economic strength, Japan sought a framework that would allow it to justify its role in contributing to international peace through the use of its official development assistance (ODA) program and in safeguarding stable supplies of food and energy resources. (Akaha 1991)

One of the most important elements of the human security approach is the recognition that grave threats to the safety and well being of people can be found everywhere. Just because Japan is an industrialized, wealthy democracy does not mean it is free from human insecurities. (Bacon e Hobson, Human Security and Japan's Triple Disaster: Responding to the 2011 earthquake, tsunami and Fukushima nuclear crisis 2014)

The chain of calamity now known as Japan's Triple Disaster began with a massive rupture in the ocean floor on March 11, 2011. The Great East Japan earthquake shook the country's eastern coastal region, and sent a

wave of water 12 stories high rushing toward the shore. The earthquake and tsunami would claim more than 15,000 lives, and the widespread damage — including a catastrophic meltdown at the Fukushima Daiichi nuclear plant — would be labelled as the "worst natural disaster in the country's recorded history." (WHO 2012)

More than 18,000 people died on 11 March, 2011, after the strongest recorded earthquake in Japan's history triggered a tsunami that laid waste to entire towns and villages and caused a triple meltdown at the Fukushima Daiichi nuclear power plant.

"Within the first day following the earthquake, more than 50 aftershocks were experienced, seven of which measured at least 6.3 on the Richter scale. Subsequently, the earthquake triggered 647 aftershocks (as of 4 August 2011), many with associated tsunami warnings. The tsunami that followed the earthquake devastated the coastal areas of Tohoku and southern Hokkaido and claimed the majority of the 15,848 lives lost (officially recorded death toll as of 10 February 2012). The first tsunami wave reached the coast only 15 minutes after the earthquake. The tsunami was so strong it reached farther inland than expected. The height of the tsunami was considerable, with reports measuring the maximum height of the wave at approximately 38 metres, which is the height of a 12-storey building. A continuous stretch of land more than 500 km in length in coastal areas of Honshu Island, from the Tohoku to Kanto regions, was directly impacted. Following the massive earthquake and tsunami, an accident at the Fukushima nuclear power plant was reported as a potential public health emergency of international concern. In time, the International Nuclear Event Scale was raised to Level 7, the highest level. The widespread damage to the eastern parts of Japan has been referred to as the worst natural disaster in the country's recorded history. In areas of the Tohoku region, entire

towns were washed away by the tsunami, reducing some communities to less than half of their pre-tsunami populations.”
(WHO 2012)

The devastation inflicted by both the earthquake and tsunami was beyond human imagination. The national health system of Japan – one of the most developed nations in the world – was overwhelmed. In some areas, the disaster response command centres were destroyed, and health care workers became victims. This catastrophic event had a devastating effect not only on human lives and health, but also on the basic infrastructure necessary for human survival and for disaster response, thereby limiting response capacities.

Hurricane Katrina was one of the deadliest hurricanes ever to hit the United States. An estimated 1,833 people died in the hurricane and the flooding that followed in late August 2005, and millions of others were left homeless along the Gulf Coast and in New Orleans. Katrina was also the most destructive storm to strike the United States and the costliest storm in U.S. history, causing \$108 billion in damage, according to the National Oceanic and Atmospheric Administration (NOAA). (Zimmermann 2015)

New Orleans Mayor Ray Nagin was also criticized for failing to implement his food plan and for ordering residents to a shelter of last resort without any provisions for food, water, security, or sanitary conditions. Perhaps, the most important criticism of Nagin is that he delayed his emergency evacuation order until less than a day before landfall, which led to hundreds of deaths of people who (by that time) could not find any way out of the city. (Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina 2006)

“It remains difficult to understand how government could respond so ineffectively to a disaster that was anticipated for years, and for which specific dire warnings had been issued for days. This crisis

was not only predictable, it was predicted. If this is what happens when we have advance warning, we shudder to imagine the consequences when we do not. Four and a half years after 9/11, America is still not ready for prime time. This is particularly distressing because we know we remain at risk for terrorist attacks, and because the 2006 hurricane season is right around the corner. With this report we hope to do our part to enhance preparation and response. With Katrina, there was no shortage of plans. There were plans, but there was not enough plan-ning. Government failed because it did not learn from past experiences, or because lessons thought to be learned were somehow not implemented. If 9/11 was a failure of imagination, then Katrina was a failure of initiative. It was a failure of leadership.” (Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina 2006, xi)

The report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina demonstrated how a natural disaster endangered sovereignty at local, state, and national – individual, corporate, philanthropic, and governmental – level in a country that considered itself immune from fragility. Governments at all levels failed to react more effectively to a storm that was predicted with unprecedented timeliness and accuracy. The investigations of the Committee disclosed Katrina as a “national failure, an abdication of the most solemn obligation to provide for the common welfare.” (Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina 2006, xi)

Even though Japan and the USA are amongst the wealthiest and most disaster-prepared countries in the world, there were still major human security threats issues after these two natural disasters. Affected communities still lack of a comprehensive response to the damages

inflicted at the social and economic level. A human security approach to natural disasters suggests an awareness of the ways significant biological and sociological factors influence how safe people are, and what kinds of risks they are exposed to. (Hobson, Bacon e Cameron 2014) Human security can, therefore, be a powerful tool through which it would be possible to understand and mitigate natural and man-made catastrophes.

Certainly the kind of vulnerabilities people face will vary depending on the context, but human security's core concern with promoting 'freedom from fear' and 'freedom from want' is meant to have universal validity. (Bacon e Hobson, Human Security and Japan's Triple Disaster: Responding to the 2011 earthquake, tsunami and Fukushima nuclear crisis 2014)

It is important to recognise that the risks connected with human security are not just of a humanitarian nature; they also include political and security risks that directly affect national and regional interests. Moreover, in line with the concept of human security, it is clear that many issues related to the impact of climate change on international security are interlinked requiring comprehensive policy responses. For example, the attainment of the Millennium Development Goals would be at considerable risk because climate change, if unmitigated, may well wipe out years of development efforts. (European Commission 2008)

Foucault would have called the overall discursive fact that security is spoken about at all, the way in which it is put into political discourse and how it circulates throughout politics and other discourses. (Dillon, 1996)

The following table tries to describe how international legal instruments – or at least the most universal accepted ones – affect various human security dimensions.

CONVENTION	EFFECTIVE	RATIFIERS	SECURITY IMPACT
Forced Labour Convention	01/05/32	178	Community, Personal, Political, Economic
Charter of the United Nations (UN Charter)	24/10/45	193	All 7 dimensions
Convention on the Prevention and Punishment of the Crime of Genocide	12/01/51	147	Personal, Community, Political, Economic
International Plant Protection Convention (IPPC)	03/04/52	182	Environmental, Economic
Equal Remuneration Convention	23/05/53	171	Community, Personal, Political, Economic
Discrimination (Employment and Occupation) Convention	25/06/58	172	Community, Personal, Political, Economic
Vienna Convention on Diplomatic Relations	24/04/64	190	Political, Community, Personal, Economic
WIPO Convention	14/07/67	188	Personal, Economic
International Convention on the Elimination of All Forms of Racial Discrimination	04/01/69	177	Personal, Community, Political, Economic
Treaty on the Non-Proliferation of Nuclear Weapons	05/03/70	190	Political, Community, Personal, Environmental
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	23/09/71	188	Personal, Community, Economic
Biological Weapons Convention	26/03/75	174	Health, Environmental
CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention)	01/07/75	181	Economic, Environmental
Single Convention on Narcotic Drugs	08/08/75	185	Health, Community, Personal
International Covenant on Civil and Political Rights	23/03/76	168	Personal, Community, Political

Convention on Psychotropic Substances	16/08/76	183	Health, Community, Personal, Economic
International Code of Marketing of Breastmilk Substitutes	21/05/81	118	Personal, Community, Health, Food
Convention on the Elimination of All Forms of Discrimination Against Women	03/09/81	189	Personal, Community, Health, Food, Economic
International Convention against the Taking of Hostages	03/06/83	174	Personal, Community, Political
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	26/06/87	159	Personal, Community, Political, Health
Montreal Protocol on Substances that Deplete the Ozone Layer	01/01/89	197	Environmental, Economic, Community
Convention on the Rights of the Child	20/11/89	193	Personal, Community, Health, Food
United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	11/11/90	189	Political, Personal, Community, Health, Economic
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal	05/05/92	183	Economic, Environmental
Constitution and Convention of the International Telecommunication Union	22/12/92	193	Economic, Community, Personal
Convention on Biological Diversity (CBD)	29/12/93	196	Environmental, Health, Food
United Nations Framework Convention on Climate Change	21/03/94	197	Environmental, Economic, Health, Food, Community

United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD)	26/12/96	196	Environmental, Food
Chemical Weapons Convention (CWC)	29/04/97	192	Political, Community, Personal, Environmental
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	19/11/00	180	Personal, Community, Political, Economic, Health
International Convention for the Suppression of the Financing of Terrorism	10/04/02	187	Political, Community, Personal, Economic
Cartagena Protocol on Biosafety to the Convention on Biological Diversity	11/09/03	170	Health, Environmental
United Nations Convention against Transnational Organized Crime (UNTOC)	29/09/03	186	Community, Personal, Political, Economic
Stockholm Convention on Persistent Organic Pollutants	17/05/04	180	Health, Environmental
Kyoto Protocol	16/02/05	192	Environmental, Economic, Community, Personal
The World Health Organization Framework Convention on Tobacco Control (WHO FCTC)	27/02/05	180	Health, Personal, Community, Economic
Weekly Rest (Industry) Convention	04/04/05	119	Economic, Community, Personal, Political, Environmental
Food and Agriculture Organization of the United Nations	28/04/05	191	Food, Health, Economic
Freedom of Association and Protection of the Right to Organise Convention	01/05/05	152	Community, Personal, Political, Economic

Right to Organise and Collective Bargaining Convention	02/05/05	163	Community, Personal, Political, Economic
Abolition of Forced Labour Convention	10/05/05	174	Community, Personal, Political, Economic
Employment Policy Convention	17/05/05	107	Community, Personal, Economic
Worst Forms of Child Labour Convention	21/06/05	177	Community, Personal, Economic, Political
United Nations Convention against Corruption (UNCAC)	14/12/05	178	Personal, Community, Political, Economic
Declaration on the Rights of Indigenous Peoples	13/09/07	143	Personal, Community, Political, Economic, Health

Despite being seen by many as a generalistic set of principles, human security indicators are daily utilized as instruments to detect state fragility and roots causes of social and political conflicts. Among the most efficient early warning systems using human security indicators is ECOWARN. Pursuant to Chapter IV of the 1999 protocol relating to the mechanism for conflict prevention, management, resolution, peacekeeping and security, a sub-regional peace and security observation system, known as the ECOWAS Warning and Response Network (ECOWARN), has been established. ECOWARN is operated by the ECOWAS Early Warning Department. The ability of ECOWAS to respond to mass atrocities committed at national level is dependent to the cooperation of its member states. According to the ECOWAS Treaty, territorial integrity must be respected. ECOWAS can only intervene in national issue if its Member States call for help. ECOWAS, though headquartered in Abuja, Nigeria, was more of an onlooker regarding the mass atrocities committed by Boko Haram. Nigeria has the largest army, most resources and equipment than any other country in West Africa. (Traore, 2016) When mobilized for atrocity prevention, common prevention measures must be used appropriately to target atrocity risk and avert the pitfalls of a conflict

prevention-dominant mindset, such as a blind culture of neutrality that treats all parties as morally equivalent, the pursuit of negative peace at any price in the face of a credible threat of atrocities, and the tendency to believe that prevention ends when violence begins. (Bellamy, 2009)

4. Responsibility to protect, duty to prevent

Sovereignty incorporates state responsibility, such as the one to protect all people inside a state's sovereign territorial jurisdiction. This responsibility also implies that when the state fails to protect all individuals within its borders, because it is unwilling or unable to do so, the international community should intervene proactively, acting through the United Nations – in a timely and decisive manner and in cooperation with governments and civil society organizations. (Thakur, 2011, p. 1)

4.1 Sovereignty as responsibility

The most extensive corpus of writings and reflections on the concept of sovereignty as responsibility is most probably associated with Francis M. Deng. First a diplomat for his native Sudan, later Special Representative of the UN Secretary General for Internally Displaced Persons, and finally Special Adviser of the UN Secretary General for the Prevention of Genocide, Deng has been a prolific academic, an active policymaker, and also a novel writer. Starting during his service as Special Representative for IDPs, Deng has elaborated very convincing arguments for the adoption of an interpretation of sovereignty that includes responsibility as one of its salient features, and fiercely advocated in the international arena for their adoption and implementation.

