The Responsibility to Protect and the Limits to Moral Progress: Assessing 'Common Humanity' as a Driver of State Behaviour

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Abstract

The philosophical and moral foundations of humanity's relationship to the Responsibility to Protect (R2P) have for a long time remained a largely overlooked element of the R2P literature. Whilst more recent scholarship has attempted to close this theoretical gap, it has most often focused on humanity as a moral benchmark in which to measure the current progress of the R2P against. However, what still remains highly contested is the extent to which humanity can in fact provide the significant normative weight and metaphysical heavy lifting for such moral arguments. In response to this lacuna, the thesis focuses on two central questions. Firstly, does the concept of humanity provide a sufficient justification for why states should have a moral responsibility to protect those threatened by mass atrocity crimes? Secondly, to what extent can humanity function as a motivational force able to mobilise states in support of the R2P principle? In addressing these two questions, the thesis provides a more comprehensive understanding of humanity through locating its significant dual function, thus reinforcing the critical role humanity plays in underpinning the moral foundations of the central R2P crimes, as well as challenging the extent to which humanity can also motivate states to act on its behalf. In this sense, the concept of humanity can be best understood as a motivational factor that diminishes in influence as the R2P principle is diffused into action. The thesis therefore provides the foundations for a more intuitive understanding of the complex motivational factors involved in generating collective responses to the threat of mass atrocity crimes. In doing so, it is argued that the ability to fundamentally address the current R2P implementation gap will require an approach that is more reflective of the way humanity interacts with competing moral, legal and political pressures at the global level.

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Contents

Chapter 1: Introduction

What should motivate states to act in order to protect populations threatened by mass atrocity crimes beyond their borders? This is a question that remains central to debates surrounding the implementation of humanitarian protection and prevention policy, yet at the same time has continued to be a question most often overlooked in the current Responsibility to Protect (R2P) literature (Gallagher and Brown, 2016). As a consequence, many R2P scholars have continued to suggest that the obligations generated by R2P, in relation to stopping the most "conscience shocking" crimes, remain obvious and thus relatively uncontested, whereby it is simply our common humanity which demands it (Evans, 2008a, Thakur, 2015). Similarly, other prominent R2P scholars such as Bellamy (2015a) have at the same time questioned the need to return to foundational debates regarding the theoretical motivations that inform the R2P principle and its construction, and have instead argued that the focus should now be solely concentrated on the practical questions of how to implement the principle. However, such assumptions lead one to a further question, if the R2P principle has in fact already clarified why states should be protecting and preventing mass atrocity crimes, then how can we sufficiently explain the continued contestation surrounding the R2P, particularly when it comes to the challenge of motivating states to respond to such crimes? As this thesis will argue, the answer to this question cannot be solely understood through an engagement with the practical politics of implementation policy, it instead also requires a more theoretically informed response to two central questions: firstly, why should states have a moral responsibility to those threatened by mass atrocity crimes and secondly, to what extent can this moral responsibility be deemed strong enough to help motivate states in response to mass atrocity crimes?

In addressing these two central research questions, the thesis will focus explicitly on the concept of common humanity, which is argued to underpin the universal moral claims states have to act on such responsibilities. In doing so, it will be possible to address the lack of clarity over the complex relationship that exists between the R2P principle and the concept of humanity. A systematic examination of this relationship will thus begin to shed further light onto the tensions that exist at the heart of the R2P, and ultimately how the moral aspirations that underpin the principle interact with competing political and legal pressures. This analysis will therefore open up new avenues for exploration into the strength of the obligations states have to protect others and the limitations of new state agreements, such as the R2P, to reflect a broader more human approach to the challenge of preventing mass atrocity crimes. In doing so the thesis will articulate both the centrality of humanity to an understanding of global harm as well as the normative limitations of humanity as a motivational force. In order to begin this process, it is vital to first of all set out the way the concept of humanity has so far been utilised by both scholars and diplomats, in order to demonstrate the need for a more systematic examination of humanity and its influence on current R2P debates.

The Missing Role of Humanity

As Gallagher and Brown (2016, p.8) have argued, "despite the vast amount of literature written on the R2P over the past 10 years, relatively little research has explored the relationship between the R2P and humanity". This ultimately seems strikingly at odds with the significant weight both scholars and diplomats place on the concept, and the metaphysical heavy lifting they assume the word can provide to any moral argument. This can be illustrated in a number of statements made by prominent R2P advocates and early initiators of the principle, such as Thakur (2015, p. 23), who argues that the R2P is underpinned by "our common humanity", and hence demands "an acceptance of a duty of care by all of us who live in zones of safety towards all those who are trapped in zones of danger". This is echoed by Evans (2008a), who

suggests "the case for R2P rests simply on our common humanity". Furthermore, humanity has also continued to play an integral role in the diplomatic framing of the R2P principle, reflected most recently in the 2017 Secretary-General report on the R2P, in which it was reaffirmed that the moral responsibility of the international community to contribute to protecting populations from harm, "stems from our common humanity and solidarity" (Guterres, 2017, p.6).

Yet, as Zehfuss (2012, p. 862) has rightly argued, "most often 'humanity' is not considered a category in need of explanation", leading to the assumption that "it self-evidently deserves protection". In these examples, the concept of humanity provides the central philosophical principle underpinning the moral weight of their arguments, yet the concept is presented without further comment, and simply taken as an uncontested truth. Consequently, whilst humanity remains a concept that is indisputably tied to the very moral foundations of the R2P, research into further defining the significance of this relationship has been notable by its absence (Gallagher and Brown, 2016).

One can further highlight this oversight in relation to ongoing debates surrounding the ethics of armed humanitarian intervention, exemplified most notably in a 2014 edited volume by Don E. Scheid. Despite the focus of the book being the moral rationale for intervention in specific regard to the R2P principle, the concept of humanity is noted in only fleeting references and without further interrogation. Most surprisingly, the introduction chapter takes as given the fact that "morality must encompass all of humanity" and thus goes on to ignore the role humanity plays in answering a central question within the chapter, that of "what responsibilities are owed to distant strangers?" (Scheid, 2014, p.6). The lack of engagement with the concept in ethical debates around the R2P and humanitarian intervention more generally is therefore surprising and only further highlights a clear oversight in the R2P literature.

Whilst more recent scholarship has attempted to try and fill this void, such as an International Politics special issue on "The Responsibility to Protect 10 years on from the World Summit (2016)", focusing more specifically on the relationship between humanity and the R2P, there still remains a tendency to overlook the complexities of humanity's moral foundations and its subsequent impact on the framing and construction of the R2P. One can highlight this oversight within the special issue, whereby the concept of common humanity is most often utilised as a theoretical benchmark in which to measure the current progress of the R2P. In this sense, the focus often concerns "whether the Responsibility to Protect promotes a common humanity" (Waldorf 2016, p. 50); or the extent to which the R2P can represent an "expression of common humanity" (Newman 2016, p. 32). In this sense, those who appeal to humanity in relation to R2P situations have most often failed to provide a persuasive account of why the existence of humanity generates a powerful motivation to act on behalf of a common humanity in the first place. Thus, rather than analyse the R2P as simply an attempt to live up to or put into practice the universal value of humanity, one must further interrogate the points of contestation within this relationship, in particular, the extent to which states acknowledge the link made between humanity's role in identifying collective harm and its ability to then motivate action through the framework of the R2P. In response, this thesis will build on research into this lacuna in order to more systematically examine how humanity might provide a motivating connection between human concern and a shared global responsibility to respond and prevent mass atrocity crimes.

Furthermore, the lack of engagement with the concept of humanity has also led scholars to overlook the central connection between humanity and the very crimes in which the R2P is attempting to protect human beings from. Beginning to address this oversight therefore requires further assessment as to the significance of labelling certain crimes as "against humanity". As Hubert and Blätter (2012, p.35) have noted, there has so far been surprisingly little research by

R2P scholars into the "specific crimes that the doctrine exists to prevent and to halt". Implicit in our understanding of the crimes of R2P is therefore an assumption that they can be sufficiently separated from other acts of extreme violence that do not require a so-called global response. In this sense, we can be seen to assume a certain hierarchy exists that allows one to dictate which crimes are considered to be of shared concern for all states. However, this assumption has rarely been fully interrogated by R2P scholars so far. There is a vital need then to develop a more interdisciplinary approach to our understanding of humanity and the R2P principle, in order to also address this significant lacuna. This will allow for a more theoretically informed and expanded explanation of what differentiates the harm caused by R2P crimes to other violent acts, and thus highlights the importance of humanity to our understanding of the R2P.

