

Humanitarian Intervention and the United Nations Security Council

Developing a normative framework for humanitarian intervention: an analysis of
theory and intervention in practice

Master thesis

by

Loris Cornelissen (S4371011)

M Political Science: Conflict, Power and Politics
Radboud University Nijmegen
Supervisor: Dr. T.R. Eimer

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ABSTRACT

With more and more humanitarian interventions taking place around the world. This thesis attempts to create a set of principles that any intervenor should adhere to for a just humanitarian intervention. This is done by analyzing different theoretical approaches like realism, post-colonialism that do not support humanitarian intervention and liberalism that allows for intervention in specific cases. The final framework is based on a limited liberal theoretical approach, influenced by important arguments from both opposing theories. It lists two threshold criteria; large scale loss of life and large scale ethnic cleansing. It also lists three principles for intervention; right intention, prudence & last resort and reasonable prospect & means. The second part is an empirical analysis of the United Nations Security Council with help of the political, politics and policy approach. This showed that the UNSC is at this point and time lacking to adhere to the criteria set out in the moral framework and therefore lacks the ability to perform just humanitarian interventions.

ABBREVIATIONS AND ACRONYMS

EU	European Unions
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
R2P	Responsibility to Protect
SG	Secretary General
UN	United Nations
UNAMSIL	United Nations Mission In Sierra Leone
UNSC	United Nations Security Council

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“State sovereignty, in its most basic sense, is being redefined—not least by the forces of globalization and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them” (Annan 1999 p.2).

Annan, K. (1999). Two concepts of sovereignty. *The Economist*, 18(9), 1999.

1. INTRODUCTION

The way we look at the world has changed over the years. The reach of our information has widened massively. We know what is going on in basically every part of the planet. International media and the internet have connected us and created more of a global community than ever before. With this newly acquired knowledge, we have also encountered a new problem. The suffering of people around the world is more visible now than before. We see it on our television screens, mobile phones, and computers. We read about massacres, war, and genocide. We can even see the faces of the people responsible live from the safety of our homes. Recent developments in not only information but also transportation allow for increasingly more means to do something about this, to prevent or resolve violence everywhere across the world. This motivates many people to call upon the international institutions and community to do something about this. The suffering of others no longer seems to be the responsibility of their governments but the responsibility of the global community as a whole. When in 1994 hundreds of thousands of people were massacred in Rwanda, the international community was shocked. How did we let this happen? Could we have stopped this from happening? Those were the burning questions.

The adaption of the Responsibility to protect (R2P) charter by the United Nations is a policy example of how the world is seen increasingly more as a global community where we have a responsibility to protect each other. It limits the sovereignty of the state and emphasizes the well-being of individuals within the state (Bannon 2006). The R2P principles are enforced using humanitarian intervention. Humanitarian intervention is one of the most important means that we know to stop violence and protect people in other countries. Over the more recent years and with the rise of the United Nations (UN) the world has seen increasingly more interventions of a multilateral nature. These interventions are almost always disputed in some way because of the non-intervention standard in international politics. The voices for change of this international consensus of non-intervention mainly comes from the western societies but even in the more conservative states like China, we see increasingly more acceptance towards UN interventions and even other forms of international peace enforcing (Carlson 2004).

It is, however, like all other violent means a contested concept. Many works have been written on the ethical limits and practical use of humanitarian intervention. There are authors who support the position that humanitarian interventions should never be allowed. Even though some important works have been written that defend humanitarian intervention, we at this point in time, do not have a set of rules or standard procedures on how to act in the face of such violent outbursts. Not only in practice but also in academic literature there is no clear answer on what a just action is when it comes to humanitarian intervention.

This thesis will put the main focus on the ethical and moral discourse surrounding the concept answering the question: Under which circumstances can humanitarian intervention be justified? This is a complex question and the argument I will make in this thesis will be build up over different chapters. Starting out with explaining why interventions, in general, are such a contested concept in the first place. This thesis attempts to combine existing academic debates and give a moral and practical foundation on how to act in the face of humanitarian disasters. In the theoretical part I will be taking just war theory as a basis to argue in favour of a limited humanitarian intervention when the circumstances require it. The most important points against humanitarian intervention as brought forth by post-colonialist scholars and realist scholars will also be discussed and taken into account.

After setting up this moral framework to justify some interventions under very specific circumstances I will analyse how interventions are generally taking shape in practice. Analysing the United Nations Security Council on its political, politics, and policy dimensions. A thorough analysis of decision making around humanitarian intervention and what it looks like in practice allows me to compare the practice to the theory. This, in turn, forms a good basis for critique and possible improvements of the way humanitarian interventions are set up, conducted and justified right now. With this last section, I will also answer part two of my research question; is the United Nations Security Council the right institution to conduct humanitarian interventions according to this justification? The academic relevance, therefore, is not only related to the moral discourse regarding humanitarian intervention but also the practical application of the concept by the United Nations Security Council (UNSC).

2. HUMANITARIAN INTERVENTION: A CONTESTED CONCEPT

2.1. THE CONCEPT OF HUMANITARIAN INTERVENTION

In this thesis, I will use the concept of humanitarian intervention as described by Holzgrefe and Keohane (2003). They state that humanitarian intervention is “the threat or use of force across state borders by a state or group of states aimed at preventing or ending widespread or grave violations of fundamental human rights of individuals other than its own citizens, without the permission of the state whose territory this force is applied or threatened.”. Although I do not fully agree with the fundamental rights of the individual that allow intervention that Holzgrefe et al.

support, their definition does clearly show the key factors of humanitarian intervention being an external intervention by another state. This is also the most contested part of the concept. In this chapter I will elaborate more on this.

2.2. BREAKING THE SAFETY OF SOVEREIGNTY

The main reason that humanitarian intervention is such a contested concept is state sovereignty. This concept has been an important concept in international law and politics since the first international systems came to be. Sovereignty can be defined as ‘‘the right to rule over a delimited territory and the population residing within it’’ (Ayoob 2002 p.21). The concept itself, however, has a very long history. Hobbes and Bodin were some of the first to attempt to decode it in the 17th century. Sovereignty is not just about power, like a police officer can have power. It is about supreme power and authority. The one who holds sovereignty is at the top of the power ladder (Philpott 1995). This means that a fully sovereign country has absolute control over its own territory. In reality, this is not always the case where countries give up their control to supranational organizations like the UN and EU. It still rules international relations today though and is the main reason why interventions are so contested.

As stated, the first ideas of sovereignty go back centuries. Especially after the peace of Westphalia the European states laid the foundations of what we now call international law (Kissinger 2017). After signing the peace treaty of Westphalia, the participants decided that external intervention should be illegal, and that state sovereignty should never be violated. Internal state affairs are the matters of that state. This system has prevailed since and states all over the world have in some form agreed that non-intervention is an important aspect of international politics. Some main characteristics of the Westphalian system of state sovereignty are:

- Individual human beings have no legal place in international society
- States are legally equal with the same standing in international society
- The norm of non-intervention is central
- States cannot be aggressive towards other states except in self-defence
- Procedural rules of diplomacy and treaty-making exist and are binding

These principles though have never been fully implemented according to many scholars. Because since there are states there are power relations and interactions that influence decisions (Núñez 2014). The main point to take away from this time is that international treaties and laws started to become more important and that external intervention was agreed upon as a crime (Teschke 2002). This consensus of non-intervention politics stayed in place for a long time and it wasn't until more recent times that people began to theorize about guidelines for when intervention is allowed.

As stated in the introduction the importance of the concept really came to be with the formation of the Westphalian system (Strange 1999). When it comes to external intervention the concept of sovereignty is very clear and simple though. This thesis will put the focus on sovereignty in the sense of protection from foreign intervention by force. This will, therefore, not include the changes

that have been happening in a globalized world where supranational organizations like the European Union are emerging to solve international problems.

State sovereignty has its roots in the system of Westphalia and although sovereignty is changing, it still is one of the foundations of international law and international relations (Masahiro 2012). An important argument used by law scholars and politicians to argue against intervention and designed as a way to keep international peace. According to these basic principles of sovereignty, a state should never be under threat of aggression of another state, and force is only allowed in self-defence. Hence, for this thesis, the starting point of state sovereignty is absolute sovereignty, even though this is mostly a theoretical concept. It is a useful theoretical extreme to form the basis of argumentation, a principle that gives guidelines for a discussion. When the principle of state sovereignty is mentioned, it basically is interchangeable with the principle of non-intervention. Most people instinctively oppose this view already, especially since the 9/11 attacks or extreme human rights violations all over the world. But it is important to realize that the concept of state sovereignty protects the weaker states from domination by the strong states and protects the right of self-governance and peace. It stops the stronger states from taking over their less powerful neighbours and gives every state a voice in the international arena. I will elaborate on this later when discussing the academic arguments for sovereignty.

2.3. HUMANITARIAN INTERVENTION IS WAR

Another very important fact to realise when it comes to humanitarian intervention and sovereignty is that intervention usually means war. Intruding in another state against the will of that state will very often be met with resistance. Maybe not from the people but there are very few tyrants that will willingly give up their power. A commonly heard argument against intervention, therefore, is that even humanitarian intervention causes victims and harm. Also, the use of force to liberate or secure people under the threat or harm of violence is sometimes in practice as much of a weird logic as it sounds on paper at first glance. This means that the use of force is meant to keep people safe but in practice seems to do more harm than good in a lot of cases. It is hard to deny the logic of this argument. There are many cases where humanitarian intervention has failed to achieve its goals. Although this is definitely linked to the justification of interventions, the practical side of humanitarian interventions will be considered later on. It is of utmost importance that interventions are actually going to succeed and some of the criteria that will be developed will also take this into account. Even though intervention causes casualties, in my argument the moments that allow for intervention will have caused a lot more harm to a population or group of people as the intervention would. This is in reality always hard to calculate in advance but years of experience that military and cultural experts have should allow people to give an estimate about the costs (financially and in casualties) of an intervention. We have learned valuable lessons from the intervention in Sierra Leone and other cases about the amount of commitment that is needed to succeed (Dorman 2016).

2.4. THEORETICAL FOUNDATIONS

After discussing some of the principles of international relations and understanding why humanitarian intervention is such a contested subject in the realms of politics and international law, the academic debates will be discussed. The principles of sovereignty are changing and can be disagreed with, the 'big' theories of international relations are harder to dismiss and give solid foundations on why humanitarian intervention is problematic. Analysing these positions and understanding the arguments brought forth is necessary to formulate a moral framework that justifies it. It will help to avoid theoretical as well as practical mistakes and strengthen the proposition. It is not within the scope of this thesis to in-depth analyse every article on humanitarian intervention, so I have limited myself to the two I consider the strongest arguments against humanitarian intervention. The theories of realism and postcolonialism have in common that they are against humanitarian intervention or legitimate intervention of any kind. These theories are important because they do not only exist in the academic world, but arguments made by both schools are used by politicians all over the world. Understanding these arguments and to some extent incorporating them into a framework of my justification will strengthen it and make it more complete.