Scholars and practitioners usually consider the Peace of Westphalia in 1648 as "time 0" in the history of international relations. Indeed, Westphalia can be seen as the very first instance in which modern nation-states emerged, interacted among each other as such, and established the international order as we still conceive it nowadays. The settlement at

Westphalia is also usually considered a very key source for the understanding and interpreting the complex idea of sovereignty, around which much of international relations and international law revolves. The Peace of Westphalia is usually interpreted through the lenses of Realist theory, which sees in it the very first and most eminent formulation of some of its key assumptions, such as anarchy in international relations and absolute freedom of states to enjoy their sovereignty as they please. However, it is clear to Deng and to other scholars that the notion of sovereignty included a clear nexus with responsibility ever since its first formulation.

The contemporary understanding of sovereignty is one of sovereignty as responsibility. The idea that states have responsibilities towards their citizens is strongly reflected on some of the mandates of the state-building missions, such as the ones in Haiti, South Sudan, and East Timor, and in their subsequent state-building practices. These responsibilities amount to a new standard of civilization, the influence of which has been highlighted later in the work. This standard underlines the importance of legitimacy for sovereign authority, and outlines what the international community considers as legitimizing social purposes and procedures (Zaum, 2007).

Therefore, authority is central to the conception of sovereignty as responsibility. Sovereignty divides authority in two respects: internationally between political communities, and within a political community between state and society. To be legitimate, sovereign authority needs to be recognized by both international and domestic society. This requirement of legitimacy imposes a set of responsibilities on the state — responsibilities vis-à-vis other states, but in particular vis-à-vis its own population. These responsibilities constitute a standard of civilization, which in contemporary international society encompasses

democracy, human rights, the rule of law, effective government, and a free market economy. This standard describes the responsibilities a state has to fulfil in order for international society to recognize its political authority, thereby linking domestic legitimacy and the international recognition of authority (Zaum, 2007).

The nexus between sovereignty and responsibility arise from the very sources of legitimacy of modern nation-states. It was already clear at the time of Westphalia that States derived their sovereignty from the assumption that they speak and act on behalf of their people, thus embodying the spirit of the nation they aspired to rule (Deng, 2010, p. 360). In those cases where part of the citizenship is being neglected or abused by the State itself, the claim of the State to sovereignty is hardly defensible (Deng, 2010, p. 365). Secondly, when abuses of human rights create the preconditions for civil conflict, strife for self-determination, and multiple claims for sovereignty over a territory, the claim of a State to legitimate sovereign authority is at least questionable (Deng, 2010, p. 365). It is in this context that the idea of sovereignty as responsibility came about in the work of Deng, who was serving at the time as Special Representative on IDPs. Observing domestic conflicts arising because of neglect of parts of the population by the State, it appeared clear that managing prevention and resolution was responsibility of the State concerned. Thus, the concept of sovereignty as responsibility was formulated at first as state responsibility for domestic conflict management, including protection for vulnerable groups, as for example IDPs (Deng, 2011, p. 441).

While the above discussion points to the fact that sovereignty and responsibility are clearly linked in the domestic sphere, further discussion is needed to clarify the position of the international community vis-à-vis states that are unable or unwilling to fulfil such responsibility. To do so, it

is necessary to inquire one of the key paradoxes of the settlement of Westphalia. While upholding the primacy of State sovereignty, the Treaty declares that sovereign States create the international community, from which they also derive their legitimacy (Deng, 2010, p. 358). The fundamental implication of this paradox is that States can make legitimate claims to sovereignty only if their conduct respect internationally accepted standards of behaviour. Thus, in a post-WWII world order in which the international community recognizes respect of human rights one of the fundamental features of sovereignty, the only way for a State to defend the legitimacy of its sovereignty is to actually fulfil its obligations towards the welfare of its citizens (Deng, 2011, p. 445).

The settlement at Westphalia upheld the notion that States exist (among other things) to provide for international peace and security. In light of the fact that domestic conflicts most often produce detrimental spillover effect in neighbouring countries, thus constituting a threat to international peace and security, it can be further argued that States can be held accountable by the international community for not fulfilling their basic obligations towards their population. A first layer to which states can be held accountable can be identified in their regional framework for cooperation, with the global community being a higher and residual layer to which the State is nonetheless accountable (Deng, 2011, p. 441). The subordination of State legitimacy to international approval is not only dictated by the paradox at Westphalia, but is also necessary in practice for the safety of the population. It is clear that individuals who are victims of human rights abuses are not in a position to hold states accountable for their violations. Thus, the international community is the only force capable of speaking up for those who suffer and see to the prevention and punishment of human rights violations. (Deng, 2011, p. 442)

Seeing the evolution of human rights instruments and norms, sovereign states – but also International Organizations, Non-State actors and even individuals – are to be held accountable for not respecting obligations deriving from conventions and other binding mechanisms of international law. States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms are

4.1.1 From sovereignty as responsibility to the “Responsibility to Protect”

The above discussion should have pointed out two of the most salient features of the concept of sovereignty as responsibility. First, states are created to protect peace and security both domestically and internationally. Thus, no State can call itself sovereign unless it is capable of fulfilling its duty to provide basic security to its population. Second, sovereignty entails accountability to the international community, which in turn has a duty to complement the action of states in providing for the welfare of their citizens and eventually take action to prevent and punish abuses (Deng, 2010, p. 354-5). While these assumptions have always held true in theory, practice has developed differently for much of the post-Westphalian history. Surely until the end of WWII, the only responsibility ascribed to States was defence from foreign threats. At the same time, States enjoyed almost absolute freedom in domestic affairs.

The horrors of WWII created the conditions for a broad revision of the interpretation of sovereignty. With the adoption of the Genocide Convention in 1948, the Universal Declaration of Human Rights the same year, the Four Geneva Conventions in 1949, the Refugee Convention in 1951, and the Twin Covenants in 1966, it became increasingly accepted in

the international community that State sovereignty entails a fundamental obligation to respect at least basic human rights. (Deng, 2010)

4.1.2 International law and the Responsibility to Protect

While RtoP is indeed a very new, peculiar, and transformative phenomenon, some of its features are not as innovative as they might seem. It can be further argued that the respective duties of States and of the international community under RtoP were already in place through a combination of treaty law and customary law adopted throughout the last century, and especially in the post-WWII corpus of human rights treaties. This is particularly true for what concerns Pillar I, with Pillar III mostly relying on the UN Charter of 1945, and Pillar II resting on slightly less universal legal ground. Before entering further discussion, it is necessary to keep in mind that RtoP refers to a very narrow set of occurrences (genocide, war crimes, crimes against humanity, and ethnic cleansing), most of which are object of extensive international jurisprudence.

The general obligation to prevent and punish genocide is expressed in the Genocide Convention of 1948, which is one of the most broadly ratified human rights treaties ever (146 ratifications). Genocide is also prohibited under customary law and *Jus Cogens*. Similarly, the obligation to refrain from war crimes is contained in Common Article 1 of the Geneva Conventions, applies also in non-international conflicts under Common Article 3, and remains binding regardless of violations by adversaries. Ad hoc international tribunals (ICTY and ICTR) have confirmed that crimes against humanity are prohibited by customary law as violation of *Jus Cogens*. While the term “ethnic cleansing” has no immediate legal significance, it is clear that actions carried out to perpetrate ethnic cleansing would be prosecutable under one or more of the previous three mass atrocity crimes (Amnéus, 2013).

Despite mixed practice, the first pillar of RtoP is at least in theory supported by a broad majority of states and academics alike. Pillar II faces much broader scepticism. This is mostly due to the extraterritorial nature of the obligations that the second pillar seeks to establish. However, as it was found in the above discussion of Pillar I, most of the obligations to which Pillar II refers are already existent under international treaty and customary law. As a matter of fact, the ICJ stated in 1996 that the obligations to prevent and punish the crime of genocide are *erga omnes* and non-territorial in nature⁷³. Similarly, Common Article 1 of the Geneva Conventions establishes an extraterritorial obligation for States to make sure that humanitarian law is respected. The obligations for the prevention of crimes against humanity do not share the same extra-territorial reach as the ones regarding genocide and war crimes. However, it can be argued that transnational obligations for prevention arise from the peremptory nature of the norm in analysis, from customary law, and from *jus cogens*. (Amnéus, 2013)

4.1.3 The United Nations and the Responsibility to Protect

In the post-Cold War scenario, increasing attention has been given to the need to redefine State sovereignty to include not only rights but also duties. This trend is significantly transforming international relations in an unprecedented way. In this context, one of the most relevant ensuing tendencies is the growing consensus, within the international community, on the emerging norm of the Responsibility to Protect.

⁷³ *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections, Judgment*, ICJ Reports 1996, para. 31.

The concept of the Responsibility to Protect was first mentioned in the report by the International Commission on Intervention and State Sovereignty (ICISS), which was set up by the Canadian government in 2000 as a response to the 1994 Rwandan genocide, where there was an international inaction to prevent or halt the occurrence of the genocide. Specifically, the key innovation of the ICISS "*The Responsibility to Protect*" report, released in 2001, was the re-framing of the concept of "humanitarian intervention" as Responsibility to Protect. Indeed, in the series of speeches and reports he made and wrote in 1990s, UN Secretary-General Kofi Annan recalled the failures of the UN Security Council in acting in a decisive manner in Rwanda and in the Balkans and, hence, asked to the international community: "If humanitarian intervention is an unacceptable assault on sovereignty, how should we respond to Rwanda and to gross and systematic violations of human rights every precept of our common humanity?" With this question, Secretary-General Kofi Annan also asked for a reconceptualization of the concept of sovereignty as he wondered whether state sovereignty was also conferring a primary responsibility to protect the people within its borders.

Probably, indeed, the most interesting characteristic of the Responsibility to Protect is its implications for state sovereignty. Ever since its formulation by early social contract theorists, sovereignty derives its legitimacy from the people who choose to alienate part of their freedom in favour of a sovereign that, in turn, is charged with some duties, the most important of which is the provision of security. Ever since the Peace of Westphalia (1648), where modern nation-states made their first appearance, the security function of the sovereign has been mostly interpreted as limited to external security, with little or no attention to the treatment of domestic residents (Le Fevre Cervini, 2014). Arguably, the Responsibility to Protect is seen by many as a norm that aims at re-

establishing the original meaning of sovereignty in terms of responsibility within the framework of social contract theory (Deng et al., 1996).

The ICISS's report had a strong impact on the international community as a whole as it suggested that when a State failed to protect its people – either through lack of ability or lack of willingness- the responsibility was shifted to the broader international community. ICISS recognized the evolution and continuing wide and popular usage, of the term “humanitarian intervention,” but decided not to adopt this phrase.

When commemorating the 10th anniversary of the 1994 genocide in Rwanda, UN Secretary-General Kofi Annan announced the future appointment of the Special Advisor on Genocide Prevention and launched an Action Plan to Prevent Genocide in one of his speeches in Geneva. As he highlighted during the speech, the Five Point Action Plan⁷⁴ concerned the prevention of armed conflicts, the protection of civilians during armed conflicts, the halt of impunity through judicial action, the processes of information gathering and early warning through a UN Special Adviser for Genocide Prevention, and the development of a swift and decisive action. As a result, in July 2004, he appointed Juan Méndez, an Argentinean human rights lawyer, as the first Special Adviser for the Prevention of Genocide (SAPG), who would have been supported by the High Commissioner for Human Rights, but would have been reported directly to the UN Security Council to gather extant information, act as an early

⁷⁴ On April 7, 2004 in a speech in Geneva commemorating the 10th anniversary of the 1994 Genocide In Rwanda, UN Secretary General Kofi Annan announced his future appointment of a Special Advisor on Genocide Prevention and launched an Action Plan to Prevent Genocide. The Five Point Action Plan includes 1) preventing armed conflict which usually provides the context for genocide, 2) protection of civilians in armed conflict including a mandate for UN peacekeepers to protect civilians, 3) ending impunity through judicial action in both national and international courts, 4) information gathering and early warning through a UN Special Advisor for Genocide Prevention making recommendations to the UN Security Council on actions to prevent or halt genocide, and 5) swift and decisive action along a continuum of steps, including military action.

warning mechanism, and make recommendations to the UN Security Council through the UN Secretary-General.

In support of the ICISS's report, the High-Level Panel on Threats, Challenges and Change, "A More Secured World, Our Shared responsibility" reaffirmed the importance of switching the terminology and, therefore, endorsed the statement affirming that the international community does not have a 'right to intervene,' but a 'responsibility to protect.' The main outcome of the panel set up by Kofi Annan was the suggestion of developing some specific indicators to legitimize and authorize the use of force by the UN Security Council based on the seriousness of the threat, the importance of using the force as a last tool available to halt a violation of human rights, and the proportionality of the response. Additionally, he stated that "There is a collective international responsibility exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing and serious violations of humanitarian law which sovereign governments have proved powerless or unwilling to prevent."⁷⁵

Indeed, prevention also required apportioning responsibility to and promoting collaboration between concerned States and the international community. The duty to prevent and halt genocide and mass atrocities lies first and foremost in the State, but the international community also plays a role that cannot be blocked by the invocation of sovereignty. Sovereignty no longer exclusively protects States from foreign interference; it is a charge of responsibility where States are accountable for the welfare of their people. This principle is enshrined in article 1 of

⁷⁵ Abdulaziz Al-Nasser, Nassir. Ki-moon, Ban. A Year at the Helm of the United Nations General Assembly: A Vision for Our Century. NYU Press: 2014. 4. Web. 20 Apr 2016.

the Genocide Convention and embodied in the principle of "sovereignty as responsibility" and in the concept of the Responsibility to Protect.