At this stage it is also essential to briefly reflect on some of the reasons behind the lack of engagement with moral principles, such as humanity, in R2P scholarship. One possible reason for this oversight may be connected to the speed in which the R2P concept has moved from a loose abstract framework to an idea recognised by all states in the 2005 World Summit Outcome Document (WSOD). The subsequent fanfare created by the referencing of the R2P concept in relation to the 2011 Libyan intervention, along with its increasing presence in United Nations Security Council (UNSC) resolutions since (Gifkins, 2016), has resulted in many supporters signalling, "the normative arguments about R2P largely won" (Bellamy, 2015a). Consequently, academic interest in re-examining the normative foundations of the concept has been sparse, as those in support of the concept continue to question the relevance of returning to such discussions. Debate has thus turned to the challenge of implementation with the focus being pushed on to the practical questions surrounding the processes through which the R2P principle can be realised. Thus, the lack of critical engagement with the concept of humanity

has to some extent clouded normative judgements concerning both the centrality of humanity to the R2P's motivational capacity as well as its relation to issues of moral progress.

Thesis Contribution to Knowledge

The primary focus of this thesis is thus to provide a more comprehensive understanding of the concept of humanity and its complex relationship with the R2P principle. In doing so the thesis moves forward a number of critical debates relating to the way in which scholars have both conceptualised the idea of humanity and the assumptions often made regarding what impact humanity has on influencing state behaviour at the international level. It does so by making two central contributions. Firstly, and most significantly, by outlining the complex dual function of humanity, in order to better explain the role humanity is seen to play in both conceptualising distinct global harms and motivating states to act on its behalf. Through recognising and exploring this critical dual function, the thesis challenges the extent to which the concept of humanity can effectively function as the central motivational force underpinning the R2P principle. Secondly, this argument is further developed by contesting the liberal and teleological assumptions often made in regard to the R2P's normative progress. In doing so the thesis argues that the concept of humanity plays an increasingly diminished role in the process of mobilising consensus for R2P responses. Consequently, this analysis will open up space for greater reflection on the way humanity, law and politics interact at the global level as well as helping to further conceptualise the current contestation surrounding the scope of state responsibilities to the most serious human wrongs.

Theorising the Dual Function of Humanity

As so far highlighted, due to the limited discussions around the concept of humanity and its relationship to the R2P, there has been a tendency to over-simplify the complexity of humanity's make up. In response, this thesis puts forward a theoretical argument that works to

acknowledge the importance of humanity's dual function and the significant role it plays within R2P debates. Singling out these two functions provided by humanity is therefore vital to examining the complex layers of state contestation over the R2P principle.

First of all, humanity can be understood as creating a moral demand as a form of reflection, whereby humanity can be seen to provide a foundational moral concept for categorising mass atrocity crimes as universal wrongs. In this sense, rhetorical agreement to the four crimes of the R2P (genocide, war crimes, ethnic cleansing and crimes against humanity) demonstrates that states are willing to acknowledge or recognise some form of universal harm connected to such crimes, located in an understanding of common humanity's *emotional pull* factor. Consequently, this is further developed in the thesis through the recognition of humanity's distinct *dual conception*, incorporating the ideas of both *humankind* and *humanness*. It will be argued that this *dual conception* is essential to reinforcing the importance of humanity as a central component to our ability to imagine a global condition, in which humanity plays a key role in constructing ideas of universal jurisdiction, in relation to attempts to both prohibit and respond to the most heinous crimes against human beings. Whilst the majority of the literature concerned with issues of humanitarian intervention and the R2P has so far been thought of as separate to debates around the philosophical underpinnings of the very crimes interventions are attempting to protect individuals from, the thesis presents an argument in support of transferring the prosecution based focus of previous arguments to the question of why states should have a responsibility to both prevent and protect those threatened by mass atrocity crimes beyond their borders. In doing so the thesis will put forward a new theoretical approach for conceptualising the distinct global harms created by crimes against humanity, thus providing a comprehensive reply to the question of why humanity matters and ultimately why states have a responsibility to respond to mass atrocity crimes beyond their borders.

The second role of humanity in relation to the R2P is in providing a *motivational push*, in which humanity is also seen to reinforce a moral imperative to act and respond to mass atrocity crimes. In this sense, humanity is argued to provide a moral cause that should motivate actors to respond to crimes that are deemed to threaten the concept of a shared humanity. Humanity is argued to therefore create obligations beyond simply recognising conscience shocking crimes as universal in nature. The shock of such crimes is thus seen to generate a *push factor*, forcing states into an act that they would not otherwise consider, as any decision to intervene in such cases will almost always require states to put their own troops or material wealth in harm's way, in order to save and protect others. The *motivational push* factor must therefore be powerful and able to override and compete with a variety of other state preferences when it comes to protecting those threatened by mass atrocity crimes. Central to the focus of the thesis is thus the need to examine both the theoretical construction of these obligations and also the extent to which the R2P has been successful in utilising the motivational capacities created by these two elements of humanity. As Chapters 6 and 7 will later demonstrate, the strength of both these motivational functions is continually contested, whereby one can point to a number of inconsistencies in the way states interpret their application. Accordingly, it will be critical to explore the influence these two motivational functions are playing in relation to the R2P's implementation.

In separating out these two distinct functions it makes it possible to identify the critical role humanity can play in helping to build agreement between states over universal wrongs, but at the same time recognising that states do not simply react based upon the *emotional pull* factor of certain crimes alone. Consequently, it is vital to further highlight examples of how these two motivating functions of humanity have been expressed within the R2P literature so far and to acknowledge how humanity continues to hold a certain self-evident quality in such appeals. For major R2P supporters such as Bellamy (2014, p.2), the four crimes stipulated by

the R2P are seen to "indisputably shock the conscience of humankind", with the R2P argued to be the best response to such acts. This appeal to the notion of a shared human conscience is presented as uncontested and is seen to hold a taken for granted quality. However, without providing a theoretical argument to support the existence of some form of shared human conscience, one cannot simply justify the crimes of R2P as having a supposedly "indisputable" impact. This can be seen to highlight the need for greater theoretical scrutiny of the concept and its ability to ground understanding of the global harms caused by mass atrocity crimes.

Furthermore, critics of R2P have also appealed to the concept of common humanity, in order to frame their arguments against the doctrine's current formulation. As Hehir (2010, p.233) argues, to read reports of the violence and slaughter in Darfur since 2003 and conclude that there is no need to reform the international system to address these crimes represents "a rejection of our common humanity". In this sense, our failure to recognise and push for reform in light of the R2P's serious limitations, which is deemed to have allowed mass violence to continue, assumes that we may no longer accept the idea that humanity as a value commands moral imperatives. Implicit in this argument is the importance of the concept of humanity for grounding our moral actions, through appealing to a shared notion of the good by which action must be guided and motivated. However, in again referring to our common humanity without further explanation, one cannot fully articulate why states and the international community in general should be motivated by the cause of humanity in the first place.

What both the appeals to humanity by Bellamy (2014) and Hehir (2010) highlight, is that the concept is a central component to a range of arguments related to R2P, from advocates to critics. Consequently, it is essential to understand the dual functions humanity is playing in such debates, in order to fully conceptualise the complexity of its influence on the way in which the R2P is framed. In the first example provided above, Bellamy is appealing to the concept of humanity in direct relation to its ability to explain why certain crimes must be considered to

represent universal wrongs. In this sense, humanity is providing an *emotional pull* factor through locating the victim of such crimes as humanity itself. In appealing to a shared global conscience, Bellamy is articulating a belief in the scope of these crimes as universal and thus suggesting that all of humankind must be shocked by such acts collectively. Thus, humanity is providing the foundational moral concept underpinning the wrongs of such crimes.