2.5. REALISM AND HUMANITARIAN INTERVENTION

The first argument against humanitarian intervention I will discuss is the realist argument. The first realist writings go back thousands of years starting with Thucydides and later continue to be developed by Machiavelli and Morgenthau (Lebow, 2013). In modern academia, it was Morgenthau who in 1948 wrote his book 'politics among Nations' that provided the foundation for the theory as it is shaped today. The realist perspective did lose and gain popularity over the course of the past decades but especially after the 9/11 events, it became a dominant theory of international relations again (Williams 2004).

War and, therefore, interventions as well, are very prevalent subjects in realist theory; some see it as inevitable in the anarchy of international relations while others see ways to avoid it. Bell points out the weakness of agreements between states because they are always subjected to internal interests and that security is a national matter. Realism claims that states are not so much concerned with international peace but more with their own security (Bell 2010 p96). To elaborate on these principles more, Waltz (2001) compares international relations to a game, a game where survival is at stake. Therefore, he argues, states and people in power are very unlikely to play by the rules. Additionally, there is no real referee to enforce agreements between parties. This makes the system of states on the international level a system of anarchy.

There are, however, some ways to avoid Hobbesian chaos in the international arena. Morgenthau has developed principles for international relations that could avoid war. The two most important ones are the concept of the balance of power and prudence (Morgenthau 1948). Starting with the latter, prudence is an important concept, not just for the realist theories but I also use it in the moral framework later on. Prudence as a concept is related to how politicians or other actors that wield

power, should make decisions when it comes to international relations. “All political action must be aware of the complexities and ambiguities of the human factor and must itself be ambiguous and complex - and in the right way” (Ibid, p. 23). Consequently, decisions should be weighed carefully and made with restraint. Prudence is a way (Ibid). The other important concept that can avoid war in this theory is an international balance of power between states or alliances of states. This idea originally also was developed by Morgenthau, but many others extended it and provided empirical support for this theoretical concept. Waltz and other modern neorealist writers also still value this heavily (Waltz 2010). They see the balance of power as one of the few stable positions. It means that no state or group of states has more power than the other if that does occur; war is likely to break out. Any intervention will disturb the balance of power. What is a mechanism that can control violence in international politics? Therefore, interventions are likely to cause more harm than they do good.

Most realist scholars do not think that states on an international level have rules that constrain their actions (Wheeler 2010). This leads political scientists to sometimes claim that realism has no interest in rules at all, which would mean that morality is non-existent in the realist theory. Important political scientists like Beitz and Buchanan claim that “one of the foundations of realism is the view that moral judgements have no place in international affairs or foreign policy” (Beitz 1979, p.15). This is one of the core realist assumptions.

Realist scholars do not see morality as a motivator for war, wars are fought when it is in the interest of the aggressor. These interests are always power related, economically speaking or direct military power. This is also the case with interventions. Realist scholars do not believe that interventions ever serve the interest of the people it claims to help but will always serve the interest of the intervener (Wheeler 2010). This means that any humanitarian intervention never will be truly humanitarian and might even become a weapon for aggressors to wield when it comes to justifying even more use of force. Eventually, any justification of humanitarian intervention would lead to more and selective use of force according to realist argumentation.

2.6. POST-COLONIALISM

The second main argument against the humanitarian intervention, in general, is the post-colonial argument. Postcolonialism is a broad term, it encapsulates more than just the arena of international relations. Most post-colonial scholars place their approach outside of the classic theories of international relations altogether claiming that all our existing theories are purely focussed on and derived from western history. The whole system of Westphalia, sovereignty and nation-states, in general, is very Eurocentric (Seth 2011). There have been attempts to incorporate the theory in international relations theories and, however, complex the concept is, there are some very strong arguments related to humanitarian intervention in the theory. These arguments are, for the most part, not in favour of humanitarian intervention or intervention of any kind. One of the core perspectives of postcolonialism is that it discards the idea that some cultural values are in a way better or worse than others. Cultural values cannot be compared, and we can try to understand

cultures, but we should refrain from judging other cultures. This judgement of cultures and the feeling of superiority partially stems from colonialism. The imperial past of many western European states has led to westernization of the colonised countries. Many were forced to learn the language and culture of the coloniser (Krishna 1993). There is a division made between the northern imperial states and the southern colonised states in terms of how the power relations used to be (Darby & Paolini 1994).

An example of a postcolonial perspective is given by Spivak (1988) who writes about how the British coloniser engaged in an argument with local Indian elites about Indian widows incinerating themselves. The main point she makes is that the Indian widows should be able to decide for themselves about their own faith instead of other people. Even though this practice seems despicable to many westerners or Europeans they do not understand it and, therefore, should not judge or interfere. Sharp (2008) elaborates on some of Spivak's ideas about the subaltern, a name for someone under colonial rule. The people under colonial rule had to not only give up their culture and language if they wanted to integrate in the system but also their world view and ways of gathering knowledge. This removes any form of expression and even their way of acquiring knowledge from the subaltern. She gives the example of Latin America, where the native population has taken over western religion and language almost completely. Therefore, losing an important part of their own identity and way of living.

Not only are we unable to judge other cultures, our whole scientific method is based on the notion that we can be objective observers, which in the case of culture and sociology is very hard to achieve. Postcolonial theory emphasizes that knowledge is always subjective and, therefore, never really true. You can only know something in the context of your own culture and your own observations which are hardly every objective. Postcolonialism, therefore, challenges the positivist scientific approach of gathering knowledge (Acharya & Buzan). People in different cultures can have different ways of knowing and living which we can describe but hardly fully understand.

So postcolonial perspectives challenge our understanding of international relations. Not only in the way realism or other 'grand theories' see it but even to the core of how this knowledge has been gathered. Scholars point out that our understanding of international relations is very Eurocentric and even our declaration of human rights is based on western European values (Acharya & Buzan 2009). In most cases this disables Europeans or anyone, in general, to be able to allow intervention. Because intervention inherently means judging the situation as bad and also very often means the western powers invading the global south. We either do not have full knowledge about what is going on in a country and cannot depict our norms and values on those cultures and people. Postcolonial theory, therefore, gives a concept and theoretical background for people arguing against intervention with cultural relativist arguments. It also gives a counter perspective to the many approaches that see western values as the base of human rights and the domination of northern states in the UN Security Council.

Human rights are founded in the French revolution and, therefore, a direct product of western values. Most have a strong connection to democracy and see freedom as a core value. This liberal notion of life and happiness is not shared all over the world (Grovoqui 2006). This means that the rights and way of life that we deem 'good' can have very different interpretations. Therefore, basing humanitarian intervention on human rights is problematic. But it also goes further than that. Seth (2011) also noted that sovereignty is also a product of western scholars and history. It is important to realize that in contradiction to most realist scholars' sovereignty is not a principle postcolonial scholars value highly. It is just a logical consequence of not judging or interfering with other cultures.

Another important side to postcolonial argumentation is the practical side. This is not just limited to this theoretical approach in and of itself, but it is related to the questions raised. Interventions in practice rely heavily on the people of the country that is being intervened. Communication with the victims can be challenging to the extent that the intervener causes more harm than is being solved. Cultural barriers and misunderstanding can lead to violent situations or situation where in the end the old power relations that caused the suffering are still in place (Rauchhaus 2009). This practical argument against humanitarian intervention is very important to realize and take into account but dealing with this problem is also a practical issue. The questions raised by Rauchhaus and others about the practical issues regarding humanitarian interventions is as stated before a concern and will be dealt with in the theoretical framework, more specifically when talking about using the right means for humanitarian intervention.

2.7. REACTIONS TO THE THEORIES

The purpose of this moral framework is not to convince the hard liners from both realism and post-colonialism that this is the best way forward. The goal is to address some of their well founded concerns and use this to improve the framework. This makes the moral framework stronger and more diverse. I will react to some of their critiques and implement parts of it even though this thesis defends a liberal based world view.

The realist argument makes sense but also has some cases where it does not hold up. Apart from the system-level counter arguments about norms and rules in international relations like the ones given by liberalism and constructivism, I will put the focus more on the argument for humanitarian intervention. This argument is still founded partially in the liberal notion of the importance of international organization as well as the constructivist notion of the importance of shared norms and culture between nations.

Bourdieu (1990) argues that all throughout history states have given explanations for their aggression. This means that even in the international anarchy, states feel that there are some rules. A shared morality as to what is and is not allowed. They do not always conform to it, but it shows that every actor has a sense of the rules of the game and that they do exist. This inherently affects the actions of this actor and, therefore, should be taking into account. We see this in practice all over the world; Wheeler (2010) gives the example of the Soviet missile crisis where the Soviet

Union claimed it was an act of self-defence. This was disputed by the U.S. but could only be disputed when both parties have a common understanding of what this concept entails (Ibid p.25). This shows that morality at least has a place in world politics

The practical side of the realist argument that interventions are never humanitarian because other interests are at stake will be dealt with in this framework as well, where an international institution is held responsible for the justification and execution of the interventions. Unilateral interventions might have a tendency to include other motives than just humanitarian ones. But multi-lateral interventions conducted by a democratic and transparent institution can deal with many of these concerns. As Keohane (2005) also describes, is the concept of a balance of power not really present anymore in the modern world. Many realists see new balances occur and disappear all the time but the cold war, during which is concept was developed, is over. This means that the balance of power argument does not really hold up as much as it used to.

The main counter argument, however, comes from the liberal side. Where realists have a state-centric vision on world politics, most liberals see the world as a more interconnected society than ever (Keohane 2003). I will elaborate more on this argument later but the core element is that the focus shifts from state-centric to people-centric. Where sometimes the basic rights of the people living in horrendous circumstances are weighted heavier than the interest of their state. Finally, the realist argument is right that humanitarian intervention will give more leeway to justify violence, but the purpose of this thesis is to ensure that humanitarian interventions are an instrument to reduce suffering instead of letting the situation be or increasing the violence.

The realist argument is important though and many of the concerns raised are valid. Where other academic approaches might differ in their views on the international society or the importance of the individuals in countries, the realist perspective raised valid practical concerns that will be taken into account with the development of this moral framework and the justification of humanitarian intervention.