This main outcome of the panel was included in the report of the Secretary-General, who added a list of proposed criteria that should have been applied for the authorization of the use of force in case of specific crimes, such as genocide, war crimes, crimes against humanity, and ethnic cleansing. The report was divided into four sections depending on the priorities for action in the fields. As major priorities, Kofi Annan identified development, security, and human rights over global institutions, mainly concerning the United Nations and its need to improvement.

The 2005 UN Summit agreed on this change as well. A former judge of the Supreme Court of Canada has claimed the main differences between the two concepts. Politically, the instinctive aggression of a large number of former colonized countries to 'humanitarian intervention' is justified by the brutal exploitation and cynical hypocrisy. "Insistence on the discredited and discarded discourse by self-referencing western scholars amounts to blatant disrespect to them, ICISS and all the various groups of actors who have embraced RtoP as an acceptable replacement."⁷⁶ Conceptually, while RtoP overturns the internal relationship between the state and its citizens, and defines the way both authority and jurisdiction are distributed between states and the international community; 'humanitarian intervention' defines it in relation to different states. Normatively, 'humanitarian intervention' discards the concept of non-intervention, thus favouring the perspectives and rights of the intervening states. On the other hand, RtoP re-conceptualizes the concept of sovereignty as responsibility, connects it to the human protection laws, bypasses without

⁷⁶ Thakur, Ramesh. "The Responsibility to Protect at 15." *International Affairs* 92:2. The Royal Institute of International Affairs. 2016. 418. Web. 20 Apr 2016.

any rejection the concept of non-intervention and tackles the issue from victims' side. Procedurally, RtoP can only be legitimated by the UN Security Council while 'humanitarian intervention' is agnostic between the UN Security Council and unilateral interventions. Operationally, the protection of victims from mass atrocities or crimes against humanity requires different and specific guidelines and rules of engagement between international institutions and actors, where the priority is always given to the protection of civilians over the safety and security of the intervening states.

The 2005 UN World Summit saw world leaders agree on the need to embrace the Responsibility to Protect as all States were considered responsible for helping protect people threatened with the above-mentioned crimes. Furthermore, it was established that whether peaceful means, including diplomatic and humanitarian actions, were insufficient or inadequate, the international community should have acted collectively in a "timely and decisive manner" on a case-by-case basis and in cooperation with regional organizations if necessary.⁷⁷

In response to the need to focus on the duties of the states and the role of the Security Council in addressing the needs of vulnerable populations, including refugees, internally displaced persons, women, and children, the Security Council unanimously adopted Resolution 1674 on the Protection of Civilians in Armed Conflict on the 28th of April 2006. This resolution gained global attention because it contains the first official Security Council reference to the responsibility that States have to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. The need to implement the UNSC Resolution 1674 appeared clear in August 2006, when the Security Council passed the

⁷⁷ ICRtoP. Paragraphs 138-139 of the World Summit Outcome Document. 15 Sep 2005. Web. 20 Apr 2016.

Resolution 1706 to authorize the deployment of UN peacekeeping troops to Darfur, Sudan. Following the first official open debate on the Protection of Civilians in Armed Conflict, UN Secretary-General Ban Ki-Moon sent a letter to the UN Security Council President, Mr. Pascal Guyama, proposing the creation of a new position for the Special Adviser on the Responsibility to Protect with the aim of strengthening the concept.

Today, the work of the Special Adviser on the Prevention of Genocide should be viewed in conjunction with the closely related work of the Special Adviser on the Responsibility to Protect who focuses on developing the conceptual, political, and operational aspects of the Responsibility to Protect. In order to eliminate redundancy and maximize effective use of resources, the Secretary-General directed the two former Special Advisers in 2007 to form a joint office and merge their functions and activities.

To the UN Secretary-General's proposals, some Member States reacted by arguing that the RtoP norm lacked clarity and that a specifically RtoP-related mandate was not fully endorsed by all member States; some of them stressed also to have denied their endorsement of the concept as a norm in the World Summit Outcome Document (WSOD). On the contrary, some Member States proposed that the General Assembly should have formally discussed the implementation process of the commitment in the WSOD, mainly in Paragraph 139, before making a decision about the Ban Ki-moon's proposal concerning the new position. This debate started in relation to the Paragraphs 138 and 139 of the WSOD that later became the cornerstone of the concept of the Responsibility to Protect:

"138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that

responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.”

As suggested by most Member States, UN Secretary-General Ban Ki-moon offered clarity on the concept of the Responsibility to Protect in his speech “Responsible Sovereignty: International Cooperation for a Changed World” in July 2008. Most importantly, his speech represented a pivotal first expression from the Secretariat on what the concept was and was not, the challenges in advancing it, and the personal commitment of the United Nations in turning it into policy. Three months later, in response to reports

of ethnic-based violence in the Democratic Republic of Congo, the office of the Special Adviser on the Prevention of Genocide chose to conduct a mission and focused his analysis on the situation in North Kivu in view of the dramatic deterioration of the country and the escalation of tensions. The outcome of the mission was conveyed to the UN Security Council in March 2009, in the report S/2009/151, where the Special Adviser on the Prevention of Genocide underlined the root causes of the conflict in the Democratic Republic of Congo as being primarily political and economic. However, the Special Adviser also pointed out the alarming risk of ethnic targeting in North Kivu as well as the extreme polarization and the hatred that strongly characterized the country at the end of 2008.⁷⁸

A great peak in the evolution of the concept of the Responsibility to Protect was reached in January 2009, when UN Secretary-General outlined the specific measures and actors involved in the operationalization and implementation of the concept through the translation of the paragraphs 138 and 139 of the WSOD into the so-called “three pillar approach.” Specifically, these are:

1. *“The protection responsibilities of the States (sect. II). The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement;*
2. *International assistance and capacity-building (sect. III). The international community has a responsibility to encourage and assist States in fulfilling this responsibility;*
3. *Timely and decisive response (sect. IV). The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these*

⁷⁸ Office of the Special Adviser on the Prevention of Genocide. “Work of the Office.” http://www.un.org/en/preventgenocide/adviser/country_situations.shtml

crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the Charter of the United Nations."⁷⁹

The key assumption lying behind the first pillar aims at making any sovereign liable for neglecting its most basic functions. Similarly, the second pillar of RtoP is grounded on the assumption that states failing in performing their basic duties can call upon the international community to assist them. Finally, the third pillar of RtoP wants to reinforce the idea that, in light of the extant nexus between sovereignty and responsibility, international interventions to enforce or protect peace and security are indeed legitimate in those cases when the state is failing in providing basic security or is itself the perpetrator of violence (Le Fevre Cervini, 2014).

These responsibilities were also recalled in May 2009, when the Special Adviser on the Prevention of Genocide made a public statement and published an Opinion Editorial in which he reminded the parties to the conflict in Sri Lanka of these *obligations*, as thousands of civilians have already been killed and there were severe reports against both parties of violations of human rights and humanitarian law.⁸⁰ Four months later, there was the first General Assembly's Resolution, the so-called A/RES/63/308 that was co-sponsored by 67 member States in which the Assembly made the decision to continue its consideration of the concept of the Responsibility to Protect. In the meantime, the UN Security-Council passed the Resolution 1984 to reaffirm its commitment to prevent the victimization of civilians during armed conflict and halt on-going violence against civilians around the world, thus stressing again the importance of

⁷⁹ Office of the Special Adviser on the Prevention of Genocide. "The Responsibility to Protect." <http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>

⁸⁰ Office of the Special Adviser on the Prevention of Genocide. "Work of the Office." http://www.un.org/en/preventgenocide/adviser/country_situations.shtml

paragraphs 138 and 139 of the WSOD concerning the responsibility that the international community has to protect populations from war crimes, crimes against humanity, ethnic cleansing, and genocide.

In March 2010, Special Adviser Francis Deng participated in a mission in West Africa upon Government's invitation to investigate the escalation of tensions in Guinea and whether it could have represented a potential threat to the peace and stability of the country, as well as a potential for genocidal violence. The Special Adviser made a public statement in June of the same year, highlighting that there was a moderate risk of genocidal violence and recalling the obligation of the Transitional Government of Guinea to protect and ensure its population without any discrimination. At the same time, there were also concerns on the mass displacements that were going on in Uzbekistan from South Kyrgyzstan, as it was likely that on-going violence could have led to the occurrence of an ethnic cleansing. Hence, Special Advisers Francis Deng and Edward Luck pushed the Interim Government to offer assistance and security to its population in the name of its Responsibility to Protect.

In June 2010, UN Secretary-General realized the importance of associating the concept of the Responsibility to Protect with the one of the Responsibility that the international should have to prevent armed conflict. Indeed, in his "Early Warning, Assessment, and the Responsibility to Protect" report, he identified the abilities and gaps of the extant early warning strategies and mechanisms, noting that the latter should have been focused more on the prevention of armed conflict, rather than conducted through the so-called "RtoP lens." Contemporarily, he also stressed the role that political leaders usually played in exploiting ethnicity, religion or any other division factor to reach their political goals; on the contrary, he stated, they should have fostered unity and dialogue as part of their responsibilities. Additionally, Special Advisers Deng and

Luck twice pointed out the existence of the risk of genocide, war crimes, crimes against humanity, and ethnic cleansing and reminded the entire international community of its responsibility to prevent these crimes, including their incitement, and to protect its populations during their occurrence.

In February 2011, the Special Advisers on the Prevention of Genocide issued a statement concerning the fragile situation of the civilians in the Socialist People's Libyan Arab Jamahiriya, who were constantly attacked by military forces and aircraft. Specifically, the Office recalled the Responsibility to Protect and incited the Libyan government to provide its population with their right to be protected from the risk of genocide, war crimes, ethnic cleansing, or crimes against humanity. A month later, the same situation occurred in Abyei, Sudan, where the escalation of tensions pushed the Special Advisers to understand the urgent need to ensure the deployment of peacekeepers and staff of the United Nations in Sudan to protect civilians, internally displaced persons, and most vulnerable groups. A month later, the Australian Permanent Mission to the United Nations in Geneva reminded of the Human Rights Council's role in contributing to the development of long-term strategies to help states exercise the principles of the Responsibility to Protect.⁸¹ This joint statement was issued mainly due to the persistent reports of widespread and systematic human rights violations by Syrian security forces and aimed at calling the international community to end the on-going violence and as well as the government to allow humanitarian access to fragile areas.

In July 2011, UN Secretary-General highlighted the need for the Security Council and regional and sub-regional organizations to advance legitimacy to each other and frame the role of such arrangements through the three-

⁸¹ ICRtoP. Key Developments on the Responsibility to Protect on the United Nations from 2005 – 2014. <http://www.responsibilitytoprotect.org/index.php/about-rtop/the-un-and-rtop>

pillar approach norm, thus offering ideas for areas of collaboration. The need for cooperation was necessary mainly due to what was going on in the world. Indeed, in Sudan, the Sudan Armed Forces (SAF) had targeted the civilians in Southern Kordofan and in Blue Nile, committing serious violations of human rights that could have been assessed as crimes against humanity and ethnic cleansing. Therefore, Special Advisers Francis Deng and Edward Luck issued a statement, reminding the Sudanese Government of the responsibility it had in protecting its population from war crimes, genocide, ethnic cleansing, and crimes against humanity without any discrimination.

A similar situation occurred in Syria, in February 2012, where the Special Advisers expressed concerns regarding the countless violations of human rights that were taking place between different internal Syrian communities. In the same month, Member States and civil society analysed a concept note transmitted by the Permanent Mission of Brazil to the United Nations. Specifically, the concept note included the need for implementing the responsibility that States had while protecting and, hence, all the elements for the development and the advancement of a concept that was first presented to the UN Security Council in 2011 during the twelfth open debate on the protection of civilians by the Permanent Representative of Brazil to the United Nations. To strengthen the concept of the Responsibility to Protect, UN Secretary-General also discussed the “third pillar” of RtoP in August 2012, emphasizing the non-coercive and coercive tools available to implement it and stressing the role played by all actors of the international community in the implementation process of the concept.