In the second example, Hehir is appealing to the concept of humanity as a driving force for states to change the way that they respond to the outbreak of mass atrocity crimes. In this sense, the concept of common humanity is argued to provide a *motivational push* factor, which demands action as the key impetus behind state decisions to respond in such circumstances. The failure of this *motivational push* factor in significantly changing state policy leads Hehir to question the overall moral strength of the R2P and the ease by which states are able to simply ignore its moral value. What this appeal demonstrates is the need for the concept of humanity to do more than just locate the universal harms created by mass atrocity crimes. Whilst states have been able to reach agreement on the four supposedly "conscience shocking crimes" defined in the R2P, the motivation to act on the basis of these crimes has continued to face contestation within the UNSC.

Through separating out the dual motivational functions within the concept of humanity, it demonstrates not only the complexity of the relationship between the R2P and humanity but also highlights how essential humanity is to underpinning the moral value of the R2P itself. Accordingly, the initial motivation to create and define new responsibilities for states to protect those threatened by mass atrocity crimes is drawn from a distinct moral belief in the universal value of human beings. In this sense, the strength and motivational power of the doctrine is inherently tied to the power of humanity as a moral force for change. The ability to assess this potential for change therefore requires a much deeper understanding of the complex dual

function underpinning humanity's use. It is from such analysis that one can then begin to demonstrate and explain the motivational challenges facing the R2P.

The Diminished Impact of Humanity

Secondly, the thesis will also specifically challenge the liberal teleological assumptions often made in regard to the R2P's normative progress, in order to highlight how states continue to contest their responsibilities to others, even in relation to the most serious of human wrongs. In order to better explain this reality, the thesis will focus on the central role humanity can play in helping to determine what we ought to do in a particular situation whilst at the same time arguing that the concept is not always sufficient for motivating us to actually do it. In this regard, humanity must be understood as a motivating principle that ultimately diminishes in influence as the R2P principle is diffused into action. This is important, as the assumptions made to the motivational qualities of humanity do not just impact on abstract theoretical debates, they also work to frame and support practical claims in response to mass atrocity crimes. In this sense, if the concept of humanity is to remain an essential part of the language used by both diplomats and academics in order to support and justify specific decisions, then it is crucial that the salience of these claims are sufficiently interrogated. Consequently, it is argued that there are significant limits to the moral imperative of humanity's power to sufficiently motivate states in mass atrocity crime situations. This has significant implications for the focus of the current R2P reform agenda and therefore requires a renewed emphasis on the role of political will and the significance of its interaction with moral and ethical concerns at the international level. As a result, the thesis argues that critical to addressing the current R2P implementation gap is the need to move beyond the focus on the binary play-off between humanitarian objectives and the role of state sovereignty, in order to begin to develop a more expansive approach to the challenge of mobilisation, which is reflective of the way humanity, law and politics interact at the global level. The thesis therefore provides the foundations for

11

constructing a more intuitive framework for understanding the complex mobilisation factors involved in generating collective responses to the threat of mass atrocity crimes.

Summary

To summarise, without a clear theoretical and philosophical grounding of the concept of humanity it will remain increasingly difficult to express why the international community should take up the responsibility to protect populations when a state fails to do so. Key to the underlying premise of this thesis therefore, is the argument that one needs to better understand the existence of humanity in order to explain why we must "act to save strangers" (Bain, 2007, p.561).[1] Thus, without locating universal harm through a conception of our common humanity we are unable to fully conceptualise the extent of the crime and its possible ramifications. The thesis will therefore put the concept of common humanity front and centre, in regard to current debates surrounding the motivation for states to protect potential victims of mass atrocity crimes. Consequently, this will have significant implications not just for theoretical debates but also practical policy outcomes, as this thesis will go on to explore in further detail.

Theoretical/Conceptual Literature

Before moving on to discuss the theoretical framework underpinning the thesis and its discussion of humanity, it is important to briefly acknowledge that despite the relative lack of engagement with the concept of humanity in R2P literature, there has been a wide range of philosophical literature that has examined more explicitly the role of humanity and its relation to mass violence and notions of global harm (Gaita 2000; Teitel 2011; Pinker 2011). Much of this literature has formed around issues of human progress, detailing how increased human

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[1] It is important to note here that this argument is different to that of deciding how such responsibilities such be distributed and assigned or arguments regarding what type of duty the R2P should be understood as. For analysis of such debates see Pattison, J. (2010) Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene? (Oxford: Oxford University Press,) and Roff, H. (2013) Global Justice, Kant and the Responsibility to Protect: A Provisional Duty. London: Routledge.

interconnectedness has continued to influence significant shifts in state behaviour and expectations of state action towards humanity (Linklater, 2011; Tietel, 2011). More broadly, the recent work of Linklater (2011, p.76) has sought to question the extent to which the modern society of states has made progress in acknowledging "the obligations they owe all other people by virtue of shared humanity". One can also highlight this line of argument more specifically in the work of Teitel (2011), who draws attention to the way in which humanity based claims are at the forefront of contemporary foreign policy and diplomacy, demonstrating a shift in moral rhetoric towards a more humanity-based morality becoming increasingly prevalent. This literature will thus provide a significant starting point from which to build upon analysis of state motivation for action, by examining further the relationship between mass atrocity crimes and common humanity.

Furthermore, there has also been considerable debate around the concept of humanity in the literature of international law, most significantly in regard to the normative foundations of crimes against humanity. For international legal scholars (May, 2005; Luban, 2004) much of the focus has been upon examining what sets international crimes apart from domestic crimes, specifically how the concept of humanity can help differentiate between these two categories. In addressing this issue, scholars have looked to explore the influence of humanity, understood as either *humanness* or *humankind*, in order to develop greater understanding of the specific harms caused by such crimes. These arguments have then been used in order to theorise claims regarding why the prosecution of those who commit such acts must be of concern for the whole of the international community. These discussions therefore feed into both conceptual questions of how we understand crimes against humanity and also normative questions, concerning the international community's role in prosecuting these crimes (Renzo, 2012). Consequently, this body of literature is critical to the ability to begin assessing the relationship between common humanity and specific mass atrocity crimes. The concept of

humanity is thus explicitly tied to key understandings in international law, whereby the concept has arguably undergone the greatest amount of philosophical inquiry into its meaning and application so far. Furthermore, debates around the legal right to prosecute crimes against humanity can provide a useful foundation upon which to formulate and theorise humanity-based arguments, in support of state obligations for protection. The thesis will therefore build upon the current debates in international law around prosecution of mass atrocity crimes and apply them more comprehensively to debates surrounding humanitarian intervention and prevention initiatives.

The failure of these distinct areas of research to fully communicate with each other directly, so far, can be seen to have created a significant gap in the literature for a more interdisciplinary approach to our understanding of R2P and its relationship to the concept of humanity. A more informed conceptualisation of this relationship has not only significant theoretical implications but also potentially numerous policy implications. This research therefore aims to combine and expand upon these distinct areas of research, allowing for a more interdisciplinary understanding of what obligations states may have towards a common humanity, and the potential impact this understanding has on state action in response to mass atrocity crimes.

Theoretical Framework

The ability to incorporate this range of literature will also require a theoretical approach that is able to prioritise the importance of normative theory, particularly in regard to state decision-making and analysis. Consequently, the thesis puts forward a specific understanding of the key relationship between the practices of politics and normative ideas themselves. In this sense, it is critical to ask how "have moral ideas about international order influenced political behaviour" (Hurrell, 2007, p.19). One can then begin to move debate towards greater

discussion of the nature of ethical conduct and the wider question "what ought we to do?" (Hurrell, 2007, p.19). The thesis is therefore built on a theoretical perspective which priorities the value of humanity as central to our understanding of the harm created by the four crimes of R2P, and thus re-examines its role in guiding moral and political decision-making.