The postcolonial perspective is not in the same way problematic like the realist argument is. It is part of the critical theory and, therefore, challenges our understanding and way of practicing political science (Krishna 1993). Therefore, it is not as clearly constructed and debated when it comes to humanitarian intervention. The core principles make sense and are important to keep in mind but even though the line of argumentation makes sense in both the practical and the theoretical sense, there are some very basic rights everyone would agree upon. The theoretical framework will elaborate on this more, but it is founded on the assumption that there is no group of people who would rather be murdered by their government or other groups of people from their own nation than saved by the international community. Obviously in some cases individuals' value or claim to value their sovereignty and "freedom" over life but on a larger scale this seems very unlikely. It rests on the assumption that survival and security are valued all over the world, and in every culture on a large scale. This also means that the mass killings we see happen are a problem that takes priority over the possible breach of culture that might happen when we try to end it. The

practical arguments brought forward by postcolonial scholars are important to consider when talking about humanitarian intervention in practice and it is of utmost importance that any intervention is executed with commitment and justifiable violence, but most cultural issues will differ with every intervention. This means that it will not make sense to develop general rules and guidelines for this issue.

3. THE LIBERAL ARGUMENT FOR HUMANITARIAN INTERVENTION

3.1. THE CORE DEBATE

If one wants to judge to what extent humanitarian intervention should be allowed, there should be a clear line of argumentation with a decent structure. The liberal argument gives such a strong structured argument. It is a rather varied school of thought with different outcomes, but the main assumption is shared across basically all liberals. This position is given by Tesón (1988) and states that from a liberal point of view, a state should see it as one of its main priorities to protect the civil rights of its civilians. This point of view can also be found just war theory in a similar form when Micheal Walzer (1977) puts it slightly different. Stating that a government's main objective is to protect the life and liberties of their citizens. When a government fails to do this, humanitarian intervention becomes an option and maybe even a duty. The main assumption is that states see it as their most basic purpose to protect its civilians.

This basic assumption comes from the contract theorist view that a state is in essence not much more than a contract between citizens to give up some of their freedoms to live safely. The duties and rights of states are nothing more than the duties and rights of the men and women who compose them (Ibid.)

There are also some slightly different assumptions in the liberal school of thought, like the utilitarian vision of Mill. He states that people get the government they deserve and if they have a government that violates the rights of its civilians, the civilians have their own duty to resist (Varouxakis 1997). Doyle (2009) gives a good overview of this liberal disagreement. On the one hand, liberal thinkers like Walzer and Mill see non-intervention as very important and crucial for people within states to pursue their own happiness. On the other hand, for people to pursue this happiness they need some freedom and basic liberties. And when those are not available because their government is limiting them, how can people live a life in liberty? (Doyle 2009). Tesón states about his contradiction that the sovereignty of a nation is always in service of the people of that nation. And when tyrants or dictators do not represent the people or secure their basic rights, they have no claim to sovereignty in general. Hence, the outcome of this contradiction in liberal theory is that sovereignty is here seen as an instrumental value to achieve the more important values of liberty and human rights (Tesón 2003). The argument is constructed out of two main assumptions; the first one has been discussed above and is that a state has the responsibility to protect its citizens. The second assumption given by Tesón is that the violation of human rights in a country is morally

unjust. Mass murder, genocide and other atrocities on that scale are morally never justifiable in his assumption.

So Tesón and other liberal scholars agree that it is not only the purpose of the state to secure liberty and safety of its people but also that the state loses its right to sovereignty when it fails to do this. The biggest discussion point between liberals is how far this responsibility of the state goes. Rawls also agrees that certain societies or states can lose their right to be sovereign. One of the core concepts within Rawls' Law of Peoples is that political injustice is a form of evil. This means that it is morally wrong for a government to cause injustice to a society (Rawls 2001). Some regimes are morally wrong and, therefore, lose some rights when it comes to being sovereign. One of the most important factors for Rawls is democracy, he feels that democracies are less likely to cause war and violation of human rights (Beitz 2000). But although he sees democracies as the "best" version of society, some rights can be given to non-democratic societies as well. A decent hierarchical society is also an acceptable version according to Rawls but when a state does not respect basic human rights and liberties it becomes either outlaw states, burdened societies or benevolent absolutisms. All these states have different aspects but the core argument to take away from the Law of Peoples is that certain non-democratic societies that violate human rights lose their place in the international community and other members of this community have a duty to assist these repressed peoples (Rawls 2001). We see here that Rawls already goes further in justifying intervention by hierarchical ordering states based on how they treat their people and how their institutions are set up. What rights states need to protect is, therefore, a key factor in liberal theory.

This is the foundation of humanitarian intervention for liberal scholars. It leaves open many questions still, most writers agree that genocide or other large-scale atrocities against humanity are violations grave enough to allow intervention. But to what extent should people be free from prosecution or allowed to express their ideas? There are two main aspects to this question defined by Walzer and others, which states that not only it is important which human rights are being violated but also the scale on which this violation takes place (Walzer 1977). According to the United Nations, there is no ranking in human rights (UN general assembly 1948). But in reality, we see that many scholars and politicians distinguish between the fundamental human rights and the more liberal ones (Baehr 2016). This distinction is between fundamental rights and liberal rights specifically means that in situations of war or emergency these values should still uphold. So, this is step one in distilling some of the core rights that many liberal writers propose. In the later UN resolutions like the *Responsibility to protect Resolution* we see these more core values back. In the R2P chapter, the long list of human rights is cut down to four basic rights. "Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity" (UN general assembly 2009 p.4). The R2P principle, which is also contested internationally, limits the list of human rights 'worth intervening for' to these four principles. In different liberal works one will find a different emphasis on different fundamental rights.

3.2. COSMOPOLITANISM

The cosmopolitan perspectives on intervention are based on many liberal ideas but do not hesitate to take it one step further. Most cosmopolitans share the liberal notions on human rights and the protection of human rights but emphasize even more the responsibility we have towards each other as people, regardless of state boundaries. Most liberal thinkers as mentioned before still fully believe in state sovereignty and see humanitarian aid as a necessary evil to battle even worse evil. The baseline for many cosmopolitans is that state sovereignty is more a functional way in which we divided the world at the moment than an important instrument to secure peace. Letting go of this notion allows for easier justification for humanitarian intervention, but also runs into problems. That is why cosmopolitan views are interesting.

“Whichever kind of cosmopolitan one is; however, one will subscribe to the view that human beings are the fundamental units of moral concern and have equal moral worth, irrespective of group membership (cultural, familial, ethnic, and national). Cosmopolitan morality is thus individualist, egalitarian, and universal” (Fabre 2008 p.965). The focus on personal liberty and the role of a government in this instance is very similar. Pogge (1992) differentiates more clearly between the three core principles, stating that; individualism, universality and generality make up the foundation of cosmopolitanism. In principle, it is the same outcome namely that each individual is of equal worth regardless of what groups they belong to. The most important distinction between the more common versions of liberalism as supported by Keohane and his co-writers and the cosmopolitan school of thought is that most cosmopolitans see human rights as more important than sovereignty. Liberals generally tend to agree that not every human right is worth an intervention. If one follows the more extreme forms of cosmopolitanism every human right is worth an intervention because individuals are what they are concerned about and borders are meaningless drawn lines (Tan 2004).

It is rather impossible to distinct all the various forms and schools of thought within cosmopolitanism completely but in this thesis it is more used as a tool to explore founded and scientific approaches to a world where borders are seen with less importance than most traditional schools of thought where national borders and nations states are the key units of analyses. To leave out the counterpart of what we started out with all those years ago with the Westphalian treaties would be ignorance. There are, however, some crucial problems that occur when implementing this worldview in practice. One of these problems is the issue of authority. As stated in the introduction it is already very hard to construct an authority that makes decisions like this even when the moral obligations are obvious. At this time, we do not seem to have an international organ that is able to make decisions like this and constructing one would be a massive challenge. It also fully releases the restraints that sovereignty gives to withhold states from intervention, the abuse of human rights as a justification for intervention becomes a big threat. I will further elaborate on why I think the justification for intervention should be limited.

3.3. PROBLEMS WITH POSITIVE FREEDOMS AND GENERAL INTEREST

Earlier on I mentioned that I do have some critique on the liberal position of Tesón and others. The main point is that the realist view, although I disagree with it, has a point in stating that powerful states will in most cases only act in their own interest. Scholars arguing in favour of humanitarian intervention should constrain their justifications. This is important to make sure that humanitarian intervention cannot be misused by states that seek justification for imperialistic intervention or unjust war. This also has a second function, which takes into account some of the post-colonial arguments. Expanding the mandate of R2P or trying to promote a lot of positive freedoms for people around the world is not only a western biased view but also opens up justification for powerful states to wage war against the less powerful states like realist scholars would argue.

An important distinction in what rights should and should not be protected can be made between positive and negative freedoms. The first one to make this distinction was Isaiah Berlin in his work '*Two concepts of liberty*' (1969) where he states that there is a difference between liberties. One can be free *from* something like prosecution and one can be *entitled* to some freedoms like being able to run for public office. One is more a passive way of looking at liberty while the other is more active. This difference is not black and white and sometimes also just a way of phrasing something, but it has value in the discussion on humanitarian intervention. This is because many positive freedoms that western democracies promote usually have a lot to do with western traditions and the notion of liberties. An example of this that many western democracies have in their constitution is the freedom of expression. In many countries, there is no such thing as freedom of expression (Freedom house 2018). People are arrested for having different views than their government worldwide (China, Turkey etc.). Should this be a reason to intervene? Freedom of expression is a clear right for everyone according to the declaration of human rights (Morsink 1999). Achieving this would not only be practically impossible but also not take into consideration the post-colonial criticism that we cannot place our values above others. Democracy and freedom of speech might be values that the western world holds in high regard but this is not the same across the world. The same goes for many of the other positive freedoms that liberal democracies propagate. Humanitarian intervention should, therefore, be mainly focussed on securing some basic negative freedoms for people. The just war theory approach put the focus more on those basic rights.

3.4. JUST WAR THEORY AND INTERVENTION

A more limited idea still based on the liberal notion of basic human rights is just war theory. Many of the reports written about humanitarian intervention across the world have strong foundations in just war theory. Wheeler (2000) uses four important criteria for humanitarian intervention, just cause, last resort, proportionality and a high chance of success. These criteria are also very prominent in just war theory where Walzer and others define these concepts more closely. Giving real meaning to these broad concepts can be challenging and different for everyone but especially

just cause gives a good answer to the question as to why we should intervene. Wheeler describes the just cause as a supreme humanitarian emergency. This is still hard to define but gives a better view of how extreme the cases are that require measures like an external intervention. The views expressed before by Walzer are also directly related to his thoughts on just war. And although it has strong ties to the liberal world views it does directly apply to the use of force in the international arena and is, therefore, a good source of inspiration for the justification of the use of force in a humanitarian sense. ‘‘Just War is the name for a diverse literature on the morality of war and warfare that offers criteria for judging whether a war is just and whether it is fought by just means. This tradition, thus, debates our moral obligations in relation to violence and the use of lethal force. The thrust of the tradition is not to argue against war as such, but to surround both the resort to war and its conduct with moral constraints and conditions.’’ (Fixdal & Smith 1998 p.286).