In December 2012, Special Adviser Adama Dieng issued a statement concerning the increasing risk of sectarian violence in Syria, as the civilians represented the biggest number of victims of war crimes and

crimes against humanity. In March 2013 the UN Security Council passed the Resolution A/HRC/22 to commemorate the 65th anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide. Two months later, a group of Member States promoted the Accountability, Coherence and Transparency (ACT) Initiative to incite the UN Security Council in functioning more effectively and in punishing the non-Council Member States in contributing more proactively on matters of peace and security.

In July 2013, Dr. Jennifer Welsh was appointed as the new Special Adviser on the Responsibility to Protect and pointed out her main role concerning the mainstreaming of the RtoP norm as well as the promotion of Pillar II of the concept.

In August 2013, UN Secretary-General published the fifth report entitled "Responsibility to Protect: State Responsibility and Prevention," which was focused on the primary responsibility of all Member States in protecting their populations from RtoP crimes and violations. In October, French Foreign Minister Laurent Fabius proposed the implementation of the so-called "code of conduct," regarding the necessity for the UNSC five permanent members not to invoke their veto power in case human rights violations amounted to mass atrocities. In March 2014, Special Adviser Adama Dieng took the opportunity to emphasize the importance of recognizing early warning signs and responding in a timely and decisive manner to emergencies and crises, so as to prevent the escalation of conflicts into severe human rights violations, such as the ones highlighted within the scope of RtoP.

To support the work done by the Special Advisers, the UN Security Council passed the Resolution 2150 on the Prevention and Fight against Genocide, in which it was recalled the important role of the Special Advisers in acting as early warning bodies to prevent the four crimes within RtoP. Based on

the notable position of Dr. Welsh towards Pillar II, UN Secretary-General published the report entitled "Fulfilling our Collective Responsibility: International Assistance and the Responsibility to Protect" in August 2014. A year later, he also published the seventh report on RtoP, where he assessed the evolution of the concept and identified the main challenges and opportunities for its implementation. Additionally, he pointed out six core priorities for the international community to be undertaken with the aim of advancing the norm. Respectively, these six priorities were:

1. *"Signaling political commitment at the national, regional and global levels to protect populations from atrocity crimes;*
2. *Elevating prevention as a core aspect of the responsibility to protect;*
3. *Clarifying and expanding options for timely and decisive response;*
4. *Addressing the risk of recurrence;*
5. *Enhancing regional action to prevent and respond to atrocity crimes;*
6. *Strengthening international networks dedicated to genocide prevention and the responsibility to protect.*"⁸²

4.1.3.1 Pillar II and the duty to cooperate

While it is clear under international customary and treaty law that States have a duty to prevent mass atrocity crimes, be they within their territory or outside of it (at least for what concerns genocide and war crimes), the obligations to cooperate for prevention is not yet crystallized under international law. (Amnéus, 2013, p. 30) In this context, the duty to cooperate is to be considered as *lex ferenda* ("law as it should be") to which the international community should aspire to better achieve broader peace and security. (Amnéus, 2013, p. 31)

⁸² UN Secretary-General. "A vital and enduring commitment: implementing the responsibility to protect." United Nations. 13 Jul 2015. Web. 20 Apr 2016.

The observed paradox of the international community 'forcing states to be sovereign' reveals a deeper tension in liberalism: the tension between the aim of creating a liberal order within a society, and the means used to attain it. At the core of the doctrine of liberalism there is the concern with individual agency, which finds expression in the principle of self-determination. For classic liberals like John Stuart Mill, this meant that an individual has the right to choose its own political institutions, and that government institutions cannot be imposed externally. According to Art. 1 of the International Covenant on Civil and Political Rights, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." The drafting of this article emphasizes the role of individuals within their societies and, more in general, in the international community.

Liberals see the state as the 'servant of society,' protecting the liberties of its citizens, and allowing citizens to exercise their agency by protecting them from interference by other states. However, a tension arises when a state cannot or does not want to protect its citizens. Then, the establishment of a liberal order may rely on some form of coercion by imposing liberal institutions of government externally, thereby denying the citizens of this state their choice of political institutions, and thus their agency and right to self-determination. (Zaum, 2007) State priorities, however, are increasingly subject to interstate forces over which they have limited control. (Roberts, 2008)

The contemporary understanding of sovereignty is the one of sovereignty as responsibility. The idea that states have responsibilities towards their citizens is reflected both in the mandates of the state-building missions in Haiti, South Sudan, and East Timor, and in their subsequent state-building

practices. These responsibilities amount to a new standard of civilization, the influence of which has been highlighted by the case studies. This standard underlines the importance of legitimacy for sovereign authority, and outlines what the international community considers as legitimizing social purposes and procedures. (Zaum, 2007)

As already mentioned, in 2000, the International Commission on State Sovereignty, a Canadian-sponsored group of elite policymakers and lawyers, published a document outlining the existence of the "Responsibility to Protect." (ICISS 2000) This idea received further elaboration and status in the Secretary-General's High-Level Panel on Threats, Challenges and Change in 2004, and was endorsed by Kofi Annan himself in his major reform statement, *In Larger Freedom* (2005). The doctrine is grounded in two uncontentious propositions and two more novel formulations. Advocates of a responsibility to protect argue that sovereign states have a duty to protect the human rights of their own citizens (this seems self-evident given the slew of human rights conventions to which states have signed up) and that the Security Council has a right to authorize humanitarian interventions to protect acutely vulnerable people (this, too, is unremarkable given the language of Chapter VII and, in particular, Article 39).

These two norms, of course, give no protection at all to the victims of Rwandan - or Guatemalan - style genocides. They are the victims of pathological sovereign states (their own sovereign state) and passive international organizations. The High-Level Panel, then, suggests two supplementary norms. The first provides a duty or responsibility on the part of the international community to take action against states. In particular, the Security Council is required to engage in a policy analysis, guided by a normative framework. The second norm might permit states

to act unilaterally where there has been no response from either the host state or the responsible international organization.

This “responsibility to protect” principle is preoccupying international lawyers at present precisely because it draws together the three themes that form the core thesis of this chapter. It negotiates with a legalist pacifism that wants to constrain force through law and forbid uses of force whose justification is derived from supervening and highly contested notions of humanity. It offends a sovereign centrism that insists on the inviolability of borders and is suspicious of the motives and intentions of the great powers. Lastly, it advances a programmatic, cosmopolitan conception of community, and furnishes that community with reasons and justifications for using military violence to advance or protect its key values. This is the very stuff of the *ius ad bellum* and represents the past, present and future of collective security discourse. (Simpson 2009 – in Amstrong, 2009)

4.2 Human security and the Responsibility to Protect principle

Today, like human security, RtoP falls short of a legal norm, but is intended to guide state action in responding to serious threats to communities. RtoP has considerable support among states, and there is a concerted effort by some governments, NGOs and international organisations to 'operationalize' it so as to transform the theoretical doctrine into working programme of action.

RtoP is more promising than 'human security' in addressing climate-induced displacement because it is a relatively well-defined and circumscribed doctrine, built around the existing planks of international law and intended to harmonise with the role of the UN Security Council under the UN Charter, rather than to subvert it. As a concept, it is more precise and workable than the nebulous idea of 'human security,' from which concrete standards do not yet flow.

On the other hand, some of the criticisms of human security cross over to taint RtoP –it is a discretionary political agenda, subject to political whims and pragmatic tendencies, and which lacks the binding force of hard law, at least until such time as it crystallises (if ever) into customary law norms. Soft norms evidently constrain action too, though the tendency (particularly in the human rights field) is to take them less seriously than harder rules. The other danger inherent in RtoP is its militant tendencies towards protecting human rights through violence, which is an inapt paradigm for climate-induced displacement. (McAdam & Saul, 2009)

4.3 Non-State actors and human security

Non-State actors play a pivotal role in human security. Human security requires the involvement of civil society actors to work as agents of change and opportunity, but also as warning bodies.

According to Tadjbakhsh and Chenoy, who have studied the complexity of human security, democracy reflects the following definition:

"The principles of democracy can provide the best environment for securing political and social freedoms especially in post-conflict situations. Empowering and inclusive governance systems provide security better than military defence measures. Enlisting the support of civil society in the promotion of human security by helping in early detection, providing feedback into policy making processes, partnering with the state to provide protection and assistance, and in influencing public opinion is a key element of credible governance. Civil society advocacy groups ensure that the issues and concerns of socially, economically and politically marginalized groups are placed on the policy agenda.

Finally, participation constitutes contributing to development, benefiting from development and taking part in decision-making about development. Empowerment of the people is thus a crucial aspect of honouring the state–society contract. For this, the prerequisites are an informed and mature civil society, and freedom of choice as well as freedom of action, provided through information and consultation, which allows people to voice grievances and discontent. Participatory planning raises commitments, enables people to ensure focus on their human security needs, and to contribute their own human and financial resources. Ultimately, sharing power and responsibility lightens the burden for all

involved, thereby accelerates development.” (Tadjbakhsh e Chenoy, Human Security. Concepts and implications 2007)

4.3.1 The responsibility of non-state actors

Communities are suggested to play an essential role in ensuring that all individuals are equally included and treated with the full respect just by the fact that they are humans, as it ends in themselves. A good example is to guarantee that none of them is subjected to any kind of discrimination, whether their race, ethnicity, gender, sexual preference, religious background, or disability. Discrimination, which often leads to humiliation, generates hate, and creates divisions among people belonging to the same community, not only violates the common meaning of justice, but is also discordant with the treatment of people as they share the common value of humanity. Therefore, the State should be the ultimate actor to ensure that this mistreatment does not take place. The terroristic attack of 9/11 brought millions of Americans, who believed otherwise, to change their minds and abandon discrimination. (Etzioni, Foreword 2002)

"State-sponsored care and social protection in all of the advanced industrialized countries have entered a new era, marked not just by a temporal rotation but also by material developments that have deep and lasting implications. In the United Kingdom, Tony Blair's New Labour policies show no hesitation in privatizing the delivery of public services; the Social Democrats in Sweden have initiated the partial privatization of old-age pensions; reforms in Germany have introduced significant incentives for citizens to open private pension accounts for their old age; and throughout Europe and the United States changes in unemployment, disability, and social assistance

programs have demonstrably qualified historic rights to public aid by a persistent emphasis on the responsibility to work and to be independent.” (Gilbert 2002)

According to Blatz, the concept of security can be interpreted as both all-inclusive and all-pervasive. When he defines it “all-inclusive,” he refers to the fact that human security should be involved in each and every aspect of an individual’s behaviour and in all areas of his life. When he defines it “all-pervasive,” he refers to the fact that human security is also incorporated in all the actions of all individuals, in all places and at all times. “This does not mean that security is to be considered a panacea for all the world’s ills, or as a new form of religion. It is a system of psychology which meets the criteria of being both comprehensive and consistent.” (Blatz 1967)

In the aftermath of World War II, States have signed and ratified a large amount of human rights treaties and conventions, shifting the view from the Westphalian model to the International law one. Specifically, human rights treaties did not create bilateral rights and duties among States, but rather focused on conferring rights on individuals within their jurisdiction and on the State responsibility to do so. According to this process, it is possible to say that States created the international legal personality for the individuals, meaning that an individual become the bearer of rights and duties, thus limiting their sovereignty. On the other hand, it is also argued that international human rights treaties did not create rights under international law for individuals, but the obligations of States to respect, protect, and promote the human rights of individuals within their jurisdiction, with the other States Parties. In this view, States created reciprocal human rights obligations, as well as the possibility to take each other to task in case of human rights violations, as human rights duties can be seen as *erga omnes* obligations. This research will consider human rights as international entitlements of individuals, which all States

Members to the most notable human rights treaties undertake to respect, protect, and foster.

Because of the collapse of state control, threats to human security have recently increased, both because civilians have become direct targets of violence and because of the emergence of organized crime groups and the escalation of random violence occurring in these unstable situations. (Bruderlein 2000) Bruderlein affirms that, even though there has been a major presence of non-state armed groups in domestic wars, international humanitarian law (IHL) and human rights standards offer only limited opportunities to convince armed groups to obey, and also these tools are not clear enough about the responsibility that these actors should have as well as about the one that the international community should have in addressing potential threats. On the other hand, a wide range of international norms has been developed to provide state actors with a comprehensive framework, clarifying the conduct and the rights of their combatants and assessing their responsibilities for *jus cogens* violations. The ambiguity between the roles of both state and non-state actors enhances the extent to which the development of humanitarian law has been affected by political considerations, denying dramatically the ability of armed groups to jeopardize human security.

Despite the critical role of armed groups in internal conflicts, human rights law is *de jure* applicable only to state entities, IHL offers only general principles of protection under common Art. 3 of the four Geneva Conventions and some rules of engagement in Additional Protocol II, and RtoP are namely meant to describe the responsibilities of states and of the international community towards them. (Bruderlein 2000)

IS is a non-state actor, as it is a group of insurgents in both Iraq and Syria, that is responsible for severe human rights violations, including genocide and crimes against humanity. The international community has

reacted, not preventively and not unilaterally, to these violations by supporting the authorities in Iraq and Syria in their fight against IS.