This theoretical approach is firstly informed by the thinking of Immanuel Kant and thus places a direct emphasis on the importance of both reason and harm in underpinning a conception of humanity. This formulation is then combined with a dual understanding of humanity, represented as both *humankind* and *humanness*, which together helps to ground the concept of humanity's application in this thesis. This is then reinforced through presenting a transcendental argument for humanity, in order to reaffirm the socially constructed and a priori grounding of humanity through language and performative action. Directly connected to this theoretical framework is the focus the thesis places on mass atrocity crimes as representing a shared notion of "the bad life", by which conceptions of the wrong are seen to provide a better way to traverse cultural differences in regard to cruel or inhuman behaviour (Linklater, 2011, p.106). It is therefore argued that the best way in which to protect the significance of our cultural diversity is through locating a universal conception of harm, which underscores the threat that mass atrocity crimes pose to the very identity of diversity and humanity itself. Thus, our ability to relate to common humanity can be best located in the shared capacities we have as human beings. This is created through an acknowledgement of universal solidarity, allowing us to recognise "common vulnerabilities to mental and physical suffering", and providing us with a greater opportunity to forge agreement on universal harms (Linklater, 2011, p.111). Hence, the cosmopolitan approach put forward in this thesis is one very much founded on the primacy of negative duties aimed at the avoidance and limitation of specific extreme harms (Shapcott, 2008, p.196). As a consequence, the thesis reinforces a "thin conception of universality", in order to defend the ideal that every human being belongs to a single

community of humankind and that everyone therefore also shares a set of natural capacities (Bartleson, 2009, p. 171). What follows from this claim is that the key moral precept must be the "requirement of mutual respect in the face of human diversity" (Bartelson, 2009, p.178). It is through this thin universalism that we can make subsequent claims to the abhorrence of torture and the need to respect the right to life. Consequently, an acknowledgement of a thin universalism is thus essential in providing a foundation from which normative judgements can be made, reinforcing claims regarding what acts can be seen to represent universally accepted human wrongs.

Furthermore, the thesis will also utilise a constructivist approach that works to develop a more consistent application of ethical reasoning to our understanding of international politics. In assessing moral limit and possibility in world politics, Reus-Smit (2008, p.53) argues that international relations "ought to be concerned first and foremost with the praxeological question of how we should act"? The ability to answer this question requires not only an understanding of context but also "of purposes and ends" (Reus-Smit, 2008, p.64). This appeal to an increased focus on the role of ethical reasoning can be seen to highlight the potential for greater collaboration between international relations and political theory. Ethical reasoning itself must therefore be viewed as inherently multifaceted, incorporating both political and philosophical forms of "reflection and debate" (Reus-Smit, 2008 p.67). The abstract ethical reasoning undertaken by policymakers and scholars in regard to the right course of action to take can thus be seen to play a critical role in shaping intersubjective debates that directly impact the values political leaders pursue (Reus-Smit, 2009, p.72). As Finnemore (1996) notes, when states are attempting to justify an intervention they are explicitly drawing on and articulating, "shared values and expectations held by other decision makers" (p.153). Foreign policy beliefs are therefore embedded in and reflect much larger "social and historical complexes of meaning" (Crawford, 2002, p.90). This approach is thus significantly placed to

not only unpack the morality of a particular act but to "constitute its effects on the social structures of world politics" (Price, 2008, p.25). In order to achieve this, constructivist theory must be clear to "self-consciously and systematically locate what they are doing within a broader normative project" (Reus-Smit, 2008, p.75).

In regard to its methodological approach, constructivism is informed by the epistemological claim that knowledge is socially constructed and the ontological claim that social reality is also constructed (Guzzini, 2000, p.160). Subsequently, as Pouliot (2004, p.330) argues, "constructivists should always remain agnostic about reality, neither assuming it nor denying it", whereby knowing if social reality is actually real makes little analytical difference. Instead, the focus of constructivism must be to "observe whether agents take it to be real, and to draw the social and political implications that result (Pouliot, 2004, p.330). Interpretation therefore "constitutes the central methodological task" for constructivists, which is informed by a style of reasoning that is "inherently historical" (Pouliot, 2007, p.364) and thus ''sees the world as a project under construction, as becoming rather than being'' (Adler 2005, p.11).

For constructivists, the structure of international relations is therefore determined by the international distribution of ideas, whereby "expectations and beliefs about appropriate behaviour are what give the world structure order and stability" (Finnemore & Sikkink, 1998, p.894). Consequently, much of constructivist research has focused around the study of norms, defined as "shared expectations about appropriate behaviour held by a collectivity of actors" (Checkel, 1999, p.83). Constructivist theory is therefore well placed to help theorise how "new norms emerge and diffuse" and thus change the behaviour of international actors (Bloomfield, 2016, p.311). Central to mapping this change has been a focus on creating models through which the progress of norms can be traced (such as the norm lifecycle and spiral models) in order to better understand the stages a norm must go through in order to reach acceptance by the international community (Finnemore and Sikkink, 1998; Risse and Sikkink, 1999). The

emphasis in these approaches is therefore heavily focused on tracking state compliance to norms, whereby states are seen to be pressured into adoption through a process of socialization, dictated by the key influence of norm entrepreneurs. It is norm entrepreneurs who are therefore seen to spark debate and call attention to issues that are argued to require specific changes in state behaviour.

However, this form of constructivists scholarship in particular, has often been criticised for its commitment to so-called "progressive norms", without implicit normative analysis of what constitutes progress in international society and furthermore, a lack of exploration into how states may contest and challenge the construction and implementation of such norms. Consequently, in regard to the status of the R2P norm Tacheva and Brown (2015) have argued:

The divergence in the interpretations of prominent R2P scholars when assessing R2P's progress against the pattern of one of the most prominent models of norm diffusion suggests that it is difficult to draw definitive conclusions on the progress of the R2P norm (p.450).

Part of this problem then has been the way in which orthodox models of normative change have "portrayed predominantly linear and diffusionist logics of norm evolution that underplay the complex interaction implicit in unpredictable outcomes at the systemic level" (Hunt, 2016, p.761). In this regard, one can point to the way in which constructivist literature previously treated norms as relatively static independent variables to "facilitate analysis and dialogue with competing [established IR] perspectives" (Hoffman, 2010, p.3). Consequently, as Weiner (2004) has argued, much of the early wave of norm studies therefore tended to focus on how actors were pressured to comply with the new norm and socialised into a normative community, whose boundaries were defined by Western states. These early modes were therefore seen not to "account well for large fluctuations, drawbacks and/or norm stagnation or degeneration" (Tacheva and Brown, 2015, p.450).

Furthermore, the internalization phase of the cycle was seen to stabilise the norm's meaning and effectively bring this form of contestation to an end. Adherents to the linear approach to norm development have therefore often claimed that a norm's significance or impact can be measured according to its degree of institutionalization (Finnemore and Sikkink, 1998). In the case of the R2P, once the norm gained meta-theoretical agreement it was assumed to be transformative and it was thus argued that the norm could now be easily slotted into the institutional framework of the UN. However, as Laffey and Weldes (1997, pp.225-226) suggest, this is too simplistic, since "the 'fit' between various ideas and the plausibility, or not, of new ideas are actively constructed rather than simply 'there' in the ideas themselves". Belief in the fixed nature of norms has therefore further reinforced a certain form of liberal teleology; understood as a fixed sense that the international system is steadily evolving towards a more peaceful, moral, liberal future. As Falk and Skinner (2016) argue, infused in R2P reform advocacy has long been a sense of liberal teleology, and belief in the progress of humanity as irrefutable. This has played into the assumption of the R2P as essentially a growing child, whereby R2P discourse has a "prospective face" (Bain 2010, p. 30), looking forward to its own better realization, yet it is less clear how any assessment might necessarily connect with a questioning of the correctness or rightness of R2P.