The modern criteria in just war theory are roughly agreed upon by scholars like Walzer, Elshtain and others. Within just war theory there is a distinction between *jus ad bellum* (the justice before war) and *jus in bello* (justice in war). The six main principles of *jus ad bellum* are:

- Just cause criterium: The war can only be fought when there is a just cause.
- Right intention: The war has to be fought with the right intention.
- Right authority: The decision to go to war has to be taken by the right institution that is able to make a legitimate decision.
- Reasonable prospect of success: The war or intervention should only be instigated when there is a reasonable prospect of success by using military means.
- Proportionality: The war should only be fought when the goal is something so valuable that it justifies the use of violence to achieve it.
- Last resort: War should always be a last resort; all other peaceful measures should have failed.

Then there are the principles of how to act in war. These two principles describe the conduct of war or intervention and how it can be executed in a justifiable way.

- Principle of discrimination: There is a difference between combatants and non-combatants. Non-combatants should never be targeted.
- Principle of proportionality: Any act of war has to be in proportion to the goal that is attempted to be achieved with that act. The loss of lives, especially the lives of non-combatants should be minimized.

Mona Fixdal & Dan Smith (1998) link the concepts of just war theory and international intervention together very well. An important advantage of just war theory is that it does not only take into account the morality of actions but also of consequences. This allows for the use of force, which is morally wrong in itself, under the right circumstances. It can be allowed to avoid bigger harm. While still being very limited in when the use of force can be justified. The just war theory approach will, therefore, form the foundation of the moral framework developed in the next chapter.

4. LIMITED HUMANITARIAN INTERVENTION

4.1. DEVELOPING A NORMATIVE POSITION

After examining different theoretic positions and discussing some of the foundations that the criteria come from, it becomes possible to develop a more concrete set of guidelines for humanitarian intervention. This framework will be based mainly on the principles of just war theory because that inherently takes into account some of the objections against humanitarian intervention brought up by post-colonialist scholars and realist scholars. The arguments against humanitarian intervention hold clear value and taking those into account will strengthen the argument that will be made in favour of intervention. These practical criteria are limited in scope to avoid misuse like a lot of realists would fear. It will encourage multilateral intervention and transparency to avoid the most powerful countries chasing their own interests when intervening. Even though this will probably not convince the hardliner realist's it does address some of their concerns and, therefore, makes this a more balanced framework.

The most important pieces of criticism of the postcolonial perspective are also incorporated to some extent. It is impossible to completely follow the critique because that would never allow intervention and even though my view is western and biased, I would argue that there are very few people in the world who would rather be massacred than live. This framework is aimed at the lives of groups of people who are being violently harmed or killed. Acknowledging that most countries will never fully know what is going on in regions suffering from this is no argument to let it happen. I will elaborate later on about the duty or right to intervene in this moral framework, but no party should stand idly by when groups of people are getting murdered. The justifications for when humanitarian intervention should take place are very limited though, as already stated in criticism on the liberal perspective. The arguments brought forth by scholars of postcolonialism are somewhat taken into account with these limitations. I tried to refrain from cultural judgement as much as possible, not following the liberal argument too far even though I agree with their starting point. This framework shifts the focus away from human rights and more towards basic safety. So not prosperity or what we as the western world deem happiness and prosperity but focusses on the assumption that there is one common value that everyone shares. This value is survival and safety from serious harm on a large scale.

4.2. DUTY OR RIGHT TO INTERVENE?

For a moral framework to be useful, it should not make practical examples for specific countries. Morality should not be bound to specific countries or part of the world. The basic right that is worth intervening countries should be universal. This is why it is so tricky to come up with some basic rights for people that are worth intervening. The R2P principle gets a lot of critique for being implemented selectively even though it only has very few basic principles (Morris 2013). Second, the selective use of force to protect people has called for the discussion whether a code of conduct for humanitarian intervention should be binding or not. To avoid the selectivity problem that realist as well as post-colonial scholars fear, there should be a duty to intervene.

The selective use of force in different humanitarian cases is morally and legally a problem. Wheeler (2010) brings up the argument of customary international law and how it is being shaped by the behaviour of states. Humanitarian intervention, he argues, should be part of this international legal framework. This means that action, in this case, humanitarian intervention, can be legal. It would strengthen the argument that humanitarian intervention is or should be part of custom international law when it is applied in every case that fits the criteria and not selectively. If intervention is deemed necessary, the states that have the capacity should intervene in the same sense that a government should act when atrocities are being committed against its citizens.

When one makes the argument, like Tesón (2003), that a government loses credibility when it fails to protect its citizens then this should also be stretched to the international community. We have seen more than one example of the UN Security Council failing to act when people are being massacred, like Rwanda and Kosovo, and this hurts the faith that nations around the world may have in the Security Council and UN as an institution. If intervention is used selectively, it would become what a lot of realists fear. A tool for the more powerful states to suppress the less powerful ones.

The third argument for a duty to intervene is that humanitarian intervention might have a deterring effect on any government that considers taking part in any of the crimes that might lead to intervention. The situation right now leaves too much of a grey where intervention should happen but doesn't because of political will. Outlaw states or other violent regimes are given free rein in some instances. When every case of extreme humanitarian emergency has consequences, these violent regimes or groups will hopefully in the future reconsider causing massive harm. A duty to intervene gives more space for international law to adapt, for the UN to improve its credibility as a safety net for people in danger and it will more than likely deter some future instances of extreme human rights violations.

This brings a practical challenge to developing a normative position. The normative framework should not only be applicable in every single case around the world that fits the criteria, but it should also not exclude the most powerful states in the world from playing by the rules, without becoming too unrealistic to ever implement. Because even though this is a moral framework, if it

is too utopian or idealist it loses its practical value. Therefore, the moral framework should be limited. This will also help adhering to some of the post-colonial points of critique as stated before.

4.3. THRESHOLD CRITERIA AND PRINCIPLES FOR HUMANITARIAN INTERVENTION

It is clear that humanitarian intervention is a contested and heavily discussed topic. The examples from R2P reports and just war theory, however, give a good basis to set up criteria for humanitarian intervention. The ICSS report makes a useful distinction between the threshold criteria and the precautionary principles. The criteria listed below also have a division between threshold criteria, that are reasons to intervene, and principles for humanitarian intervention that state what an intervention needs to be justifiable. The threshold principles are large scale loss of life and large-scale ethnic cleansing. These are the only justifiable criteria following the theory section of this thesis. Limited enough to exclude misuse but still allowing some form of protection for people in need. The principles are there to make sure that humanitarian intervention is done in a morally justifiable way. Not just to exclude hidden motives but also to make sure that the threshold principles are most likely to be achieved without creating more suffering as a whole. On top of being the core of the theoretical framework, these will also be the criteria that guide the analysis of the UNSC as the right authority for humanitarian intervention. Any institution with authority on humanitarian intervention should have the means to investigate whether the threshold criteria are being met.

4.5. LARGE SCALE LOSS OF LIFE

Large scale loss of life seems like the most obvious reason for humanitarian intervention, especially after what happened in Rwanda with the genocide. However, large scale loss of life can be of genocidal nature or not. The reason that genocide is not a preferred criterium for me has two reasons. It has many different meanings and interpretations and in most of those it is limited to specific groups of people (Luban 2006). Humanitarian intervention should be possible in more situations where there is large scale loss of life. One characteristic is that the government that is in charge of the territory is unable or unwilling to put an end to the violence. This definition does not include violence that does not cause serious harm. This means that violence that causes death or heavy damage to peoples' bodies and or mental health. This does also mean that systematic racism or political repression, how condemnable it might be, is not a reason for military intervention. Those kinds of violations could be causes for economic sanctions or other means of international pressure.

The large-scale loss of life does not have to be caused by the government itself. The government is responsible for keeping the people safe within its territory and as stated before, the government loses its right to sovereignty when it fails to do that job. So, when does the government fail? To many this would be an obvious case, we can see it when an effective government has collapsed, and people are dying. But not in every case it is an obvious choice. The ICISS report does not define exactly what a large scale loss of life would be "We make no attempt to quantify "large scale": opinions may differ in some marginal cases (for example, where a number of small scale

incidents may build cumulatively into large scale atrocity), but most will not in practice generate major disagreement” (ICISS 2001 P.33). I do not fully agree with this statement because humanitarian intervention is such a difficult and politicized subject. The breaking of state sovereignty will probably cause discussion in basically every case. On the other hand, I do not believe that large scale killings can be expressed in numbers either. Walzer describes it as “acts that shock the moral conscience of mankind” (Walzer 1977 P.133). I do agree that most people have a general idea of how many deaths and how much violence counts as “large scale”. Our general moral conscience is very able to judge situations (assuming that our information is correct) and decide when something is so severe that intervention should take place.

One moment that this criterion can get complicated is civil war. Civil wars cause massive deaths all over the world but in a lot of cases both sides are guilty of murder on a massive scale. According to the first principle of the framework there should be humanitarian intervention in civil war. Because it does cause large scale loss of life. In the case of civil war, the principle still holds up. Cases like the civil war in Syria show clearly the horrors that a situation like it can bring forth. Therefore, in this framework the Syrian civil war is a situation where we should have intervened. Walzer (1977) states that for a civil war to be successful the people need popular support, because without support the government, with its monopoly on violence and army, has a huge advantage. This means that people have to be willing to take arms and risk their lives for their cause. This is an internal affair of states until the violence causes large scale loss of innocent people. This is when a humanitarian intervention should take place and attempt to end the killing. This brings some issues, one of the most important ones being the moral hazard of interventions as brought forward mainly by Kuperman and Crawford (2014). They state that interventions might give the incentive to rebellious groups to pick up arms knowing that the international community will come to their aid and stop the government from fighting them. Although I do think that this is an important predicament to keep in mind, it does only take place in certain situations. Humanitarian intervention should not seek to choose a side but have the aim to stop human suffering.