Most armed groups would perhaps be not able to adequately respect their obligations under international treaties, as they lack capacity or willingness to meet international standards in their operations. (Bruderlein 2000) In the case of IS, its unwillingness became clear when they declared that Sharia law was going to be the solely law they were willing to observe. However, Sharia law includes the respect for certain standards of fundamental human rights principles as well. The Cairo Declaration on Human Rights in Islam is an acceptable framework that highlights the fundamental human rights principles recognized and set up by a group representing all Muslim majority nations. There are no expectations in thinking that IS will respect these norms. At the international level, there are many available sources for the international community to plan more tangible measures to both judge non-state actors when they fail in protecting populations under their control and to punish the States and the individuals responsible for enabling non-state actors to acquire belligerence and control capabilities.

As the recognition of rebels as international legal persons might be based on the attitude of other subjects, (Cassese, 2005, p. 126) the international community acknowledgment of IS could help promote accountability. Along these lines, the UN Security Council met for an "Arria formula meeting" on the Responsibility to Protect (RtoP) on 14 December 2015. This meeting did not only involve the Security Council Member States, but also experts from civil society and representatives from international organizations, who gathered to address the role of RtoP in relation to non-state actors.

The main focus of the Arria Formula meeting was selected based on the fact that, although States play the most relevant role in the implementation of RtoP, a variety of other actors can also directly or indirectly contribute to the promotion of the norm. This set of actors includes non-state actors, meant as international non-governmental organizations, national civil society organizations, community and religious leaders, media, and the private sector.

When the three pillars of RtoP were introduced, it gained a wide support among governments, as they recognized the need to exhaust all available diplomatic and peaceful tools before the use of military force to protect populations. Almost every participant pointed out the importance of prevention, with several states, respectively Angola, Malaysia, and Italy, stressing for the implementation and enforcement of the existing early warning systems in this regard. Dissimilarly, some states, such as Russia and China, emphasized that the role of the international community in the promotion of the norm should have been supplementary to the one of the State, as the latter should have fulfilled the primary responsibility to protect its own populations. The Representative of Chad added that RtoP should not be used to pursue State interests, thus becoming a norm enabling one state to destroy another; indeed, both Chad and Russia called for the application of RtoP in Libya, hurting, more than helping, the possibility to halt the Libyan crisis. Additionally, Venezuela pointed out the existing overlap between the prevention agendas of RtoP, peacebuilding, and conflict resolution, emphasizing that the international community should have made most efforts in the reinforcement of peaceful resolution of conflicts and peacebuilding rather than intervention.

Some states referenced the 10th anniversary of the universal adoption of RtoP at the 2005 UN World Summit. Many states agreed with the initiatives aimed at limiting the use of the Security Council veto in cases of mass atrocities, including Belgium, France, Italy, Jordan, Lithuania,

Malaysia, New Zealand, and the United Kingdom. There were also numerous applications concerning the inclusion of international NGOs, local communities, the media, civil society, and the private sector in the protection of civilians.

The persistent issue of the role of non-state armed groups in the implementation of RtoP was largely analysed as well; though, some states, such as U.S., affirmed that the examination of this recent issue should have not relieved States of their primary responsibility to protect their populations. Some governments, such as those of Chad, Italy, and Belgium, stressed the necessity to deny tools and resources to these groups, when addressing the need to halt impunity and hold all actors of global governance accountable.

An initial strategy was planned to deny to non-state armed groups the tools to commit atrocity crimes, advocating for the denial of legitimacy and credibility, space and time (to limit a group's hold on a territory), financial and material resources, an audience for incitement, radicalization, and recruitment, as well as the tools to commit such mass atrocity crimes.

Meanwhile, the international community was called to never give up in insisting that non-state actors should have be subjected by the rule of international humanitarian law; nor can it agree in case governments carry out indiscriminate attacks during counter-terrorism efforts. When addressing the issue of non-state actors in the international framework, the importance of both comprehending the context and adapting existing means based on it becomes necessary, including early warning and planning tools. Many scholars argue that Security Council should be more open to discuss the possibility of atrocities and assessing risks at an earlier stage. This objective can only be reached through holding more meetings, sending more observation forces, or better equipping peace

operations, in a way they can properly respect their mandates. Furthermore, to deeply address the challenge of non-state actors, the Security Council should be also willing to pay more attention to post-conflict situations.

The Group of Friends of the Responsibility to Protect Statement, as delivered by the Netherlands, followed a clear path through the three pillars of RtoP. It thus showed how States, under Pillar 1, should take actions to restrain the abilities and resources of non-state actors to violate human rights. The Group of Friends also noted that non-state actors can support States to respect and promote their primary RtoP, under Pillar II. The Group also pointed out the need to develop concrete strategies to end impunity for perpetrators of these crimes. States should also make sure that their own armed forces are safeguarding international humanitarian law and, hence, not violating human rights principles. Furthermore, the statement highlighted that in the cases in which Pillar 3 actions are required, such actions should be aimed at enforcing states' abilities to face the challenge of non-state armed groups.

4.3.2 Non-state actors endangering human security and human rights

International and national universal normative bases of human security are loosely established in the laws which provide for human rights protection and humanitarian and refugee laws.

In the realm of non-state actors, however, there are insurgents, groups enacting political and military dissidence "within a sovereign State [that] results in large-scale armed conflict, with rebels succeeding in controlling a modicum of territory and setting up an operational structure capable of effectively wielding authority over the individuals living there." (Cassese

2005) IS originated as a religious-political rebellion in Iraq and, as of today, does control a large portion of territory extending between Iraq and Syria, "including multiple urban centres, and its religious-political project has managed not only to sustain governance, but to expand it." (Lister 2014) This description fits IS as an insurgent group.

The Darfur Commission ruled that "all insurgents that have reached a certain threshold of organization, stability and effective control of territory, possesses international legal personality and are therefore bound by the relevant rules of customary international law." (Clapham 2010, p. 11) It follows that customary international law drives away from the state-centric view of international law, having a more universal, inescapable power. On this note, Bellal et al. as cited in (Clapham 2006, p. 72) asserted that "In a recent study, the International Law Association reached the conclusion that even though 'the consensus appears to be that currently NSAs [non-state actors] do not incur direct human rights obligations enforceable under international law', ANSAs [armed non-state actors] would still be bound by *jus cogens* norms and insurgents should comply with international humanitarian law." (Giacca 2014) Again, peremptory norms have a validity surmounting any categorization. Accordingly, IS possesses international legal personality and although not directly bound by human rights obligations it should comply with the dictates of *jus cogens* on human rights.

A few decades ago, if not years, it was still impossible to think that a mechanism other than a state could have had the capacity to carry out a genocidal plan. Contrarily, today, the IS phenomenon urges the international community to rethink international law as an almost exclusive tool for regulating state relationship. There are other international entities, such as insurgents, that have the necessary willingness, organizational skills and resources to carry out genocidal and

mass atrocity plans similarly to or better than a state would. It follows that the principle of RtoP as an exclusive warning to states not to commit genocide and mass atrocities risks to be perceived as outdated. Non-state actors, and insurgents, as in the case of IS, should be imposed the same responsibility to protect the populations that live under their control.

International relations have gone through a deep change in the last decades with the appearance of new international actors. This has advanced what is now a conventional wisdom holding that "International law is now concerned with individuals, and that these individuals have international rights and obligations." (Clapham 2010, p. 3) It follows that the obligations imposed by international norms should not be seen as binding to groups of individuals, being them states or non-state actors, but to the single individual independently from the group to which he belongs. The group, in fact, can exist only as a conglomerate of individuals who, individually, hold rights and obligations not only towards the other persons constituting the group, but also towards the greater cluster of the international community. In this context, the group loses its value as entity detached from the rest and becomes englobed in that greater association of individuals that is the international community. On these more philosophical grounds, ISIS should be seen as subject of international law, bound to *jus cogens* and, therefore, bound to RtoP.

However, ISIS relationship with international norms is critical, presenting a strong inconsistency. On one side, IS imposes its control on parts of Iraq and Syria with the intent of aggrandizing its possessions and, in so doing, fights all those who try to impede the plan. This can be interpreted as a strategy to indirectly ask for the international community non-interference in IS affairs, a claim that is indeed deeply rooted in international law, as it requires recognition of statehood and of non-intervention in other states matters. On the other side, IS imposes Sharia

law and rejects the entirety of international law norms that are seen as Western, therefore, irreconcilable with their caliphate project.

Non-state actors, from armed groups to private corporations and non-governmental organisations, play a critical role in heightening or lessening human security. (Bruderlein 2000) ISIS has demonstrated its inclination in lessening human security in the areas under its control, proving a non-state actor capability and efficacy in endangering the life of religious minorities and, more in general, of great portion of the population. For example, the conditions of women within IS controlled territories has been considerably worsened by the imposition of Sharia law and other forms of gender discrimination. These events constitute an urgent call to make RtoP a widely accepted norm that binds states and non-state actors equally.

4.3.3 The Islamic State

In his 2009 report on the responsibility to protect (RtoP), the United Nations (UN) Secretary-General recognised that not only States but also non-State armed groups have committed human rights abuses and violations of international humanitarian law (IHL) on a massive scale that, in some cases, may amount to genocide, war crimes and crimes against humanity, the atrocity crimes specified in the principle of the responsibility to protect (RtoP). The relevance of this observation has been heightened by the brazen manner in which non-State armed groups such as the so-called Islamic State (IS), Boko Haram, and Al-Shabaab have embraced the use of violence, particularly large scale violence targeting civilians, as a strategy for advancing their objectives. Confronted by the willingness and capacity of such actors to commit atrocity crimes, the international community needs to consider how to adapt the ways in which it anticipates, prevents and responds to such crimes. The following part of the research is dedicated to the analysis of IS and how a non-state actor has to respond to international binding norms and how the international community needs to intervene in protection of individuals and communities from mass atrocities.

4.3.3.1 Origins and goals

June 29, 2014, what according to the Muslim calendar is the first day of Ramadan of the year 1435, a jihadist Islamist group, currently known as the Islamic State (IS),⁸³ began establishing a caliphate that is now stretching for 423 miles into Iraq and Syria. (Lister 2014)

⁸³ Also known as Isis (The Islamic State of Iraq and Syria), or Isil (The Islamic State of Iraq and the Levant), or Daesh (acronym for Dawlat al-Islamiyah f'al-Iraq wa al-Sham).

Its roots are to be found in Al-Qaeda in Iraq, which had its origins between Afghanistan and Jordan in 1999 under the Jordanian Sunni militant Al-Zarqawi who was replaced, after his death in 2006, by Abu Omar al-Badhdadi. After Al-Badhdadi's death in 2010, the terrorist group⁸⁴ grew exponentially under the leadership of Abu Bakr al-Baghdadi, proclaimed "Caliph Ibrahim and leader of all Muslim," causing deaths, IDPs, refugees, and a deep concern among the members of the international community.

The ultimate goal of the group is to establish a broad caliphate, "a radical Sunni Islamist state in the Levant, a region consisting of Syria, Lebanon, Israel, Jordan, Cyprus and Southern Turkey" (CEP 2014) and potentially gathering the worldwide Muslim population. In the areas so far controlled by the caliphate, IS harshly imposes Sharia law door by door, emulating the early Muslim leadership though advanced methods of local and national propaganda alongside with assiduous proselytization.

The Islamic State actions find their ideological basis in the most fundamentalist canons of Islam, going from Wahhabism⁸⁵ to today's Salafism.⁸⁶ The use of coercive measures is, in fact, believed to be the only possible mean to revive and purify Islam. Another major influence of IS comes from the Ba'athists who, although professing a separation of

⁸⁴ Until February 2014, IS was affiliated with al-Qaeda, now under the leadership of Ayman al-Zawahiri, who, disapproving of ISIS attempt to incorporate and control Jabhat al-Nusra, Syrian associate of Al-Qaeda, decided to rescind from the affiliation with Baghdadi's group (Berger 2014). However, the tension between IS and al-Qaeda became evident between 2004-2006 due to AQI's cruelty and its indiscriminate targeting of Shia civilians (Lister 2014, p. 8). The two groups held similar goals but diverging projects of implementation. In November, the Egyptian most dangerous group, Ansar Beit al-Maqdis, pledged its allegiance to IS, representing another winning ground for IS against al-Qaeda, having itself "deep Egyptian roots" (Kirkpatrick 2014).

⁸⁵ Wahhabism is an orthodox religious movement or sect or form of Sunni Islam.