In light of the critiques so far highlighted, an increasing body of literature addressing contestation as a major conceptual concern for norm research has emerged (Weiner, 2014; Welsh, 2013; Niemann and Schillinger, 2017). Central to this new emphasis on contestation has been a focus on the limitations of institutionalisation, which is argued not to necessarily represent a moment of triumph for norms. Contestation over meaning can therefore persist, particularly as new circumstances and crises arise. As Welsh (2013, p.395) argues, by previously ignoring the contestation surrounding the R2P, there has become a tendency for many scholars to overplay convergence, which masks their "deeper normative desire to see

particular norms as universalized". In addressing this contestation, Betts and Orchard (2014) have called for a greater focus on the role of implementation, and how it represents a crucial complement to existing theoretical accounts of the role of international norms in world politics. In this case, instead of seeing norms as "fully institutionalised once they are accepted by governments" a greater focus on implementation opens up the possibility of analysing "how international norms are then diffused from state capitals through a range of regional and local levels" (Betts and Orchard, 2014, p.12). In order to expand on this, the thesis adopts a distinctly post-positivist approach to constructivist analysis and thus seeks to further emphasise the intersubjective nature of norms, and the importance of analysing "norms' meaning in use" (Weiner, 2009). Central to this constructivist approach is thus the need to problematize the taken-for-granted, in order to reveal how such assumptions impact upon the meaning ascribed to norms in practice (Price and Reus-Smit, 1998).

In relation to the R2P, it is important to distinguish its identity as a "principle norm" rather than a direct "treaty norm", by which it is seen to "reflect shared understandings that states either have not yet sought to codify or have chosen deliberately not to" (Betts and Orchard, 2014, p.9). This generates a number of significant challenges in relation to implementation, whereby it remains the case that whether action occurs in response to mass atrocity crimes is ultimately reliant upon a range of factors, and thus the norm continues to be deeply contested at both the national and international level (Welsh, 2013). Consequently, the seminal step from the idea of the R2P as an accepted (weakly) regulative norm to an embedded constitutive norm is thus so far lacking due to this "institutionalization-implementation gap" (Betts and Orchard 2014, p. 12). In this sense, whilst key political actors might understand the R2P as a concept that has potential relevance to current phenomenon, this does not also mean that it is held as normatively imperative as an action guiding principle (Tacheva and Brown, 2015, p.464). Uncovering this contestation therefore requires greater examination of the

"normative positions that underlie opposition to the principle, rather than assuming that all such opposition is driven by power considerations or "misunderstandings" (Welsh, 2013, p.389).

In this sense, one must place greater emphasis on the "sources from which a rational order of values derives its authority" (Bain, 2007, p.575). Critical to this will be making sure constructivist research engages more explicitly with discussions of moral progress and reflection on ethical conduct. The theoretical framework of this research will therefore build on the need to apply broader ethical reasoning to constructivist thinking as well as provide an attempt to straddle the divide between political and international theory. In order to do so, the thesis will be making use of a historicising method that will allow for greater analysis of normative change and the role that moral arguments have had on the construction of current political circumstances. As Pouliot (2007, p.367) argues, "no social realities are natural, they are all the result of political and social processes that are rooted in history". In this regard, the thesis will trace how historical processes have unfolded over time in order to contest current historicizing narratives and thus challenge assumptions surrounding how normative contestation arises. Historical analysis is therefore well placed to help reveal the "political contestation that necessarily surrounds any form of knowledge that makes claims to reality" (Pouliot, 2007, p.372).

Consequently, when examining the R2P, one must still recognise it as being a deeply contested norm on a number of levels, particularly when it comes to its implementation. The challenge moving forward must be to work out how the norm can function in light of this contestation rather than simply assuming that such contestation will eventually disappear. In response, this thesis therefore aims to focus more specifically on the strategies through which states contest R2P implementation, specifically regarding competing interpretations of moral

responsibility. Central to this analysis will be the process of better theorising the role humanity plays as a motivational component in implementation debates.

Thesis Overview

The thesis will begin by briefly outlining the genesis of the R2P principle in order to highlight how the R2P principle has been specifically developed and refined in order to address key obstacles deemed to have placed significant constraints on previous attempts to prevent mass atrocity crimes. Chapter 2 will therefore emphasise how specific interpretations of past intervention failures have been highly influential in guiding the development of the R2P principle and thus generating an increased focus on the concept of humanity as a driver of change. In doing so, it will be possible to highlight the need for greater analysis of the motivational role humanity is argued to play and furthermore its potential limitations in resolving the challenge of generating political will in R2P cases.

In beginning to unpack the complex relationship between the R2P and the concept of common humanity, Chapter 3 will outline an understanding of humanity, articulated by two interdependent definitions of the concept, namely humankind and humanness. It will be argued that a *dual conception* of these two understandings of humanity is essential to the ability to ground mass atrocity crimes as universal harms. Following on from this discussion, the chapter will analyse approaches that seek to deny the existence of a common humanity, focusing on challenges from communitarianism and anti-foundational arguments. This will be critical in order to demonstrate how these contrasting approaches still fail to move beyond the idea of shared human capacities that are ultimately rooted in a universal conception of common humanity. In further responding to these critiques, a transcendental argument for humanity will be presented in order to highlight how the concept has become a central component in our moral thinking regardless of its provability, whereby we continue to speak as if humanity exists

and thus socially reconfirm its existence through the construction of language, law and performative action. The chapter will conclude by highlighting the need to then apply this theoretical framework to our understanding of the four major crimes of R2P, in order to locate the distinct global harms created by such acts.

Chapter 4 will address directly the question of, why is it possible to insist that other nations should not commit mass atrocity crimes against their own populations? In response, the chapter will focus on the need to move beyond claims that such crimes are simply "conscience shocking" in order to present a theoretically informed argument that addresses how we can conceptualise the impact such crimes have on the values and ideas that are argued to be essential to our existence as human beings. Through building on the theoretical conception of humanity outlined in the previous chapter, it will be possible to examine how mass atrocity crimes can be seen to challenge a *dual conception* of humanity, generating not only a harm against the diversity of humankind but also challenging our distinct humanness, understood through our ability to coexist as political animals, as well as our capacity to reason and develop moral rules. This will then be reinforced through the outlining of a new theoretical approach for conceptualising crimes against humanity, underpinned by the centrality of both moral reasoning and harm recognition, in order to fully capture the uniquely global harm of such crimes. This will help to provide a comprehensive reply to the question of why humanity matters and furthermore why states have a responsibility to respond to crimes against humanity beyond their borders.

Chapter 5 will then focus on the extent to which the concept of humanity has influenced state behaviour at the UN level, through examining the historical trajectory of threat expansion leading up to the creation of the R2P and the actions of states in the 12 years following the 2005 WSOD agreement. Rather than understanding this process as a fixed linear progression, one defined by a continual increase in state response to human suffering and the protection of

a common humanity (Tietel, 2011), the historical analysis will demonstrate the lack of a consistent pattern in the way both the UNSC and individual states have chosen to categorise the scope and impact of mass atrocity crimes, despite consistent rhetorical claims to the distinct threat they are argued to pose to our common humanity. In this regard, the chapter examines why state conceptions of international peace and security remain so fundamentally contested and thus, how this has impacted on the influence of the current R2P concept to fundamentally shift political will in the UNSC. Subsequently, it will be argued that despite an increased focus on the motivational force of humanity, states have so far been unwilling to acknowledge potential restrictions on how they interpret threats to international peace and security. This analysis is critical to further understanding how normative arguments concerning the motivational qualities of humanity feed into current debates concerning the R2P's implementation gap and how it can be addressed.

In building upon the arguments so far presented by the thesis, Chapter 6 will focus explicitly on the considerable lack of analysis into humanity's dual function in supposedly helping to both locate moral harm and subsequently providing a motivational cause that can drive protection practices in support of the R2P principle. In response to this lacuna, the chapter puts forward three ways in which to hypothesise the motivational role of humanity in this process; a) humanity functioning as a rhetorical tool with no motivational qualities; b) humanity as a concept that works to redefine sovereignty in support of the R2P; c) humanity as a motivating principle that ultimately diminishes in influence as the R2P principle is diffused into action. Through this analysis, the chapter offers a more rigorous and systematic evaluation of humanity's limitations as a moral motivator for generating collective response to mass atrocity crimes, highlighting the need to further develop understanding of the complex interaction between morality, politics and law in international decision-making. In this sense, the chapter challenges the uncritical assumptions made regarding the motivational capacity of

humanity, in order to raise significant questions in relation to the processes through which debates about motivating state actors, confronted by mass atrocities, take place. Consequently, it is argued that there must be space for a more critical approach to conceptualising the constraining realities of international decision-making and a greater recognition of humanity as an increasingly contested and diminished source of moral responsibility once the R2P is diffused into action.