4.6. LARGE SCALE ETHNIC CLEANSING

This second criterium is linked to the first criterium of large-scale loss of life. The main difference here being the deliberate targeting of ethnic groups. Political communities within country borders that are different from the ruling group. The reason for the difference when it comes to large scale loss of life is that when ethnic groups are the target, the violence tends to be more structural and more severe (Olzak 2005). Border cases in this criterium are even harder than in the first one and this is where the difference between positive freedoms and negative freedoms becomes very distinctive in my framework. Ethnic groups should be free from any targeted prosecution based on their ethnicity but when does it become a matter of international importance? As said before, structural racism is a horrible think but not a reason to intervene. When ethnic groups are actively being prosecuted at the level that they are being imprisoned without a fair trial and being forced out of their homes on a large scale it becomes a matter for humanitarian intervention. Also, again for these cases it does not matter if the government is actively causing it, standing idly by or in a

state of collapse. The safety of these ethnic groups is a concern of the international community as a whole. Ethnic groups in every nation should be able to live their lives without being threatened with their lives. When they take up arms to fight against structural racism for example it becomes a different story. The international community is not responsible for providing every ethnic group with positive freedoms to achieve their goals and liberties but is responsible for securing the basic negative freedoms for these groups when it comes to ethnic cleansing. These are basic negative freedoms like being safe from murder, extermination, enslavement, deportation, imprisonment, torture, and rape.

Any authority on humanitarian interventions should have the capability and means to identify these events, monitor conflicts around the world and gather as much information as possible.

4.7. RIGHT INTENTION

An intervening country or organization should always be aiming to achieve the goal that justified the mission in the first place. There are some ways to ensure this. One way can be multilateral intervention, this is also mentioned by the ICISS report, but I want to elaborate more on this. A report by the Centre of strategic studies from Wellington (2000) states that one of the criteria for humanitarian intervention should be, that intervention is best done by neighbouring countries. This is probably more cost efficient and neighbours might know the area better than other countries around the world. But on the other hand, neighbouring countries usually have different interests in the area. On top of that regional states can suffer greatly under the instability of a neighbouring country, refugees can destabilize other countries and can even be a cause for civil war (Salehyan & Gleditsch 2006). That's why to ensure that the intention of a coalition is right; an international coalition combining regional states and international powers is the best way to go. Combining the military force of Russia, China or the United States with the local knowledge and credibility of smaller neighbour states gives a good chance that the intervention will have no ulterior motives. Multilateral interventions can be more chaotic but because of the simple need for a massive investment of troops and money it will be more than likely a necessity anyway. An important measure to secure a right intention for an intervention is transparency in the decision-making process. Therefore, any organ making decisions on intervention should have a certain degree of transparency to make sure that the intervention has the right intention and other motives are excluded as much as possible. An organization would help secure this right intention by creating a forum for discussion, although the legitimacy of an organization like this would be crucial. The importance and weight of the decisions made regarding humanitarian intervention require broad support to legitimize them. So an organization is not necessary but could be of great use to secure the right intention.

4.8. PRUDENCE AND LAST RESORT

As stated before, intervention is war, and war causes casualties. Therefore, humanitarian intervention should always be considered very carefully. Other ways, preferably peaceful ones

should also be considered and seriously attempted before intervening. This does not mean that every peaceful manner to solve the conflict has to be attempted. I agree with Walzer (1972) that one could go on into infinity trying every single peaceful solution to a conflict. This will take too much time and time is usually a crucial factor when it comes to humanitarian intervention. But even though speed is crucial, prudence is very important as well. A decision that will almost certainly cause human suffering and death should always be taken carefully. Intervention is costly and hard to execute right. This means that there needs to be a platform for discussion and decision making between different countries. The decision-making authority should have the possibility to impose sanctions and other measures to ensure that intervention is a last resort.

4.9. REASONABLE PROSPECT AND MEANS

An intervention has to have dedication by the intervenor both in financial costs and the cost of human life, for the intervention to have a high chance of success (Doyle & Sambanis 2006). I do agree that the means for the intervention should not be outrageous but if it is necessary to deploy a big number of troops to achieve the humanitarian goal, then this should be done. A reasonable prospect of success should always be present but is closely linked to proportionate means. One thing that is very important in proportional means is that the use of violence is limited. Walzer (1977) defines proportional means in just war theory as the relation between civilian deaths and military gains. This means that to achieve military success, the death of innocents is acceptable but only when it is really necessary. This should be taken into account just as careful when it comes to humanitarian intervention. Walzer also states that dropping atomic bombs on Japan in the Second World War can be defended but hardly. This would be an example where the importance of Japanese citizens was deemed less than that of American soldiers. Which emotionally speaking in time of war makes sense but for a general moral framework is wrong. As stated, in the theory section the life of every person in the world is of equal worth. Therefore, causing mass slaughter is never an option for any intervenor no matter how well the intention can be. The means have to be reasonable and in line with the theoretical justification.

5. HUMANITARIAN INTERVENTION IN PRACTICE

5.1. RIGHT AUTHORITY AND THE UNSC

So after formulating the normative framework in the theoretical section. This section will be focused on the empirical analysis of the UNSC. An important criterion in most theoretical frameworks including the one about humanitarian intervention is right authority. This is another concept derived from just war theory and used to legitimized intervention. The only authority that can legitimately make decisions on humanitarian interventions is the United Nations Security Council (UNSC). Many authors believe that the UNSC is unique in its existence in history. The predecessor called the League of Nations lacked the credibility or enforcement power to make an

actual difference where the UNSC has shown its ability to respond to conflicts multiple times. “The United Nations Security Council is the most powerful international institution in the history of the nation-state system” (Cronin & Hurd 2008 P.3). The security council is the main organ when it comes to decision regarding international security. No policy can be made by other organs regarding security issues. Article 39 states that: “The security council has to determine the existence of any threat to the peace, breach of the peace or act of aggression”. Since humanitarian intervention is war, it falls under the jurisdiction of the UNSC. In recent years the UNSC does not only keep itself preoccupied with intrastate conflicts but also with inter-state conflicts like humanitarian crises (Morris 2000). In this section, I will, therefore, discuss the workings of the UNSC as an authority on humanitarian intervention. The UNSC as an authority will be judged on how it is able to apply the norms set out before in this thesis in practice. The ICSS report and other academic works give little guidance or clarity on this analysis. Therefore, to analyze the UNSC I will make use of the polity, politics, and policy approach. This widely used method in political science will enable a structured breakdown of the working of the UNSC to than give a good answer to the second research question. Is the UNSC the right authority to conduct just humanitarian intervention?

I will use the definition of polity, politics and policy as set out by Kiad & Holtz-Bacha (2007) in their Encyclopedia of political communication. They make a distinction between the German technical terminology and the Anglo-American definition. The German definition being the more structured one and it also makes a better distinction between the terms,, therefore, I will use this definition. The terms polity, politics, and policy are defined as follows:

- Polity describes the formal dimension of Politik. It includes the framework of institutions, that is, the political order in which political action has to take place. It refers to the structure of the institution.
- Politics describes the process-related dimension of Politik, the conflict about decisions between the political players.
- Policy describes the substantial dimension of Politik; that is, the organization of individual social problem areas through obliging decisions. In other words, the output stage of the process.

In the case of the UNSC this means that each stage of the process will be taken into account. Starting with the structure and composition of the council itself. Then moving to the decision-making process and how this takes place exactly. Ending with an analysis of the output, the resolutions that we can see as policy.

5.2. POLITY OF THE UNSC

The polity dimension delves into the structure of the UNSC. As stated in the definition this means that it is about the framework of the institutions. Rittberger & Zangl (2006) word it as “the rules of the game that affect the outcome and how the game is being played.” (p. 63). The structure of the UNSC whilst being important is not as simple as it might look at first glance and is more important than just the five permanent members. So before analyzing the polity side of the UNSC

in depth it is best to give a short overview of how it functions today and then go deeper into the reasons why it is supported or criticized. The UNSC is founded upon two main principles: first, unilateral use of force is banned except in situations of self-defence and second, the UNSC has the responsibility to examine threats and secure our collective security (Morris & Wheeler 2007).

The council itself consists of 15 member states, of which five are permanent members and the other ten rotate between other states. Every group of countries has a seat that they compete for every two years. The five permanent members, Russia, UK, France, U.S. and China can veto every decision they don't agree with and it will not be implemented. For the rest of the decisions a majority of nine votes is required for it to pass. The institution itself represents the world's power relations as they were after the Second World War when the UN was created. The non-permanent members are elected based on their contributions to peace and security (Schrijver 2007). This allows for an indirect democratic process by the general assembly that elects the members of the UNSC. These non-permanent members are elected from different geographical groups. Five members are part of the African and Asian group, two from the Western Europe group, two from Latin America and one from Eastern Europe. This geographical division seems to not stop the countries that participate in peacekeeping be elected the most frequent. Countries like Canada, Pakistan and India are major peacekeeping participants and are elected rather frequently (Conforti & Focarelli 2016). The voting goes through a majority system for procedural matters and when it comes to non-procedural matters the permanent members are able to veto decisions. In practice, however, almost no matters are deemed procedural and most decisions can be vetoed by the permanent members (Daws & Bailey 1998). This majority system is implemented to allow for more efficient decision making than a two-thirds majority system would (Rittberger & Zangl 2006).

The executive power in the UN is led by the Secretary-General (SG). The SG is recommended by the UNSC and elected by the General Assembly (GA). This person has a big influence on the agenda setting of the UNSC and, therefore, also on the policy of the UNSC (Ibid.). Since decision making in the UNSC is heavily reliant on the structure, changing the structure automatically also changes the politics of the UNSC. Therefore, a more in-depth discussion about extending the membership of the UNSC will be dealt with in the following chapter. One very important aspect that does belong to the "rules of the game" as explained before is the veto right that the permanent member possesses. This veto right makes it impossible for to pass any resolutions that go against the interests of the permanent members. The interests of these permanent members have shown to differ a lot throughout history.

As stated, the UNSC does not only decide on interventions. Sanctions and other forms of condemning actions or countries are more frequent. There are several steps before intervention can take place. These steps are documented in the provisional rules of procedure (UN 1983). It says that meetings can be called by the president if something is brought to the attention of the security council. This can be done by the GA, the SG or a member of the council. The agenda is then set by the SG about the matters brought forward. The SG is obligated to bring forth these matters and,

therefore, cannot decide personally which matters will and won't be discussed. The president of the council has the ability to ask the SG for official research and commissions on specific matters. This includes local investigations that could lead to interventions. When a country is not a member of the UNSC but the resolution being voted upon is specially affecting this member state they are invited to the meeting and have a right to speak. This means that before intervention will take place in a country that is a member of the UN this country has the ability to speak during the meetings concerning the intervention. The UNSC members also have the right to invite other members to the meeting of who's interests are at stake (UN 1983).