⁸⁶ Salafism is a movement within Islam that takes its name from the term *salaf* ("predecessors", "ancestors") used to identify the earliest Muslims, who, its adherents believe, provide the epitome of Islamic practice.

government and religious affairs, ended up becoming entangled with regimes as that of Saddam Hussein in Iraq and of Bashar al-Assad in Syria. However, the common element between Salafist/Takfiris⁸⁷ and Ba'athism is a return to the past as a new beginning of the Muslim world though the leadership of few enlightened guides. Many Ba'athists started to realize how "Salafist/Takfiris resonated far more strongly and proved a much better motivator among the masses than Ba'athism ever could." (Barrett 2014, 19) This paved the way for the alliance between IS and the Ba'athists.⁸⁸

IS built its consensus by disrupting the wall that validated the Sykes-Picot agreement⁸⁹, as shown by an IS produced video called "Breaking the Walls." (Lister 2014, 14) The action was particularly welcomed by local tribes who were restrained from crossing the border, nationalists who disapproved of Western borders agreements and all those Muslims who dreamt about creating one single nation unified under the same faith.

4.3.3.2 Naming the insurgents

The frequent name change of the Caliphate follows the group territorial and political goals. "The change of name to The Islamic State of Iraq and

⁸⁷ A takfiri is a Muslim who accuses another Muslim (or an adherent of another Abrahamic faith) of apostasy.

⁸⁸ The alliance between the two groups was also a consequence of having shared time at US detention centers. "It seems likely, for example, that Abu Bakr overlapped there [Camp Bucca] with some of the ex-members of the Ba'ath party who subsequently became senior leaders in The Islamic State" (Barrett 2014, 19). The Ba'athists were able to contribute to IS goals with the skills, knowledge and connections they had acquired during the Saddam Hussein dictatorship.

⁸⁹ A secret agreement between the governments of the United Kingdom and France, with the assent of Russia, defining their proposed spheres of influence and control in the Middle East should the Triple Entente succeed in defeating the Ottoman Empire during World War I. The negotiation of the treaty occurred between November 1915 and March 1916. The agreement was concluded on 16 May 1916.

Greater Syria was an attempt to capitalize on the energy created by the civil war in Syria and use it in support of the insurgency in Iraq, making a common cause of Sunni disaffection with the Shia regimes on both sides of the border.” (Barrett 2014, 22) It is not surprising that the further change in name to “The Islamic State” is an attempt to become leader of a global jihad, reinforcing IS detachment from al-Qaeda and further underlining its rejection of the Saudi Kingdom leadership. Another commonly used name is “Daesh, sometime spelled Daiish or Da'esh, is short for Dawlat al-Islamiyah f'al-Iraq wa al-Sham.” (Dearden 2014) The French government has been using this name in an attempt to refrain from calling a terrorist organization a state, lobbying the international community to do the same. (Dearden 2014)

4.3.3.3 Capabilities and actions of the Islamic State

As of today, it is clear that “[allegedly] Al-Baghdadi has two deputies, Abu Ali al-Anbari, who is responsible for Syrian Arab Republic operations, and Abu Muslim al-Turkmani, responsible for Iraq operations. Both are reportedly former senior Iraqi Army officers.” (Sherlock in UNSG 2014, p. 8) According to open sources, and as reported by The Telegraph and CNN, the Caliphate is also composed of a cabinet of advisers, the two deputies alongside the Shura Council, which takes care of religious and war affairs. Under this basic leadership there are a series of councils: financial, leadership, military, legal, fighters’ assistance, security, intelligence and media (CNN 2014). Many of the aforementioned councils deputies are former senior army officers under Saddam. (UNSG 2014, p. 8)

IS disposes of money, fighters, and a rich war arsenal. A report of the BBC cites that IS was able to retrieve \$429 million dollars from Mosul’ Central Bank upon taking the city. “A report by the UN security council, obtained by the Guardian, finds that 15,000 people have travelled to Syria

and Iraq to fight alongside the Islamic State (ISIS) and similar extremist groups. They come from more than 80 countries.” (Ackerman 2014) The UN Security Council estimated that IS disposes of enough weapons; most of them left in Iraq from US troops, to carry on their jihad for three years. The UNSC S/2014/815 cites that “According to different sources, the amounts of Iraqi small arms and ammunition captured by ISIL are sufficient to allow ISIL to continuing fighting at current levels for six months to two years.” (UNSC 2014) The oil financing, looting, robbing and extortion practices rendered IS a rich and independent group that now has an estimated patrimony of more than \$3 million dollars. (Carey et al. 2014)

Contrarily to Philo Russians in Ukraine, IS can trigger a widespread regional war, constituting a higher level threat as asserted by Koert Debeuf, Representative of the European Parliament’s Alliance of Liberals and Democrats for Europe Group. Debeuf argues, “What Russia is doing in Ukraine, it has done in Moldova, Georgia, and Azerbaijan: creating a frozen conflict [that is not meant to escalate].” (Dempsey 2014) On the other hand, IS goals, organization and technical ability can, in fact, form a proto-state, redesigning the geopolitics of the Middle East. (Lister 2014, p. 30)

In early July 2014, Human Rights Watch started reporting on the clear evidence that the actions of IS in Iraq included the “killing, kidnapping, and threatening religious and ethnic minorities in and around the northern Iraqi city of Mosul.” Their report of July 19, 2014, stated that “Since capturing Mosul on June 10, 2014, the armed Sunni extremist group has seized at least 200 Turkmen, Shabaks, and Yazidis, killed at least 11 of them, and ordered all Christians to convert to Islam, pay “tribute” money, or leave Mosul by July 19.”

Following these and many other reports, on August 2014, the Special Advisers of the Secretary-General on the Prevention of Genocide, Adama Dieng, and on the Responsibility to Protect, Jennifer Welsh, released a statement condemning in the strongest terms the reported execution of some 500 members of the Yazidi community in the town of Sinjar and surrounding areas in northern Iraq by members of the so-called Islamic State. They also expressed alarm at reports on the abduction by the "Islamic State" of some 1,500 Yezidi, Christian and Shabak women and girls.

The Special Advisors stated, "These reports are shocking in the extreme. They show, in very clear terms, the complete absence of humanity of the perpetrators of these crimes." They added that such acts "constitute grave violations of human rights and international humanitarian law and may amount to war crimes and crimes against humanity. The reports we have received of acts committed by the "Islamic State" may also point to the risk of genocide."

As the situation in the region deteriorated and IS conquered part of Syria, on October 10, 2014, the Special Advisers released another statement to express deep concern about the situation in Kobane, Syria. In their statement, the Special Advisers strongly condemned continued attacks against the lives and physical integrity of populations in Syria, including by terrorist and armed groups such as the Islamic State of Iraq and the Levant (ISIL). The recent offensive by ISIL on Ayn al-Arab, also known as Kobane, on Syria's northern border with Turkey, resulted in numerous deaths and injuries, as well as the massive displacement of civilians. According to their report "ISIL and other armed groups have reportedly committed grave violations of human rights and international humanitarian law that may amount to war crimes and crimes against humanity."

In early November, the Report of the Independent International Commission of Inquiry on the Syrian Arab Republic of the UN Human Rights Council assessed that, "Humanitarian actors supporting the population's access to food have been unable to reach the nearly 600,000 people in ISIS-controlled Dayr Az-Zawr and Ar-Raqqah governorates since May and July 2014, respectively."

A later United Nations report, highlighting the human rights violations of the Islamic State's jihadist campaign in Iraq, found that while over 24,000 Iraqi civilians have been injured or killed by ISIS in the first eight months of 2014, and the extremists have taken up the practices of recruiting 12- and 13-year-old soldiers and forcing women and girls into sex slavery. (Smith 2014)

The number of victims, the brutality of violations mounting to crimes against humanity and genocidal threats, and the capacity of IS to survive the continuous attacks of government forces, being these from the Iraqi army or the Kurdish Peshmerga in Iraq or the Syrian army and the Kurdish Syrian rebels in Syria, describe IS exceptional capabilities to accomplish its goals. Similarly, various reports and IS propaganda have demonstrated the possibility of this group to impose its rule and government over the population under its control. Currently, the Islamic State forces hold three border posts between Syria and Turkey and several more on Syria's border with Iraq.

4.3.3.4 Is IS a proto-state or a group of insurgents?

The Islamic State, this is how this new jihadist phenomenon wants to be referred to in its attempt to claim statehood on that broad caliphate it

wants to establish. As previously described, IS ultimate goal is to rule though Sharia law on Syria, Lebanon, Israel, Jordan, Cyprus and Southern Turkey (CEP 2014), potentially including the worldwide Muslim population to the caliphate. Are the abovementioned capabilities of IS enough to declare it a proto-state on the ungoverned territory straddling the borderlands between Syria and Iraq as Lister mentioned?

As reported by the Economist in June 2014, IS “has aimed to control territory, dispensing its own brand of justice and imposing its own moral code: no smoking, football, music, or unveiled women, for example. And it imposes taxes in the parts of Syria and Iraq it has conquered.”

IS rejects international law, submitting its strategy and goal exclusively to Sharia law, on the other side, it forcefully asks for the international community withdrawal from Iraq and Syria, indirectly asking for the recognition of their state by the international community with the objective to achieve non-interference in their exclusive affairs. (The Islamic State 2014)

According to international law, a state, to be called such, should have a permanent population, a defined territory, a government and the capacity to enter into relations with other states. (Cassese 2005) An entity recognized as a state has rights and obligations under international law, among them there is the respect for human rights. IS fulfills only part of the requirements for statehood and, most of all, its territorial claims are made on land that already belongs to other sovereign states, which is prohibited under international law. Therefore, based on a superficial analysis of international law IS *is not* a state and *does not* hold responsibility for human rights violations.

4.3.3.5 Non-state actors and the responsibility of the International Community

Prevention requires apportioning responsibility to and promoting collaboration between concerned States and the international community. The duty to prevent and halt genocide and mass atrocities lies first and foremost within the State, but the international community has a role that cannot be renegaded by the invocation of sovereignty. Sovereignty no longer exclusively protects States from foreign interference; it is a charge of responsibility where States are accountable for the welfare of their people. This principle is enshrined in Art. 1 of the Genocide Convention, embodied in the principle of “sovereignty as responsibility” and in the concept of the Responsibility to Protect. (UN-OSAGP)

4.3.3.6 The Responsibility of the International Community to protect the populations under IS control

The unprecedentedly sudden enlargement of IS controlled territories has shocked the international community that now looks with an increasingly attentive eye to the events, which appear not to be confined within the Middle Eastern region of the globe but are extending worldwide, also due to the foreign fighters phenomenon.

In response to advances made by the IS militants in June and July 2014, many states began to intervene in the ongoing civil wars in Syria and Iraq. Rapid territorial gains from IS military operations in Iraq and Syria, during the first half of 2014, combined with internationally condemned brutality, reported human rights abuses, and the fear of further spillovers of the Syrian Civil War caused many countries to consider interventions. (Lister 2014)

Besides the Kurdish Peshmerga, Iran and its ally Hezbollah were the first to take action on the ground with the support of fighters and drones. The United States started sending (non-operational) troops to Iraq in the midsummer of 2014, and began a large-scale air campaign over the region starting from August. Many Western Countries contributed with light weapons and tactical tools, in particular to the Kurdish Regional Government in Iraq. With different agendas and political considerations in a complex situation, countries have approached intervention in the two civil war conflicts in different ways, and to different degrees.

The case is further complicated by the self-proclamation of a state in areas that are already internationally recognized as established states. Both Iraq and Syria, for different reasons, have failed and are failing in responding to their responsibilities. Iraq failed to respond to the situation in the north-west part of the country for year and the absence of the state can be seen as one of the root causes of the existence and upraising of IS. In Syria, the ongoing civil war and the consequent status of anarchy in the country, as well as the brutality of the Syrian army – and the resistance groups, - have paved the way for extremism, endangering the lives of many. Being still the state the most important actor in international relations, Iraq and Syria are the fundamental responsible to protect, and the international community should intervene in case of unwillingness or inability.

Having said that, currently, there is also a non-state actor exercising coercive control over large areas of Iraq and Syria. As noted in the discussion above, IS has a responsibility to protect the people under its control both because it is an insurgent group and because RtoP is a *jus cogens* norm that is binding on any subject of international law, thus, also on non-state actors and single individuals. Therefore, the mechanism of

international intervention for unwillingness or inability to protect should be equally applied in relation to IS.

Oppenheim (Hehir 2012, p. 180) argues that, "There is perhaps no conception the meaning of which is more controversial than that of sovereignty." This controversy leaves room for interpretation, but the multiple opinions given tend to forget the individual dimension. This is to say that, "The question posed by intervention and sovereignty is certainly concerned with protecting the weak but it is weak *individual* rather than states." (Hehir 2012, p. 189) This reasoning abates the idea of RtoP as a tool of the state for the state, but before the state is the individual who need protection. A narrow focus on the state tends to degrade RtoP and misinterpret its aims.