In response, Chapter 7 seeks to address the challenge of how best to conceptualise the key added value created by the R2P, in light of the critiques so far highlighted by the thesis. The chapter therefore challenges the current focus of the R2P literature concerning the identification of the R2P's added value, which has been predominantly framed around whether the R2P functions as a distinct rallying cry or as an evolving policy agenda focused on prevention. In response, the chapter puts forward a new theoretical conceptualisation of the R2P's key added value, with the concept understood to function predominantly as a *negative accountability claim*. It is thus argued that the R2P provides a moral framework through which states can now more easily trigger debates concerning the question of why aren't we protecting? The second part of the chapter will then assess the implications this has for R2P reform initiatives. In doing so, the section outlines responses to the question of reform from both R2P advocates and critics, in order to examine how much of the focus from both sides has been placed on the decision-making procedures of the UNSC and the challenge of addressing the binary play-off between humanitarian objectives and the role of state sovereignty. In rejecting this highly institutionalist focus, the chapter argues that we must generate a better understanding of how moral imperatives interact with political and legal pressures in order to influence the overall motivational consensus for generating sufficient political response. To conclude the chapter reinforces the need to re-think the idea of political will and its relationship to state mobilisation and thus argues that we must take a broader view of political will that is

more conscious of how a variety of humanitarian protection norms interact and compete with one another and the impact this has not just on the R2P concept understood in narrow terms, but the goal of protection and prevention of atrocity crimes against humanity more expansively.

Chapter 8 will then ultimately seek to reinforce the central contributions of the thesis, most significantly, the creation of a more nuanced understanding of humanity understood through its distinct dual function. It will thus explain how the concept of humanity plays a complex role in the motivational process behind the R2P, whereby it still remains an essential moral component to any argument in favour of supporting humanitarian response to mass atrocity crimes, yet, at the same time, these appeals to humanity alone do not make moral dilemmas or other political and legal pressures subside. Consequently, as this thesis will demonstrate throughout, analysing the role of humanity can be seen to require us to rethink and challenge many of the central assumptions that have been made in the R2P literature regarding the impact of the R2P on state behaviour. In conclusion, the analysis and insight provided by this thesis is thus presented as a key starting point for expanding and developing future R2P scholarship, which can help to move beyond the binary nature of previous research, which has most often placed key normative values and beliefs in direct competition with each other rather than fully conceptualising the complex intersubjectivity of these apparent dualisms. It is therefore argued that what remains central to the greater implementation of humanitarian practices is the ability to better locate the role of humanity in relation to competing moral, legal and political pressures on state decision-making. In this sense, it is critical that debates moving forward begin to focus on the role of humanity as a more regulative idea, rather than an assumed empirical fact (Devetak, 2002, p.179). Critical to this will be the need for all actors involved in decision-making to better recognise the importance of further cultivating a stronger respect for global humanness, tied back to a more cosmopolitan sense of a shared collective consciousness. Whilst this will ultimately be a slow, iterative and incremental development

process, it must nevertheless be seen as the most positive and effective foundation from which to build towards the global challenge of bringing an end to mass atrocity crimes.

Chapter 2: The Development of The Responsibility to Protect

Introduction

The purpose of this chapter is threefold, firstly to briefly outline the genesis of the R2P, in specific relation to the role played by the moral language of "never again" and the concept of common humanity, in order to demonstrate the crucial link between previous mass atrocity prevention failures and the new moral authority seen to be generated by the R2P principle. This will be significant in highlighting how the R2P is ultimately a product of a long history of international attempts to try and bring an end to mass atrocity crimes, all of which have remained deeply connected to the important motivating role played by the concept of humanity. Secondly, the chapter will critically examine how the R2P principle has been specifically developed and refined in order to address a number of key obstacles deemed to have constrained previous attempts to prevent mass atrocity crimes. These were namely, the traditional role of sovereignty, the scale and scope of acts claimed to justify the need for action and the institutional framework required for authorising humanitarian responses. Each was therefore argued to require refinement and clarification in light of perceived limitations and ambiguities concerning the previous humanitarian intervention norm. Nonetheless, it is important to note that in the years directly prior to the R2P's initial development it was arguably sovereignty that was deemed to present the greatest obstacle to implementing protection practices, and thus the challenge of redefining sovereignty for the 21st Century was made central to the justification for creating the R2P principle. What this analysis therefore provides is a clear overview of how specific interpretations of past intervention failures were highly

influential in guiding the development of the R2P principle from its initial outlining in the ICISS document to its adoption in the WSOD.

However, as the thesis will later argue in greater detail, assumptions regarding the extent to which the R2P has fully resolved these previous obstacles to motivating protection practices, or the degree to which these same obstacles still remain the key impediments to the R2P's implementation, have continued to limit discussions regarding the much broader challenges facing the R2P principle. In this sense the thesis contests, in particular, the dominance of the sovereignty vs. humanity dichotomy, which has remained an essential part of how the R2P's status and future effectiveness is discussed and framed. In challenging this dichotomy, Chapter 7 of the thesis will later specifically underline the way in which sovereignty itself has rarely proven an insurmountable barrier to protection and prevention policy in the past. Instead it has more often been a question of political will, linked heavily to the moral sacrifices that are required to adequately address mass atrocity crime situations.

Finally, in response to the contestation surrounding the current R2P implementation gap, the chapter will reflect on the continual challenge of generating political will in response to mass atrocity crimes and the problem of inconsistent state practice. Through highlighting the increased emphasis on the importance of humanity and moral ideas in driving change, this section will emphasise both the lack of analysis so far in attempting to understand the motivational role humanity plays and furthermore its potential limitations in resolving the challenge of generating political will. What this section therefore demonstrates, is that despite the development and refinement of the R2P principle in response to previous barriers to mass atrocity crime prevention and protection, there still remains a number of significant challenges hindering the more successful implementation of the R2P.

Consequently, one of the central claims the thesis makes is that a better understanding of the relationship between humanity and the R2P is essential to further explaining and conceptualising the key obstacles to atrocity prevention moving forward. As this chapter will conclude, the barriers to closing the current implementation gap remain numerous and thus what is ultimately required is the creation of a more comprehensive approach for conceptualising the complex interaction between moral, political and legal pressures surrounding state decision-making in R2P situations. The starting point for which must be a clearer understanding of the role humanity has played as a central moral foundation in the creation of the R2P principle.

The Genesis of the R2P

The initial spark behind the creation of the R2P can firstly be connected to the pledge of "never again", a commitment born out of previous failures by the international community in responding to genocides and mass atrocities across the globe. The language of never again can be traced back to its origins in the aftermath of the Holocaust, in which states were in agreement that lessons must be learnt and the mistakes of the past never repeated, in order for the crime of genocide to be outlawed once and for all. Consequently, as Gallagher (2013, p. 94) argues, it was the "moral abhorrence felt toward the Holocaust" that dramatically altered "international society's moral, constitutional and legal expectations", resulting in the establishment of the 1948 Genocide Convention. For the first time genocide was understood as an international concern, whereby states now recognised a legal obligation to override the rights of sovereignty wherever genocide was committed (Gallagher 2013, p. 115). Yet despite the initial moral outrage created by the crimes of the Holocaust, the events of the following decades would provide little support to the possibility of realising "never again". The response of the international community to the genocides of Cambodia, Rwanda and Bosnia demonstrated a lack of support for the principles underlying the Genocide Convention, as well as a general

indifference in regard to the moral obligations states owe to those outside of their borders. It was this consistent failure to make the most conscience shocking crimes of greatest concern to states, which drew many to call for change in the way the UN went about its approach to tackling mass atrocity crime prevention and response. The failure to do so was thus seen to pose a direct threat to the central purpose of the UN, with Secretary-General Kofi Annan (1999a) suggesting that "if the collective conscience of humanity…cannot find in the United Nations its greatest tribune, there is grave danger that it will look elsewhere for peace and justice".