The UNSC also has strong ties to the International Criminal Court (ICC). UNSC members in the first place appoint the members of the court which already gives strong control (Arbour 2014). The UNSC may refer cases to the ICC which means that an ICC prosecutor will be granted jurisdiction over the case and will investigate the matter. The UNSC can act as the main source of power when it comes to ICC prosecution. Although this is not the only way the ICC can open an investigation it is the most effective way because only the UNSC has the means needed to truly set up an investigation and possibly act upon the conclusions (Trahan 2013). The ICC's authority is limited though as there are some countries, including major countries like U.S. that do not recognize the jurisdiction of the ICC.

5.3. POLITICS IN THE UNSC

To analyze the politics dimension of the UNSC a closer look will be taken at the interactions between the different actors. The role actors have and the way they act are key in this analysis. The main focus remains on how this process contributes or restrict 'just' decision making regarding humanitarian intervention and the moral framework as worked out before. It also elaborates on the way that this process takes place, so actors have different roles depending on their membership but the way that these actors interact is also important for the decision-making process in general. The voting process in the UNSC is simple but that does not mean that the decision-making process is as well.

A lot of the actual politics of the UNSC is not done in the Security Council Chamber, which is the official room but is done in adjacent smaller rooms (Bosco 2000). The consultation room is the place where most decisions are being made outside the eyes of the press that covers the Council Chamber. This example of backroom politics did cause some discussion when it evolved around the 1970s but proved to be rather effective over time. Which is probably one of the reasons it is kept up until today (Ibid.). This practice is an example of the way UNSC politics is handled. The speeches and formal positions are voiced in the Council Chamber while the real negotiations take place in the backrooms.

Malone (2007) gives a good analysis of how the UNSC politics work in his book 'The international struggle over Iraq'. This analysis of the Iraq issue, one of the most dividing issues brought up in the UNSC in recent decades, gives good insight in the traditional political alignments between the permanent members. The U.S. and UK have become close allies since the Vietnam war and

especially showed unconditional support during the time of the Iraq war. While France showed that even as a western ‘ally’ it chose to not support the war. This seemingly damaged the relationship between London and Paris for some years to come and even worked its way into decisions regarding the EU (Ibid.). This is an example on how most foreign policy as well as UNSC politics can be seen as a tit for tat game. Countries exchange favors and policy is not always made based on principles. Bosco (2000) gives another example of where the permanent members did not adhere to the UN chapter but chose to value national interests above stopping aggression in the Iran-Iraq conflict. This damaging war which was started by Saddam Hussein, Iraq’s leader, caused millions of deaths and while Iraq was a clear aggressor in the conflict, especially France did not condemn Iraq’s hostility most likely because of the French economic interests in the region (Ibid.). This is just one example in which countries having strong ties to one of the permanent members are usually excluded from a lot of the pressure that most African countries aren’t immune to.

Not every member of the council has the same attitude towards intervention. China has generally adopted a more cautious approach to allowing interventions. They usually emphasize the importance of sanctions, UN authority and local support (Tiewa 2012). Russia has notoriously been opposing many resolutions supported by the West for intervention (Bellamy 2009). The case of Syria is a recent example of this, where both China and Russia vetoed resolutions containing sanctions for the Assad government.

5.4. POLICY

The last section of the analysis concerns the output stage of the UNSC. The polity and politics dimensions have shown that the UNSC is a rather complicated organ when it comes to decision making. This usually makes for less efficient decision making (Schulz & König 2000). The UNSC is no exception to this rule. There are so many interests at stake that making policy usually takes a lot of time (Ren 2014). The policy made by the UNSC is, however, very important and is about collective security, this makes it easy to understand why decisions are weighed extensively and crucial interests can be at stake. UNSC policy is the most impactful policy that the UN is able to output. The UNSC has the power to impose economic and diplomatic sanctions on states and even military interventions. Even though this thesis is about humanitarian intervention it is important to realize that there are other measures used by the UNSC to protect the rights and values described in the framework before. Humanitarian intervention is only a part of the tools available to the UNSC to punish states that do not comply with international treaties (Alnasrawi 2001). So, policy outcomes are not always interventions - far from it. Most policy outcomes are either resolutions condemning specific actions or sanctions instead of intervention (Ibid.). Still, throughout history the UNSC has authorized 71 peacekeeping missions that meant putting boots on the ground in a sovereign country (Kreps 2008). This is proof that the UNSC at least in those cases seems to be doing what it is set up to do, secure peace even if it required violent measures. There are, however, also cases, even recently, that shocked the general conscience of mankind but the UNSC did nothing.

One practical implementation of intervention policy is the R2P chapter. These principles form the foundation of just war theory and can be a very useful perspective to examine humanitarian intervention as well. In addition to the liberal views that clearly describe and justify humanitarian intervention the ideas of just war theory can also be used to justify the conduct of interventions. In a report of the International Commission on Intervention and State Sovereignty (ICISS), partially funded by the Canadian government in the year 2001, there are criteria for humanitarian intervention that are very much related to these ideas from just war theory (see appendix p.1). So just war theory forms the basis of the R2P principles and also gives some of the core assumptions that a lot of liberal thinkers base their ideas on.

The R2P principle lists four main reasons for humanitarian intervention and the original report by the ICISS that I will discuss first and expand upon later, combines two of those (ICISS Report 2001). These criteria are a good starting point but are broad and, therefore, have rather complicated justifications. There are also other criteria and reports published by governments and research bureaus all over the world. Another helpful set of criteria comes from the Danish Institute of International Affairs (DUPI). A report published in 1999 states that:

- Genocide means acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such by killing; causing serious bodily or mental harm; deliberately inflicting conditions of life calculated to bring about its physical destruction; conducting birth control or forcibly transferring children etc.
- Crimes against humanity include – when committed as part of a widespread or systematic attack against any civilian population – murder; extermination; enslavement; deportation; imprisonment; torture; rape; persecutions on political, ethnic and racial grounds, and other inhumane acts.
- Serious violations of international humanitarian law include – particularly when committed as part of a plan or policy or on a large scale – notably violence to the life, health and physical or mental well-being of persons, in particular murder and cruel treatment such as torture, mutilation or any form of corporal punishment; the taking of hostages; acts of terrorism; outrages upon personal dignity, in particular humiliating and degrading treatment, rape

(DUPI report 1999)

Just war theory and R2P are closely linked together and although R2P is the closest to the justification and framework in this thesis it is not quite the same. Where R2P is not an academic idea but much more a political policy it lacks a strong theoretical foundation. Even though it is mostly derived from just war theory, a theory with what many consider strong arguments, it is shaped towards the UNSC as the executive and deciding authority in the matters. This is the great weakness of R2P. It is the only practical framework right now implemented by a governmental body to deal with the violation of basic human rights all over the world but written in service of this governmental body. It is a compromise between all UN member states, which strengthens its legitimacy but has created a resolution that does not delve deep enough in the actual

implementation and leaves much open for interpretation. Specifically, the ICSS report uses the right authority concept from just war theory but just notes that the UNSC is the only right authority to implement the principles. To be a right authority the UNSC should be able to implement the principles stated and adhere to them, which it does not (Bannon 2006).

One of the most prominent examples where either R2P or an intervention, in general, should have happened is the Syria conflict. War has been raging in the country for years already and it destabilized an entire region (Malkki 1996). The civil war has caused death and destruction for millions of people and is one of the most pressing humanitarian disasters of this time. The world witnessed a regime murder its own people on a massive scale. A civil war that was stuck for years, with the massive effect on the safety of the international society seems like a situation for the R2P principles to put in practice. Every resolution, however, was blocked by Russia. Even after chemical weapons were used in the conflict, a clear breach of international law and security, the UNSC was unable to act. Even resolutions containing only sanctions, trying to limit means of Assad were vetoed (Carpenter 2013). Averre & Davies (2015) give a strong analysis of the decision-making process regarding the Syrian civil war and the reluctance of the Russian government to cooperate with the rest of the Security Council. They elaborate in depth on the Russian perspective on the R2P principles but conclude in the end that all the talk regarding sovereignty and the values of nation-states are just excuses. Attempts to hide the true motive of power politics that Putin has been implementing and practising for the last decade (Ibid.).

The Syria case is a clear example where the structure and politics of the UNSC failed to produce policy adhering to the R2P principles but also even to the principles from the founding charters of the UNSC. The Council failed to provide protection for the millions of casualties in the Syrian civil war with one of its permanent members even getting unilaterally involved in the war causing even more devastation (Carpenter 2013). There are more cases like Syria where council inactivity let tragedies happen. But acting is not always better than not acting.

In 2011 the world witnessed how the UNSC did take action against a Libyan leader murdering his own people. Muammar Gaddafi started facing protests in his major cities and much of the countryside (Bhardwaj 2012). These protests were violently crushed and the demands for democratic regime change were denied. The following civil war caused many deaths and even though casualty counts vary, it was undeniably a violent war between rebels and the autocratic leader (Ibid.). The UNSC saw this war as an opportunity to implement the rather recently adopted R2P principles. According to especially the western powers in the security council, Gaddafi was a crazy tyrant who murdered his own people. This has since the start, however, been disputed by many others (Paoletti 2011). In the case of Libya arguments for intervention can be made. Many innocent protesters have been harmed and their human rights have been taken from them after being imprisoned (Ibid.). But according to different reports the number of casualties was not as high as many rebel leaders tried to make it seem. A report from the Armed Conflict Location and Event Data Centre reports about 1300 deaths before the NATO intervention. These are total casualties not just non-combatants (ACLED 2019). Additionally, a report by the Upsala Conflict

Data Program only counted around 160 non-combatants who were deliberately killed by forces under command of Gaddafi (UCDP 2019).

Interventions do not always end in failure. Even though success is hard to define Doyle and Sambanis (2000) argue that multilateral UN-peacekeeping operations have had a positive effect on lasting peace in the regions they were deployed in. One of these successes is the UNMASIL mission in Sierra Leone. In 1991 Sierra Leone reaches the boiling point of civil unrest about a failing and corrupt government. With wars waging in neighbouring countries feeding the tension even more, the situation exploded when on March 23 the Revolutionary United Front (RUF) declared war against their government (Abdullah 1997). The civilian government and president were overthrown during the war by the AFRC, who sided with the RUF rebels and plunged the country in chaos in March of 1997 (Zack-Williams 1999). At this point in time there has already been one attempt to a peace accord, called the Abidjan peace accord, which failed to achieve peace. Kabbah, the president of the civil government, returned to power with the help of the first external intervention lead by Nigeria in 1998. This did not bring the country any peace as the RUF continued its violence without hesitation. Kabbah did open up talks with the RUF again which lead to the Lome peace accord, but the violence did not stop until the UN and British forces enforced this peace with an external intervention (Ibid.).