Thus, "the primacy of the community's interest is not that of an abstract notion of the state, but that of the higher value of the greatest number of individuals who constitute or represent the collective interest of the whole. Only in that sense can or should the interest of the society be regarded as overriding the interest of the individual who, thought of prime concern to the society, cannot be recognized as absolute." (Deng, Kimaro, Lyons, Rothchild, & Zartman, 1996, p. 5) As this reasoning suggests, the international community has the rights and duties to intervene in Iraq and Syria not only because the recognized states have failed to protect the population and the insurgent group operating there has also failed, but because the interests of the individuals should be the central concern. The reports coming from Iraq and Syria recount of genocide and mass atrocities perpetrated against a considerable number of individuals, this element alone should trigger unilateral intervention.

5. Conclusions - Sovereignty as responsibility and the nexus with the concept of human security

As Oberleitner argues, international law has been reluctant to respond to the rise of human security as a possible global normative framework. (Oberleitner 2005) Similarly the concept of the Responsibility to Protect, initially ment by some of its advocates as a new emerging international norm has been lately defined a moral political imperative in assistance to already existing legal obligations.

International norms, conventions and other international law instruments have proven that states and sovereigns have, indeed, a responsibility towards their populations – and more if we include responsibilities to alien citizens or stateless persons – and to the international community as a whole. Resistance in accepting this responsibility is a manifesto of incapacity to adapt to modern statehood and interdependency, which will ultimately break the statehood dimension based on the principle of non-interference.

A human security approach to international law can reinforce and strengthen attempts to bring international law better in line with the necessities of today's world. (Oberleitner 2005) Similarly, the systematic use of an RtoP principle might push the international community to challenge the inefficiencies of today's international order, often marked by the breach of the principle of equality and the impunity for the violators of international law.

The two concepts might be able to reinforce each other. The implementation of human security might prevent root causes of state fragility and, ultimately, mass atrocities, functioning as a bottom-up

approach. The empowerment of obligations fulfilling the moral imperative of preventing atrocity crimes might be instead seen as a top-down approach able to push sovereigns to invest normatively and structurally in RtoP. This might be seen as the realization of a global architecture to prevent mass atrocities and empower the vision of a responsible statehood.

5.1 The Responsibility to Protect – Human security nexus

"The study of security concepts and policies arises from several major developments in international relations. Force continues to be widely used as a means of promoting national security. Developments in science and technology and military strategy are driving the arms race, particularly in the nuclear field, to new heights and are thus increasing the dangers of nuclear war. New weapons systems and technologies, such as anti-satellite systems, laser and particle-beam weapons and long-range cruise missiles are significantly altering the composition of the military relationships among the major Powers. In addition, the international diffusion of advanced military technologies and military capabilities is exacerbating the dangers of international conflicts. Meanwhile, the process of negotiation on measures of arms limitation and disarmament has so far achieved very little and lagged far behind arms technology developments. Issues relating to international peace and security are prominent among matters dealt with in various organs of the United Nations, such as the Security Council, the General Assembly both in its regular sessions and in special sessions devoted to disarmament, in subsidiary bodies of the Assembly, particularly the First Committee and the Disarmament Commission, as well as in the Conference on Disarmament at Geneva. Through the years the General Assembly of the United Nations has adopted by consensus a number of documents on this important subject. In addition to various deliberations on the question of international peace and security within the United Nations framework, a series of expert studies, carried out by the Secretary-General with the assistance of qualified experts, has further demonstrated the efforts of the United Nations devoted to this important subject." (Group of Governmental Experts to Carry Out a Comprehensive Study of Concepts of Security 1986) (Group of Governmental Experts to Carry Out a Comprehensive Study of Concepts of Security 1986)

5.1.1. The role of the International Community

Since the period of initial codification of international war crimes, crimes against humanity, crimes against peace and genocide, in the 1940s, there have been various attempts at explaining the nature of these “new crimes.” In 1947, the United Nations General Assembly charged the International Law Commission with identifying and codifying “offences against the peace and security of mankind.” The expression is attributed to Francis Biddle, one of the judges at the International Military Tribunal, who had referred to them in this manner in a letter to United States President Truman in the aftermath of the Nuremberg trial. Biddle was attempting to characterize the subject matter jurisdiction of the Nuremberg tribunal.

In his 1950 report on the subject of an international criminal jurisdiction submitted to the International Law Commission, Special Rapporteur Ricardo Alfaro spoke of “crimes that affect the community of States and hence should be subject to an international jurisdiction.” Alfaro thought that an international tribunal should exercise jurisdiction not only over crimes derived from the Nuremberg proceedings and the crime of genocide, but also over “certain offences which have always been known as ‘crimes against the law of nations,’ such as piracy, slave trade, traffic in women and children, traffic in narcotics, currency counterfeiting, injury to submarine cables. To these might be added terrorism of an international character, as defined by the Convention of 1937 on the Prevention and Punishment of Terrorism.”

However, Alfaro was preparing the special part of a criminal court statute, not a codification of “offences against the peace and security of mankind,” and his approach was, therefore, rather broad. The International Law

Commission expert charged with launching work on the draft code of offences against the peace and security of mankind, Special Rapporteur Jean Spiropoulos, insisted on a distinction between “crimes against the law of nations” and “crimes against the peace and security of mankind.” Spiropoulos described the latter concept as:

“[A]cts which, if committed or tolerated by a State, would constitute violations of international law and involve international responsibility. The main characteristic of the offences in question is their highly political nature. They are offences which, on account of their specific character, normally would affect the international relations in a way dangerous for the maintenance of peace.”

For this reason, Spiropoulos insisted, “The draft code to be elaborated by the International Law Commission cannot have as its purpose questions concerning conflicts of legislation and jurisdiction in international criminal matters. Consequently, such topics as piracy (*delicta juris gentium*), suppression of traffic in dangerous drugs (opium), in women and children (white slave traffic), suppression of slavery, of counterfeiting currency, protection of submarine cables, etc., do not fall within the scope of the draft code with which we are concerned here.” The draft codes prepared by the Commission in 1951 and 1954 confined themselves to enumerations of crimes that constituted, in practice, a rather detailed development on the three categories of offense that were prosecuted at Nuremberg. (Shabas, 2009 – in Amstrong 2009)

Providing human security to individuals will reduce the occurrence of mass atrocities and of violations of human rights. Indeed, the human security approach is *people-centred*. It considers the broad range of conditions that threaten the survival, livelihood and dignity of people and their communities, particularly those who are most vulnerable. The human

security approach puts people and their communities at the centre of responses to the threats they face.

In recognizing the complexity and interconnected nature of the challenges that confront the human condition, the application of human security is *comprehensive* in promoting 'freedom from fear,' 'freedom from want' and freedom to live in dignity. By being multisectoral and by drawing together all the actors necessary to respond to a challenge, the application of human security ensures coherence, eliminates duplication and advances integrated solutions that result in more effective and tangible benefits in the daily lives of people and their communities.

There is no "one size to all" for human security. Threats to the human condition vary considerably within and across countries and at different point in time. A human security approach recognizes these contextual variances and avoids the misuse of blueprints, which many times do not correlate to the context in question. *Context-specific solutions* such as these also recognize the differing capacities of people, civil society, and governments.

The human security approach is philosophically different from those that seek to only solve problems – i.e., to treat the visible symptoms. By contrast, a human security approach is *prevention-oriented*, drilling down to ascertain the real causes of challenges to the human condition and building solutions to these threats that are in themselves sustainable and resilient, offering people flexible means to avert similar situations.

The human security approach recognizes that there are inherent responsibilities within the social contract of each and every society. Empowering people and their communities to articulate their needs is crucial for any people-centred approach to be viable. Likewise, top-down

norms, processes and institutions, including the establishments of early-warning mechanisms, good governance and social protection instruments are fundamental characteristics of the human security approach. The human security approach, therefore, brings *protection and empowerment* measures into a framework that can better address complex challenges to the human condition. These five characteristics make up the human security approach, which can be used to address a multiplicity of threats to human security. (United Nations 2014)

5.2 Opportunity, responsibility, and security

The title of this paragraph is based on the title of a report of the Brookings Working Group on Poverty and Opportunity "Opportunity, Responsibility, and Security. This report provides three definitions for opportunity, responsibility and security that, adapted to the context of this research work, might be able to provide an inclusive vision of how sovereignty might link with both concepts of human security and the Responsibility to Protect. (AEI/Brookings Working Group on Poverty and Opportunity 2015)

Even though national security still plays a crucial to maintain peace and stability, the complexity and multidimensionality of the ongoing challenges highlight the fragility of States and of the international community when facing global threats. No matter if they are caused by internal or external factors, ongoing challenges amplify the recognition that insecurities can easily spread within and across nations, and worsen crises that will not only be a threat for individuals, but also for the national, regional and international security (spill-over effect). Meanwhile, the possibilities and the capabilities to address insecurities are larger and available now than ever before. The extraordinary combination of resources and technology shows that there are tools, knowledge, and resources to make steps forward in the provision of human security. (United Nations Trust Fund for Human Security 2016)

When referring to opportunity, it becomes useful to define the term. According to Truslow Adams, the opportunity is meant as the state of affairs when "each man and each woman shall be able to attain to the fullest stature of which they are capable," no matter the circumstances of their birth. (AEI/Brookings Working Group on Poverty and Opportunity 2015) The definition of responsibility refers to the accountability for things

over which one has control, or has a duty of care. (AEI/Brookings Working Group on Poverty and Opportunity 2015)

For the definition of security, it is necessary to take into account Friedrich Hayek's *The Road to Serfdom* (1944), in which he claimed that:

"There is no reason why, in a society which has reached the general level of wealth ours has . . . should not be guaranteed to all . . . some minimum of food, shelter and clothing, sufficient to preserve health. Nor is there any reason why the state should not help to organize a comprehensive system of social insurance in providing for those common hazards of life against which few can make adequate provision."

Opportunity, responsibility, and security are three main elements that are of fundamental importance in the state-building process. State-building and other forms of international administration are likely to cover relevant positions within the international relations framework in the near future. Following the terrorist attacks against the USA in 11 September 2001, weaker and 'failed' states have increasingly been considered as a possible threat to international security, as they could be seen as potential arenas for terrorists, and likely to spread organized crime and provoke instability. The acknowledgement of the existence of this threat has raised the demand for more efficient international state-building efforts. As a policy tool to tackle security and development threats, state-building has also been gradually institutionalized. Since the beginning of the 21st century, a 'state-building architecture' has developed both at the international level, considering for instance the Peacebuilding Commission and the Peacebuilding Support Office at the UN, and at the national level, considering the British Post-Conflict Reconstruction Unit or the American Office of the Coordinator for Reconstruction and Stabilization. The

development and following evolution of the state-building architecture could be useful in learning the lessons from past missions, and in improving the international ability to create and/or reinforce institutions. However, raising awareness about the constraints of the measures and tools of state-building and international administration, their careful use, attention to local situations, and local collaboration and involvement will be essential to make them efficient instruments to foster development and stability in fragile societies. (Zaum, 2007)

The occurrence of genocide and mass atrocities have raised heated debates on the theory and practice of humanitarian intervention to protect civilians and non-combatants. As the UN failed in responding in a timely and effective manner to end the humanitarian tragedies, such as the ones of Rwanda,⁹⁰ Burundi, Bosnia, and Kosovo, States felt the need to start advocating a right to intervene to halt mass violations of human rights and to prevent them. Their main limitation concerns the UN's extant regulations on the use of force and, more specifically, the lack of norms to address humanitarian emergencies. The international actors often agree that killing civilians and non-combatants during state formation can no longer be acceptable, not even in case of massive violations of human rights. However, the respect for state sovereignty is still pivotal among the existing principles of the international community. According to Badescu, there are many questions unanswered. "How can populations affected by egregious human rights violations be protected? How can the legal constraints on the use of force and respect for state sovereignty be reconciled with the international community's willingness and readiness to

⁹⁰ The Rwandan genocide, known officially in Rwanda as the genocide against the Tutsi, was a genocidal mass slaughter of Tutsi and moderate Hutu in Rwanda by members of the Hutu majority government. An estimated 500,000–1,000,000 Rwandans were killed during the 100-day period from April 7 to mid-July 1994, constituting as many as 70% of the Tutsi and 20% of Rwanda's total population. The genocide took place in the context of the Rwandan Civil War, an ongoing conflict beginning in 1990 between the Hutu-led government and the Rwandan Patriotic Front (RPF).

take action in such instances? And more importantly, how can protection be offered when the Security Council, which is responsible for authorizing the use of force when threats to international peace and security occur, is paralyzed? Despite many competing proposals and contentious debates, can a prescriptive framework be developed to tackle such concerns?" (Badescu, 2011)

Even though humanitarian intervention is considered a contemporary concept, its first manifestations started during the nineteenth century. The evolution of the international system has affected the practice of humanitarian intervention with the passing of time, with specific features defining interventions in the nineteenth century, in the post-UN Charter period, and in the more modern post-Cold War period. Nowadays, the concept of humanitarian intervention still occupies a focal point in scholarly debates. Related to humanitarian intervention, the concept of military intervention to halt humanitarian tragedies has been another debated topic within international relations related studies, mainly in the post-9/11 period and after the 2003 invasion of Iraq. Lawyers, international relations theorists, philosophers, and policy-makers have used different methodologies and approaches to address the dilemmas of humanitarian intervention. Debates have been focused on whether the legal right of humanitarian intervention exists, on how to address ethical issues and to establish the requirements for morality, and on the concrete challenges related to the politics of intervention.