Accordingly, it was the symbolic language of "never again" that arguably gave the R2P much of its moral authority in international affairs and thus continues to underpin a key motivational element of the concept. The language of "never again" is also inherently tied to an understanding of common humanity, whereby mass atrocity crimes are considered so shocking to humanity that we must all collectively pledge to never let them occur again. The articulation of never again is thus founded on a respect for humanity that is understood as both universal and an end in itself. The concept of humanity therefore makes up the essential *emotional pull* and *motivational push* of R2P, through which many argue humankind can help move towards the elimination of mass atrocity crimes once and for all. Thus, the R2P is built on an assumption that normative pressure from the ideas of "never again" and common humanity can compel states (particularly powerful states) to alter their foreign policy calculus. In this sense, the R2P can be understood as "essentially a narrative of guilt on the part of dissident former UN diplomats", that is utilised in order to help "operationalize moral determinism more effectively" (Lucas, 2014, p.37). The political failures of the past are thus very much interspersed within the very moral fabric of the concept and the institution of the UN, whereby the failure to respond to situations that "shock the conscience of mankind" is deemed to represent an abandonment of the UN's key mission (Orford, 2016, p.19). Whilst this

particular reading may be rejected by some R2P advocates (Bellamy 2013, p.337), the statement does highlight how significant political failures of the past are very much interspersed within the very moral fabric of the concept. Thus, as Hopgood (2014, p. 182) argues, "the politics of the R2P are intimately interwoven with the politics of stopping genocide" in which "it was the ghosts of Rwanda and Srebrenica that haunted advocates". Nevertheless, the R2P does also provide a new focus to debates regarding the challenge of protection, whereby states are now tied to a stronger moral and political obligation and must arguably work harder to both prevent and react to mass atrocity crimes across the globe. As a result, the principle's many supporters (Evans, 2008a; Peters, 2009) have suggested that the creation of the R2P represents a fundamental shift in state practice and behaviour, whereby the failures of the past will no longer be played out again and again. Central to such claims has been the emphasis placed on the R2P as representing a new approach to addressing previous barriers to mass atrocity prevention and protection.

Addressing the Barriers to Implementation

In order to begin assessing the effectiveness of the R2P's function as a normative tool for converting moral sentiment into collective action, one must first go back and highlight how the creation of the R2P concept was specifically informed by a need to address previous barriers to mobilising effective responses in mass atrocity crime situations. It is therefore through analysing the foundations of R2P's construction and design that one can start to examine the complex role humanity plays in supposedly driving the need for a collective response to mass atrocity crimes.

Sovereignty as Responsibility

Perhaps the most significant theoretical innovations put forward by the R2P is the concept of conditional sovereignty. For centuries sovereign equality and non-intervention had been

guiding principles in the management of international relations, with the absolutist nature of these principles becoming further embedded by the international community during the 20th century (Glanville, 2013). The implications of such beliefs were that the internal actions of a state against its own people were beyond the remit of the international community to challenge, and thus the management of international order between states must be the central objective. One of the first to fundamentally challenge this notion directly was Francis Deng et al (1996, p.33), who in the book *Sovereignty as Responsibility: Conflict Management in Africa*, argued "sovereignty can no longer be seen as a protection against interference but as a charge of responsibility where the state must be accountable to both domestic and external constituencies". This idea of sovereignty as responsibility proved to be highly influential and would later inform the arguments put forward by scholars such as Sampford and Thakur (2015, p.52) who have suggested that the traditional Westphalian concept of sovereignty was ultimately a "tyrant's charter", by which "the prior successful use of internal force justified the continuing use of internal force for any purpose that the sovereign saw fit". In this sense, the upholding of sovereign non-intervention as a central international principle was seen to have provided a shield for those wishing to commit atrocities against their own people, whilst at the same time giving other states a justification for their inaction. It was therefore argued that the desire to "do something" in order to alleviate grave human suffering in mass atrocity situations, was at odds with "the existing tenets of international law and specifically the rights of non-intervention afforded to sovereign states" (Hehir, 2012, p.182). Whilst the end of the Cold War brought with it a renewed sense of optimism about the possibilities for the UN and its potential role as a more humanitarian focused organisation moving forward, debates regarding humanitarian intervention in the 1990's were still very much framed in terms of "sovereignty versus human rights", with little explicit consideration of the possibility for alternative conceptions of sovereignty (Glanville, 2013, p.181). Consequently, the confrontation between

these two competing values was seen to have provided a major barrier to decision-making within the UN, most significantly in terms of responding to the outbreak of mass atrocity crimes in Bosnia, Rwanda and Kosovo (Evans, 2006). The failure of the UN to sufficiently address such atrocities therefore reignited debates concerning the strict absolutist view of sovereignty, which was increasingly seen to undermine the UN's legitimacy in terms of dealing with today's global threats (Gallagher, 2013).

In direct response to the inaction of the UNSC in Rwanda, and its division in the case of Kosovo, UN Secretary-General, Kofi Annan (2000) addressed the UN General Assembly in order to directly question the moral consistency of traditional Westphalian sovereignty, suggesting in his report that "Surely no legal principle — not even sovereignty — can ever shield crimes against humanity". He therefore argued that "both the defence of humanity and the defence of sovereignty are principles that must be supported", and called for a way to reimagine the relationship between citizen, the state and the international community (Annan, 2000, p.48). This potentially contradictory statement first highlighted the need to create a new form of conditional sovereignty, through which common humanity could be fully defended alongside the goal of maintaining peace and security. This was a challenge Annan (1999b) had also attempted to address through the ideas presented in his 'two concepts of sovereignty' proposal, in which he recognised the need for an understanding of sovereignty that balanced both, the traditional interpretation of state sovereignty with that of individual sovereignty. Central to the realisation of this proposal was the idea of the state as an instrument at the service of its peoples, and not vice versa, thus the state must provide protection for the fundamental freedoms of each individual first and foremost (Annan, 1999b).

The task of putting this theoretical proposal into policy practice was taken up by the ICISS commission, founded in 2000, which sought to build consensus within the international community as to the proposition that "massive systematic violations of human rights must be

stopped wherever they take place" (Scheid, 2014, p.14). Central to trying to build this consensus was the inversion of the idea of a "right to intervene", whereby it was argued that a state should have a conditional responsibility to protect its people first and foremost, with the failure of a state to safeguard such protection resulting in the suspension of its non-intervention rights (Sampford & Thakur (2015, p.45). Consequently, it is argued that "only those states that protect the fundamental rights of their citizens and thereby fulfil their sovereign responsibilities, are entitled to the full panoply of sovereign rights" (Bellamy, 2009, p.19). This was an important reinterpretation of sovereignty as responsibility, which sought to place a new level of accountability on heads of state, whilst at the same time continuing to support the central principle of sovereign non-intervention. This meant moving away from the negative connotations associated with the 'humanitarian intervention' norm, which had caused significant rifts within the UNSC, following its application in Kosovo. The rules of intervention were therefore seen to begin with "the need of human beings for help" rather than "the exceptional right of states to intervene in extreme cases" (Peters, 2009a, p.535). The introduction of the R2P thus sought to provide a bridge between the dividing principles of humanitarian intervention and state sovereignty, in order to reject the idea that both principles were forced to be in constant confrontation (Glanville, 2013, p.191). Subsequently, the international community's responsibility to respond to the outbreak of mass atrocity crimes would be triggered only in situations where a state had manifestly failed in its own responsibility to protect its citizens. This reorientation of sovereignty therefore attempted to end any "trade-off between competing values" through the development of a "shared understanding of the concrete conditions for permissible intervention" (Rodin, 2014, p.245). In regard to the potential of states to convert collective moral outrage into decisive action, this theoretical reorientation of sovereignty put forward by the R2P was argued to be essential in helping to

limit what had previously been a significant point of debate and barrier to effective decision-making.

Furthermore, what is also significant about the framing of the ICISS document in relation to challenging traditional understandings of sovereignty, was the decision to specifically build the concept of R2P around direct appeals to a common humanity. As Welsh (2012) acknowledges, whilst the construction of the R2P in the 2001 ICISS document is based upon the idea of securing individual rights that are denied by persecution and violence, the responsibility of states to intervene to protect these rights, are built around the collective idea of a common humanity. In this sense, the document is grounded on a moral imperative, by which certain crimes are seen to "affect us all collectively, through the international harm principle" (p.105). As the ICISS proposal states, "all human beings are equally entitled to be protected from acts that shock the conscience of us all" (p.75). The reasoning behind this principle therefore stipulates that humanity itself can be damaged by mass atrocity crimes, therefore generating a "moral responsibility for members of the international community to act" (Welsh, 2012, p. 105). Due to the severity of the crimes committed the responsibility generated by R2P is shifted upwards to the international level.