Different arguments have been brought forth as to why the UNMASIL mission was a success, especially because the first attempt failed. An earlier intervention lead by Nigeria was unsuccessful in keeping the peace. Possibly because of the hidden motives of the Nigerian government. There were signs that the mission's goal was not to create peace but to choose a side (Gberie 2005). The second UN mission lead by the British forces did not choose a side and focused on creating peace over other goals. It also showed commitment, over 17.000 peacekeeping forces were deployed in the country (UN 2005). Together with special forces of the British army, the intervention led the way to a lasting peace in the country and is, therefore, seen as a success.

6. UNSC AS THE RIGHT AUTHORITY OF HUMANITARIAN INTERVENTION

6.1. RIGHT AUTHORITY IN A MORAL FRAMEWORK

So after analyzing the polity, politics and policy of the UNSC and discussing the mains points of critique from different scholars it becomes possible to answer if the UNSC is the right institution to adhere to the moral framework and if not what should be changed. This assessment will be done by comparing the analysis of the UNSC to the theoretical framework constructed before. The analysis of the different workings with the help of the polity, politics, policy approach has given a clear view of the working of the UNSC. The most important factors of how policy is made and implemented have become clear and can be tested against the moral framework. Every section will

consider one of the points from the framework. It will contain a discussion how far the criterium is fulfilled and where it is still lacking.

6.2. LARGE SCALE LOSS OF LIFE AND ETHNIC CLEANSING

The United Nations has a large and inclusive membership, the UNSC is directly funded by these members. Also, basically every nation is a UN member. This means that the UNSC indirectly has a lot of access to information and people from those nations. When incidents occur, this big reach means that usually there is good access to information from different sources. Additionally, the UNSC does have the financial capabilities in and legitimacy to investigate humanitarian issues. Obviously there have been many mistakes concerning these assessments in practice but the means are generally available. So, the UNSC should be able to assess if the threshold criteria are being met. This large membership of the general assembly also allows for all these members to directly, if they are a UNSC member, or indirectly call meetings on humanitarian subjects. Either through the SG or through one of the rotating members, every state is able to address issues. One structural aspect that in theory does not have to be an issue is the veto right that the permanent members of the UNSC have.

In the politics dimension, however, this veto is used often. So often that it raises concerns regarding selectivity. The process as it is set up now seems to lack in dealing with this selectivity issue as raised by Pattison (2011). He notes that the UNSC seems to have a strong bias when it comes to intervention. This selectivity issue is important because in other situations the choice between saving many people or saving less with the same means is an easy choice. "For instance, if a doctor has a choice (other things being equal) whether to save one patient or to save ten patients (she cannot do both), she is morally required to save the ten" (Ibid. p.8). But the UNSC chooses to intervene in Libya while it could maybe have used these means more effectively somewhere else. This is a moral argument that shows clearly why selectivity is a problem. On top of the equality argument that states that every person is to be treated equally. It is morally wrong to attempt to save the lives of some people while denying that to others. This means that the threshold criteria of ethnic cleansing and large scale loss of life are met selectively.

We also see evidence of this selectivity problem in the policy. Syria is a case as stated before that would have met the threshold criteria for humanitarian intervention but the UNSC was not even able to impose sanctions because of Russian vetoes. Also, interventions sometimes take place in situations where it is questionable if the threshold criteria are met. In the Libya case it can be argued that there was no real large-scale ethnic cleansing or large-scale loss of life. It is an extensive debate, both political as well as academic whether the intervention in Libya was justified or not. Arguments can be made for both sides. The one thing that is very hard to deny, however, is that in the long term it was a failure. Even though the rebels took control and an internationally recognized government was installed. Fighting is still going on until this date and recent reports state that an old military commander under the Gaddafi rule is gaining the upper hand over the current government (NU.nl 2019). The country is still in a state of chaos and safety is not reached

yet. So even if the intervention met the required threshold criteria it did not meet the principles of the right means. The right intention is dubious since there are no records of the actual meetings in the backrooms of the UNSC. The official policy was protection for the people but there are many authors who offered different explanations varying from cultural clashes to economic gains (Paoletti 2011; Baum & Zhukov 2015).

It can be argued that the intervention was trying to prevent large scale loss of life and was very quick. This argument does, however, not take into account that most casualties occurred after the intervention started (Gartenstein-Ross & Barr 2015). The intervention took place even though thorough investigation showed that large scale loss of life was possibly not happening. The Sierra Leone case shows that the UN in other situations can be able to act accordingly to the threshold criteria. So the UNSC has the potential to act upon threats to humanity like large scale loss of life and ethnic cleansing but it has failed to do so in the past and therefore does not fully meet the criterium.

6.3. RIGHT INTENTION

When it comes to securing the right intention for humanitarian intervention. The structure is intertwined with the politics dimension. The way the UNSC is structured is the foundation of how its politics work. The two main points regarding securing the right intention are in the politics dimension. The most important one is the decision-making process. The decision-making process within the UNSC unfolds in backrooms and, therefore, lacks transparency. Interests of states for acting in the ways they do are rarely clear. The UNSC has shown in many cases that it is unable to place moral values above states' individual interests. This does not fit the criterium of the right intention. The veto power of the permanent members makes it hard for the UNSC to be decisive and act upon moral motives because there are many signs that other factors are deemed more important. The case of Syria is a recent example of this prioritization of individual Russian interests blocking the UNSC resolutions trying to change the Syrian situation. Some scholars also doubt the right intentions of Western intervention in Libya. The intervention in Sierra Leone failed at its first attempt, possibly due to wrong intentions. The second attempt was a success where the intention to stop the violence really seemed like the main reason for the intervention.

The second part of securing a right intention through an institution Hurd (1999) states that legitimacy needs to come from the perception of the audience of an institution, agreeing that this institution should be obeyed. Morris and Wheeler (2007) address what they call a lack of legitimacy in the UNSC. The legitimacy of the UNSC is one of the key concepts that can define the UNSC as a legitimate authority for humanitarian intervention. It is, however, a rather complicated concept and there are various perspective and arguments that both support or deny legitimacy issues regarding the UNSC. Signs for legitimacy can be traced back through history to find support. There have been many examples where countries seemingly preferred to see international interventions be approved by the Security Council instead of done unilaterally (Cronin & Hurd 2008). This support is probably both on moral grounds, were countries prefer to

form a coalition and materialistic as the costs of interventions are very high and countries do not want to bear that burden on their own. The Iraq invasion in 2003 is one example of this where the Bush administration tried to get Security Council approval before invading Iraq. Not receiving this approval, however, did not stop the U.S. from attacking Iraq in the end (Keegan 2001). Cases like these are examples of legitimacy question around the UNSC and its functions. There are countless other cases where countries have tried to achieve UNSC approval for actions of war and security, but also cases where it was ignored, or the resolution was stretched beyond its initial legal limits. Do these unilateral or sometimes multilateral actions make the member states question the UN authority? The answer differs. The UN charter is like a multilateral treaty and states are obligated to keep themselves to the rules of this treaty. They have consented to the authority of this treaty although the UNSC seems to go beyond what the charters say sometimes (Cronin 2008). “As long as the Council acts on the basis of generally accepted legal norms, the expansion of the Council’s legal authority has been accepted as legitimate, even though there was no formal process of achieving state consent” (Ibid. P58). Therefore, there is a rather solid legal foundation that legitimizes the use of force by the Security Council. In short the UNSC has the possibility of securing the right intention with some tweaks to the way it is set up. But how it functions at the moment does not lead to securing the right intention for every intervention.

6.4. PRUDENCE AND LAST RESORT

When it comes to prudence and last resort the UNSC has the structure to adhere to this criterium. The UNSC has the ability to call meetings with representatives from the nations that are being accused of genocide or other large scale killings. The UNSC has the jurisdiction to impose sanctions and call upon the ICC to investigate war criminals. This means that some cases can be tackled with prudence and all-out war can be avoided. The ability to impose sanctions is very important in this aspect as well. This is used in the politics and polity dimension as well. Violence usually seems to be the last resort. Even though the list of interventions is rather long the list of sanctions is way longer (Wheeler 2010). It seems like the members of the Security Council rather impose sanctions and use nonviolent means to resolve conflicts or potential humanitarian disasters. In practice there are also examples of sanctions being denied, like in the Syria case. Or signs that violence was chosen not as a last resort, like in Libya. So the UNSC does not always use violence as a last resort but there are also signs of the opposite. The UNSC seems to take war as a last resort but should more consistently do so to fully adhere to this criterium.

6.5. REASONABLE PROSPECT AND MEANS

Finally, the UNSC should have the means to succeed in intervention. The financial capabilities should be there with rich countries like the U.S. spending massive funds on the institution. Very powerful states that are willing to contribute a lot, like Canada and India as mentioned before, contribute troops and money to enable successful interventions. Many studies have pointed out the failures of UN interventions but there also has been a success. The ways to judge this differ for every intervention even and different scholars use different ways to measure success in a peace

mission. Following the definition used by Doyle & Sambanis (2000), however, there seems to be more success than failure which is an indication that the UNSC, when the motivation is there, should have a reasonable prospect of success. Sierra Leone is an example of this where at first there was a limited intervention that did not achieve the goal of sustainable peace. But when especially the UK showed true commitment and troops lasting peace as achieved. A lack of the right means was probably one of the reasons for failure in achieving lasting peace in Libya. There were never any boots on the ground to keep one side of the conflict from attacking the other side and secure stable conditions in the country (Fortna 2004). So even though the UNSC should have the means available in practice they are not always used.

6.6. SECURITY COUNCIL REFORM

In general, the UNSC has some real potential to adhere to the principles from the moral framework. Some strong points like the way it is set up in combination with the ICC and the influence of the general assembly enable a broad jurisdiction and inclusive decision making process. But both in practice as well as in the polity and politics dimensions there are some crucial problems. Perhaps Security Council reform can solve this issue partially by removing veto power and adding more members to the council so that neutrality can increase, and states' individual interests can no longer decide the fate of a resolution and with it the fate of thousands of civilian casualties. This seems rather unlikely, however, because the permanent members have shown little willingness to give up their powerful positions or even share them with new parties. The big five are afraid to lose their veto right because of the wide jurisdiction of the UNSC (Malik 2005). Much has been written about restructuring the Security Council and there are many ideas about how to shape this. As discussed in the analysis veto members have a massive influence and the other members are less important although still influential. "The challenge is how to compose a Council sufficiently small for efficient and effective action and sufficiently large to be effective and its decisions to be legitimate" (Schrijver 2007 p.130). This intention worded by Schrijver is shared by many authors who propose changes to the UNSC. Extending it to include all members of the UN would lead to massive amounts of debate and, therefore, reduce efficiency (Ahn 1997). Efficiency is not only important for the practical side of things but also the moral side. Time is very limited in making decisions on humanitarian intervention and, therefore, efficiency will more than likely save lives.