Notwithstanding with the countless debates, no consensus was reached concerning the principle of humanitarian intervention. For its supporters, humanitarian intervention refers to the imperative of action of State when facing mass atrocities and, therefore, is strictly interconnected with the perception of state sovereignty as state responsibility to respect, protect, and foster the human rights of citizens. For its opponents, humanitarian

intervention is an excuse that states may use as a pretext for military intervention without legal sanctioning, thus worsening fragile countries' conditions. In the 1990s, many debates took place – especially regarding Rwanda, Somalia,⁹¹ Bosnia and Kosovo – between the supporters of a right of humanitarian intervention and its opponents, who were claiming included the principle of non-interference or non-intervention in the internal affairs of other countries, even in cases of large-scale human rights violations.

At the 54th session of the UN General Assembly in 1999, UN Secretary-General Kofi Annan stressed to Member States the need to prevent “another Rwanda” case and pushed them to find an agreement on the issue of humanitarian intervention. As a consequence, the concept of the Responsibility to Protect was born to remark states' primary responsibility to protect its citizens by providing them with human security. (Badescu, 2011) The principle of Responsibility of Protect offers a narrower framework in which the discourse about the use of force for humanitarian purposes can be advanced, to promote the protection of civilians and non-combatants during the occurrence of mass atrocities. (Badescu, 2011)

The nexus between human security and the Responsibility to Protect represents an incredible opportunity to reshape the concept of sovereignty towards a more focused notion of responsibility that states and non-states actors should have. The empowerment of the seven dimensions of human

⁹¹ The Somali Civil War is an ongoing civil war taking place in Somalia. It grew out of resistance to the Siad Barre regime during the 1980s. By 1988–90, the Somali Armed Forces began engaging various armed rebel groups in all regions of the country. In 1990–92 customary law temporarily collapsed due to the fighting. This precipitated the arrival of UNOSOM I UN military observers in July 1992, followed by larger peacekeeping forces. Factional fighting continued in the south. In the absence of a central government, Somalia became a "failed state". The UN withdrew in 1995 leaving the country in total chaos.

⁹¹ The Bosnian War was an international armed conflict that took place in Bosnia and Herzegovina between 1992 and 1995.

security and the moral obligation to fulfil the principle of the Responsibility to Protect are key to insure stability and prevent insecurity at the individual, local, national, regional, and international level. The two distinct concepts share their origins, as they both emerged in a decade where the international community started evaluating its ability to cope with dynamics that led to the failure to protect humanity from mass atrocities and, more in general, from natural and man-made disasters, resulting from decades of inaccuracy for the preservation of the natural and social environment. Although the Responsibility to Protect has also proven to be a misused tool,⁹² the moral obligations empowered in the principle are pivotal in the construction of a human-centered sovereignty approach. Security alike is a prerogative of statehood centered in the protection of individuals. Its ultimate objective is the survival of statehood, which cannot exist without populations.

⁹² Brazil's United Nations delegation presented a concept note proposing the notion of "Responsibility While Protecting" to the UN Security Council in November 2011, days after the end of the North Atlantic Treaty Organization (NATO) operation in Libya and the killing of Libya's former president, Muammar Gaddafi. The Brazilians argued that the Libya mission demonstrated a need for clarity over R2P. For the Brazilians, the mission had gone far beyond its R2P-based Security Council mandate and was in fact more about ousting the Gaddafi regime than protecting civilians—a view also voiced by several other emerging powers, notably India and South Africa. NATO, in contrast, saw the Libya mission as a success—a quick, decisive intervention that eliminated a major threat to civilians, well within the parameters of R2P. (Avezov 2016)

5.3. Preventing atrocity crimes by empowering human security

As President Obama said in his 2011 Presidential Study Directive 10 for the US, "Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the [State]." The national security as well as the human security is strongly affected when issues such as atrocity crimes or migratory flows occur. History teaches that the promotion of international peace and security is not efficient without timely and coordinated actions involving all actors of global governance. Indeed, the concept of the Responsibility to Protect emerged as a direct response to the countless failures of States to fulfill their obligations and take their responsibilities when facing the occurrence of mass atrocities. However, the nature of atrocity crimes, as well as the tools that enable States to address them, shows that mass atrocities are preventable. Hereafter, the research will suggest a preventive strategy concerning the promotion of 10 essential elements that States and the entire international community should be responsible of to halt or at least reduce the occurrence of atrocity crimes. Education, respect, inclusion, dialogue, disarmament, advocacy, responsibility, protection, intervention, accountability are 10 potential steps to take in order to avoid the escalation of tensions and, eventually, violations of human rights. Additionally, it is relevant to highlight how each of these steps can be located within one or more dimensions of human security. By providing education, a State guarantees economic security to its citizens, as they would increase their chances to be employed and raise their income. By promoting the importance of respect and dialogue, a State provides its population with community security, as they would be able to understand that diversity should be seen as a tool for self-enrichment. By disarming, advocating, protecting, and intervening, a State ensures its citizens both personally, politically, economically, and environmentally. By being

responsible and accountable, a State guarantees human security to all individuals living within its borders.

As highlighted throughout the entire research, the prevention of atrocity crimes is a complex endeavour that in all cases requires systemic solutions. There are two recurring sentences in the genocide prevention field that go as follows: (1) no country is immune, and (2) one-size-fits-all approaches to prevention do not work.

Mass atrocities are extremely context specific. In most cases, they depend on a blend of factors such as abundance of natural resources, level of discrimination, education, gender issues and the like. Given the wide diversity of elements that can represent root causes of mass atrocities, it should be self-evident that efficient prevention demands deep knowledge of the context in which actions have to be performed. This becomes even more evident when we recognize that mass atrocity risk factors are present in virtually all societies, including the most resilient.

Scientific inquiry as well as our chances to enact prevention would be equally doomed to fail if no generalization were possible at all. Gregory Stanton might be one of the best-known genocide scholars in the world. He is known to have developed the model of the so-called “ten stages of genocide”. Stanton argues that genocidal process that “develops in ten stages that are predictable but not inexorable. At each stage, preventive measures can stop it”. Of course, the process is not perfectly linear and not all cases develop exactly along Stanton’s template. Nonetheless, his model is possibly one of the most efficient not only for the detection of genocide risk, but also for the development of prevention options.

The first stage of the genocidal process is **classification**. At this stage, different groups within a society develop categories to distinguish between

"us" and "them". Societies with a sharp division between two groups of equal size are the most prone to ethnic conflict. The second stage of the genocidal process is **symbolization**. The distinction between different groups becomes sharper and gets associated with symbols. We name people "Jews" or "Gypsies" to distinguish them from the rest of society. We associate them with a given way of speaking, dressing, acting, etc. The third stage is **discrimination**. The dominant group exerts its political power to deny the rights of other groups. The fourth is **dehumanization**. The dominant group denies the humanity of the other group by equating its members to animals or diseases. For example, Nazi Germany used to equate Jews with "rats". The objective of dehumanization is to break down the natural revulsion towards violence against other humans. Once people are identified as despicable animals, eliminating them is no longer a murder. The fifth stage is **organization**. At this point, special army units or militias are trained for mass killing and a genocidal plan is developed. Organization is followed by **polarization**. Every member of society is forced to take a side in the dispute: either with the dominant group or with the despised minority. Remaining neutral is no longer an option. Polarization is followed by **preparation**. The genocidal plan is finalized and publicly advertised, usually disguised as a necessary measure for national security, counter-terrorism, or the like. This is where full-fledged **persecution** begins. Victims are clearly identified in death lists, forced to wear symbols, denied social, economic, civil, and political rights, and possibly separated in extermination camps. Full-fledged persecution culminates with the **extermination** of the minority group. Extermination comes so easy because mainstream population does not believe in the humanity of their victims and considers them an actual threat to their own survival as a group. The final stage in the genocidal project is **denial**. The perpetrators of the genocide work to eliminate all traces of the committed killings. They dig up mass graves, burn the bodies, intimidate witnesses into silence, and cancel all written records.

If this is how the process of genocide unfolds over time, at each of these stages we have concrete options for prevention. At all stages, there is something that can be done to make of prevention a reality in practice.

The reflection needs to depart from Luigi Zoja's – a well-known Italian psychologist that has studied the origins of genocide in society – consideration that it exists a clear asymmetry between Evil and Good. While Evil is easily perpetrated – both technologically and psychologically –, Good requires a complex system of actions that are prolonged in time and space. Although the ideas proposed below might seem naïve and oversimplified, it is a fact that even the most complex action to defeat Evil depart from simple concepts.

If the risk level is low and essentially amounts to simple classification, actions for prevention can be clustered around the core idea of **education**. Education is a fundamental tool to build resilience in a society and create the preconditions for enduring peace among its members. Through education, new generation can be prepared to respect the "other", recognize his history as equally valuable, and learn to recognize the signs of escalating inter-group tension.

Symbolization can be countered with **respect** to overcome the faulty logic behind stereotypes. Where people recognize some difference between themselves and the "other", they should be called by justice to tolerate and respect those specificities and treat "others" as equal human beings. That is a key component of resilience. If the genocidal process has reached the "discrimination" stage, prevention can be performed through **inclusion**. Even the most resilient societies enact legislation that denies the rights of some people. For example, Roma people have been historically discriminated across Europe ever since the inception of the nation-state as a model. Legislation at all levels should grant equal access to rights for all people at all times.

If the situation has worsened to the level of dehumanization, efforts must be devoted to the promotion of **dialogue** at community level. While genocidal forces would like us to believe that the out-group is made of less-than-humans, dialogue allows us to recognize out-group members as human beings who also have a voice, a story, feelings, fears and concerns and a legitimate place within society.

In those societies where the genocidal plan has reached the stage of organization, it is still possible to perform prevention by operating for **disarmament** at the national and international level. It is well known that the availability of weapons has been a facilitating factor in the preliminary phases of escalating cases of mass violence. By imposing arm embargoes and advocating for strict regulations pertaining access to arms can have a tremendous impact in prevention of atrocity crimes.

Where the genocidal cycle has reached the level of polarization, tension can be de-escalated through **advocacy**. If the objective of extremism thinking is to ensure that everyone takes a stance pro or against the escalating genocide, one should not forget that people are inherently moderate, and turn violent only if narratives of violence become dominant and eventually silence all others. In this framework, opposing extremist thinking through the circulation of convincing counter-narratives and make “good offices” between the opposing parties can still prevent the worse from happening. The mediating role of neighbouring countries and regional organization is of high significance in these situations.

When genocidal societies start their “preparation” of the mass killings - potentially failing their primary responsibility to protect population -, efficient prevention requires firm and direct performance of the international community with efforts to uphold **responsibility**. Ten years

after the adoption of the RtoP principle, it is now widely accepted that sovereignty implies responsibility for protection of civilians from atrocity crimes.

When full-fledged persecution has started, **protection** and prevention of further escalation has passed into the hands of the international community. This can be performed through providing “safe spaces” and support for self-defence to vulnerable groups, rendering humanitarian aid to whole population, engaging in direct negotiations with the perpetrators for an immediate halt of violence and through the launch of fact-finding missions aimed at singling out crimes and perpetrators.

As Stanton himself underlined, the only response option to extermination is full-scale **intervention**. As pointed out in the principle of RtoP, the international community has a duty to work through the UN system and organize missions capable of stopping on-going atrocities. The “United for Consensus” movement and the “UN Security Council Veto Restraint” initiative are advocating to increase the efficiency of this formal commitment and ensure that the P5 do not exert their veto power in case of atrocity crimes.

If the genocide has taken place, prevention of future crimes is the main objective. That could only be guaranteed through **accountability** for the perpetrators, accompanied by efforts to prevent denial by genocidal forces. At this stage, it is fundamental to build truth commissions and special tribunals – or use the ICC – to hold those responsible accountable for their crimes in front of their people and the international community. Facilitation of reconciliation through initiating dialogues at national level, development of collective memories and again enhancement of education belong to possible tools of prevention.

Education, respect, inclusion, dialogue, disarmament, advocacy, responsibility, protection, intervention, accountability. These are perceived by us as 10 potential steps to enact efficient prevention of escalating atrocities. If we wish to end atrocity crimes for good, it is necessary to adopt a holistic and long-term approach where prevention must be mainstreamed in all possible policies and at all levels of the society. Specific attention should be paid to the young generation.

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