When looking for a right authority like just war theorists do when it comes to war, some scholars argue that an authority is not always a necessity (Fabre 2008). Justifying intervention on the authority of the framework and theory itself is also possible in their view. I share the idea that having a strong set of guidelines should have a sense of authority within itself. However, with this justification unilateral intervention would also become possible which has a lot of risks as described before. There are important arguments in favor of multilateral intervention and, therefore, an institution allowing this to take place is very beneficial. One solution could be the construction of a new institution within the UN construct. A separate organ that only focusses on the protection of basic human rights and does not take into account wars or other security threads might be more effective and more realistic to work with as the big five do not have to worry so

much about personal interests. The jurisdiction of this organ would be very limited and based on a charter or constitution that contains the principles derived from this moral framework. This institute for humanitarian intervention should be powerful enough to act decisively in threatening situations but also have the capability to cooperate with the UNSC and the general assembly of the UN to impose sanctions before using its ability to conduct a forced intervention. It is obvious that an institution like this, with this power and jurisdiction would be about as hard to realize as most UNSC reform. This, however, should not stop scholars and politicians from exploring these options. As long as the UNSC keeps showing disability to intervene when necessary, voices for change will keep raising.

7. CONCLUSION

The international society is changing. Our world is becoming increasingly more a global community, interconnected by cellphones and the internet. We see more and hear more from all over the world than ever before. This also opened our eyes more; it opened our eyes to the suffering of people all over the planet. Suffering from disease, hunger or violence. The contradictions between the luxury of our western society and the many miseries faced by the global south are portrayed more clearly than ever. This might be one of the most important reasons that the voices in favor of changing that world have become stronger. The way we see states is changing from a collective of subjects to an instrument to protect the citizens within and their safety. Humanitarian intervention as a way to protect people all over the planet is becoming more accepted and attempts to justify it morally and lawfully are common in today's academic and political world. It is still a sensitive subject however, not only because it also is a justification of violence but also because sovereignty is still the core concept in international politics.

At the time of the peace of Westphalia most states had a monarch or other form of an absolute ruler in control. Individuals had no place in international society as they already barely meant anything to the monarchs of those times. Diplomacy was dealt with between nations and a common practice was established in treaties at the time. This common practice of state sovereignty would go on to rule international relations since that time. It meant that states had no right to intervene in the affairs of other states nor were they allowed to invade and take over other states. Borders were drawn as permanent markers to divide ways of living and decide who ruled where. This norm of non-intervention made sense after the decades of war that just ended before. Many scholars still value the concept of sovereignty as the starting point in a conversation about international relations. Therefore, when we talk about humanitarian intervention it is important to understand the concept that we break. This principle is, however, not the only strong argument against humanitarian intervention.

Many realist scholars do not believe in humanitarian intervention because they do not believe that states value norms over their interests. Power politics is the deciding factor in foreign policy and the humanitarian aspect of an intervention is never the main reason to invest in a war. Therefore, humanitarian interventions as a pure altruistic tool cannot exist. Any justification for intervention

will lead to more violence as it is another excuse for the powerful states to use to subject other states to their will. Many scholars do not agree with this view of world politics and note that norm compliance is seen increasingly more in international politics. Another important position is the post-colonial perspective the core ideas of Postcolonialism are those of cultural relativism and shares some values with the concept. It discards the idea that some cultural values are in a way better or worse than others. Therefore, human rights can never be truly universal because they are inherently a western concept. To take it even further, our knowledge, in general, is based on our perspective. We research what we find important and we look at everything with a biased lens. This means that creating a universal truth should never even be the goal, people of different cultures have different truths. In the realm of humanitarian intervention this perspective means that international humanitarian intervention is never an option. Because in trying to save people you force upon them not only violence but also the norms and values of the intervening party. Both the postcolonial perspective as well as the realist perspective bring important points of critique that are crucial for the development of a balanced moral framework.

A strong argument in favour of humanitarian intervention comes from liberal scholars. The liberal view on humanitarian intervention is coherent and substantial. Arguing from the basis of the protection of individual rights and safety they elaborate further on the concept of a state being an entity that has a duty to protect its inhabitants. When the state fails to do so, it loses its right of being a sovereign nation because it fails to adhere to its core functions. The main argument is based on human rights and the protection of those human rights by international humanitarian intervention. The main distinction between liberal scholars is what rights are important and how certain forms of governments hold more rights than others. But there seems to be a general consensus that human rights should be protected by the international society and that a democratic government is the best system to avoid having to do this time and time again. Therefore, it lays in line with the argument that many human rights associated with democracy and freedom are worth intervention. Which assumes that the way we value these rights are shared by everyone around the world and might lead to a slippery slope like the doctrine of bringing democracy to the world.

I do believe in a middle ground where we do something about the worst mass atrocities against people all over the world without allowing too much violence for personal gain. The whole point of this framework is to set out what the limits are of a moral framework. On one end cosmopolitans and liberals see the world as a global society where people need to be protected by their states and on the other hand post-colonial scholars see the world as an intricate web of cultures and truths where there are no common values. The framework in the end, therefore, needs to be limited. Another big advantage of a limited scope is that it can be a duty to intervene in cases where it is applicable instead of a right which avoids selective use as well as the slippery slope talked about before. But a limited scope is also important because of more practical reasons. It is practically impossible to intervene everywhere where human rights are being violated. Making something like that a duty would not make sense if it is impossible in practice. Luckily more attempts at finding this middle ground have been made throughout the years. Just war theory could be seen as one of

them. Sometimes also considered to be part of the liberal position, it is an inspiration for the R2P principles set out by the ICSS report amongst others. Just war theory gives the argumentation needed to compile a limited scope for humanitarian intervention. Even though it is founded on similar principles as liberalism, the theory is not really concerned with democracy in and of itself but more with negative freedoms. This means that the theoretical principles are more focused on protecting some very basic rights instead of actively promoting a set of human rights, therefore, these principles form a very good basis for humanitarian intervention.

The R2P principles set out in different reports give a good foundation but no complete framework. These are political texts rather than academic or philosophical and, therefore, seem rather limited in their depth. These sources are still useful starting points founded in theory. Together with just war theory this forms the main inspiration for the moral framework.

Large scale loss of life is the first and maybe also the most obvious criterion for humanitarian intervention. The instinctive horror we experience when we see the death of thousands of people around the world is a motivator for many people to want to do something about it. This does not only mean genocide but is more, in general, about the obligation that a government has to keep safe its citizens from the violence that causes serious harm. The threshold is a moral rather than a quantifiable number, but our general moral conscience is able to make judgment where the United Nations can facilitate a discussion. This also holds up in the case of civil war where mass killing is a common phenomenon. Although this criterion can get complicated it is very important and the main threshold for humanitarian intervention.

Large scale ethnic cleansing is another main threshold criterion. It puts the focus more specifically on the targeting of ethnic groups in different countries. There should be a little more room for humanitarian intervention here because violence against ethnical groups tends to be more structural and, therefore, more likely to last but also easier to recognize. Still, the threshold is high and only the most basic negative freedoms justify intervention.

The way an intervention is conducted is crucial to its moral justification. Any humanitarian intervention should have the right intention. This intention is to stop the suffering that the main threshold criteria describe. This can be made easier by creating a coalition of states so that single state interests are of lesser importance. This duty should be carried out, however, with the greatest care and the lives of the people at stake should be respected. Interveners have to recognize that intervention is the last resort and a draconic measure to ensure peoples safety. Any intervention should be carried out with prudence. This does not mean though that limited means should be used. It is important that the means are proportional to the goals that need to be achieved.

At this point in time, the only institution to lawfully make decisions concerning humanitarian intervention is the United Nations Security Council. Interventions do sometimes take place unilaterally but the scale on which the UNSC at this point deploys thousands of armed soldiers around the world is unprecedented in history. Therefore, the UNSC is the institution to analyze if

it can adhere to the principles set out in this thesis. A polity, politics and policy analysis showed the functions of the UNSC today and how its structure and politics influence the outcome. This also enabled me to judge whether the UNSC is the right institution to conduct humanitarian intervention. The strength of the UNSC comes from the budget and reach that is had available. This means that it is likely able to investigate claims for intervention. There are also some critical points of failure for the UNSC. The way it functions at the moment with veto rights, the institution does not deal well with unilateral interests. The power that the permanent members have is massive and their interests are so wide that they usually have a stake in every matter discussed. The Syrian civil war shows how this in practice can paralyze the institution and stop it from carrying out the tasks it was created for.

Another important objection is that the UNSC is not transparent in its decision-making process. Politics is practiced in the backrooms and resolutions are agreed upon there as well. The main Council chamber has become increasingly more for show. This makes open debate impossible and this is again one of the main ways to secure a just cause and the right intention for an intervention. One can debate whether we need an authority to implement the framework, as it can be seen as an authority itself. Where the ICSS report and others have been written in the service of the UN or other institutions many scholars of just war theory argue that the framework itself is the authority and all we need is an institution to implement it. But to avoid unilateral action and discussion we need a forum that enables this. It would allow the international community to make informed well-balanced decisions about the lives of thousands, or even millions of people in danger. Hence, a separate institution that is created for this purpose would be of great help.

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9. APPENDIX:

THE RESPONSIBILITY TO PROTECT: PRINCIPLES FOR MILITARY INTERVENTION

(1) THE JUST CAUSE THRESHOLD

Military intervention for human protection purposes is an exceptional and extraordinary measure. To be warranted, there must be serious and irreparable harm occurring to human beings, or imminently likely to occur, of the following kind:

- A. **large scale loss of life**, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or
- B. **large scale 'ethnic cleansing'**, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.

(2) THE PRECAUTIONARY PRINCIPLES

- A. **Right intention:** The primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering. Right intention is better assured with multilateral operations, clearly supported by regional opinion and the victims concerned.
- B. **Last resort:** Military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded.
- C. **Proportional means:** The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective.
- D. **Reasonable prospects:** There must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction.

(3) RIGHT AUTHORITY

- A. There is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes. The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has.
- B. Security Council authorization should in all cases be sought prior to any military intervention action being carried out. Those calling for an intervention should formally request such authorization, or have the Council raise the matter on its own initiative, or have the Secretary-General raise it under Article 99 of the UN Charter.
- C. The Security Council should deal promptly with any request for authority to intervene where there are allegations of large scale loss of human life or ethnic cleansing. It should in this context seek adequate verification of facts or conditions on the ground that might support a military intervention.