However, as Chapters 5 and 6 of the thesis will later explore the relationship between sovereignty, humanity and the R2P has remained deeply contested, this in spite of attempts to frame the R2P as a new balancing force in the perceived battle between sovereignty and humanity. In this regard, R2P scholars have remained divided as to the extent to which the R2P's creation has now relegated sovereignty to a second-order norm and thus reinforced the role of humanity as the ultimate normative source of international law (Peters, 2009b p.155), or whether the R2P's implementation is in fact still undermined by the powerful role sovereignty has continued to play in international debates over mass atrocity crime prevention (Crossley, 2016, p.219). In response to this contestation over the influence of sovereignty and

humanity, Chapter 6 will argue that assumptions regarding the apparent dichotomy between the two concepts has been detrimental to better conceptualising the central motivational barriers to the R2P's implementation. Consequently, the thesis will provide a more nuanced understanding of how the R2P works to strength appeals to sovereignty in certain circumstances as well as seeking to undermine its influence in others.

Refining the Focus of Humanity: The Four Crimes of the R2P

In the years following the ICISS report, the R2P concept experienced a number of key setbacks in its development, most notably the changing security environment post-9/11, resulting in the highly controversial US led Iraq intervention. Yet, despite these initial setbacks, the principle was able to gain considerable momentum during the 2004 Secretary-General's High Level Panel on Threats, Challenges and Change, and following these negotiations states agreed to endorse a more refined principle of R2P in the World Summit Outcome Document (WSOD). For supporters of the R2P, the 2005 WSOD was a major watershed moment in which the tragedies of the past had finally forced a "historic shift in international relations" reinforcing the idea of a "moral obligation to prevent and halt the most horrific crimes known to humankind" (Schmidt & Wolf, 2012). Some even went as far as to claim that this R2P agreement in some way represented "the policy realization of the statement never again" (Stark, 2011, p.4). The language of never again therefore continued to be a feature of the diplomatic framing of this R2P document, with Slovakian delegate Michal Mlynar claiming that "the 2005 World Summit, sought to ensure that the international community would never again fail to protect human rights and protect human beings from the worst crimes" during a General Assembly meeting on the R2P (UNGA 2009). Consequently, the initial optimism surrounding the realisation of the R2P in the WSOD resulted in further strengthening the link between the language of "never again" and the moral principles underpinning the concept. R2P was therefore promised with making never again a reality, a goal that in many ways the WSOD did

not directly set out to achieve. The intertwining of the never again narrative, into the success of the WSOD, helped reinforce a key contradiction between the project's aim and its role as a moral tool for fundamental change in state policy. In this sense, the construction of the R2P within the 2005 document acknowledged a specific pragmatic understanding of when states should have the responsibility to act and this would always be on a "case by case" basis. This refined version of the R2P was therefore specifically set up to balance various imperatives and procedural considerations, and thus in many ways contradicts the form in which the R2P was originally presented in the ICISS document (Paris, 2014, p.579).

However, what the WSOD was most notably able to achieve was to forge agreement as to the four mass atrocity crimes that would be covered under the R2P principle, namely genocide, war crimes, crimes against humanity, and ethnic cleansing, thus moving beyond the ambiguous wording of the ICISS (2001, p. xi) report which had previously located the threshold for intervention as incidents "where a population is suffering serious harm". This was vital in addressing many of the pressing questions left unanswered by the ICISS report, such as whether the R2P would apply to large-scale human rights violations or natural disasters, as well as major international crimes. States had long challenged the abstract wording and moral language used as triggers for humanitarian action, and so it was seen as vital that such ambiguity was addressed in order to limit further contestation over thresholds in the future. As Doyle (2014, p.191) acknowledged, there had long been concerns as to the UNSC "acting far beyond the parameters of international peace and security". Subsequently, through limiting the R2P to four major crimes, and at the same time recognising each as potentially threatening to "values considered vital to the international community", the R2P sought to build "a stronger imperative to respond", one that could fully recognise the need for a universal interest in repressing such crimes and one that acknowledged more stringent parameters for action (Welsh, 2014a, p.213). In this sense, what the narrowing of the R2P provided was a move

towards creating a more precise legal underpinning, with member states already recognising obligations to prevent and punish genocide, war crimes and crimes against humanity (Bellamy, 2015b, p.41). These new standards also helped to "preclude the trap of a genocide threshold for protection", which had previously been viewed as a major barrier to possible intervention practice and was often seen to set the bar too high in terms of when states had a responsibility to protect those threatened by mass atrocity crimes (Doyle, 2014, p.203). Consequently, this agreement helped to strengthen the idea of a distinct moral threshold being broken when specific international crimes were committed, reinforcing a critical link between the R2P's normative ambition for redefining state behaviour in mass atrocity crime situations and the central moral imperative of humanity. This phase of "narrowing and deepening" of the R2P's focus (Evans, 2015, p.27) is thus argued to be essential in both persuading states to endorse the principle (Bellamy, 2015b, p.42) as well as helping to strengthen the concept in terms of its application as a "mobiliser" or "rallying cry" for action (Evans, 2008a, p.64). The concept of a shocked international conscience following the outbreak of mass atrocity crimes was now seen to have found expression through the four crimes of R2P, helping to apply moral indignation to concrete legal terms and thus move beyond previous ambiguities concerning the humanitarian scope of certain acts.

Nonetheless, it is crucial to recognise that the 2005 WSOD did not itself create any new legal obligations, but instead "authoritatively interprets state's existing obligations to prevent and respond to atrocity crimes" (Welsh, 2014b, p.125). Thus, it created a significant reminder to states of the "obligations they already owe to citizens as part of international law" (Welsh, 2014b, p.130). By simply reinforcing existing international law, the document leaves states to decide when and where they will choose to act upon the responsibilities outlined in the WSOD. Consequently, as Chapter 5 will examine in more detail, despite the significance of the 2005 WSOD in refining the R2P's focus down to four major crimes, it has not ended debates as to

when these four international crimes are considered as threats to international peace and security and thus require effective response form the UNSC. States have therefore continued to be selective as to when to expand and shrink their responsibilities of threat identification, rather than pursuing a gradual progression towards consistent expansion. This has significant implications for how we can conceptualise the current barriers to R2P implantation moving forward, as the thesis will explore in Chapter 7.

Clarifying the UN's Institutional Framework

Finally, the R2P also sought to address the contestation surrounding the decision-making framework for agreement of protection practices. Much of the previous disagreement concerning which body could legally authorise humanitarian intervention stemmed from the decision by NATO to act outside of the UNSC, following a lack of consensus as to the international community's response to the Kosovo crisis. This kick-started discussion regarding the need to develop further constraints and limits to the expansive humanitarian intervention norm. Without a clearer idea of who could authorise such actions and under what circumstances, the humanitarian intervention norm would remain deeply controversial, particularly in the eyes of states who had suffered significantly in the hands of imperial states in the past, resulting in considerable distrust of any attempt to forge a 'right of intervention'. It was therefore critical that the eventual creation of the R2P concept recognised and attempted to address such concerns and made clear which body could authorise intervention in mass atrocity cases. In light of such concerns, the ICISS (2001, p. xii) report went on to argue that there was "no better or more appropriate body than the UNSC to authorize military intervention for human protection purposes". Yet at the same time the ICISS (2001, p. xiii) report did hint at the possibility that "states may not rule out other means to meet the gravity and urgency of that situation". It was critical therefore that the 2005 WSOD attempted to fully address the

concerns of all member states on this issue, and made clear the full extent of the UNSC's role in sanctioning collective action against the outbreak of mass atrocity crimes.

It was also the case that member states, particularly those in the UNSC, remained thoroughly reluctant to engage in discussions concerning adaptions to the UN Charter, which ultimately meant the 2005 WSOD was framed in such a way as to reinforce the discretion of the UNSC on issues of protection, which would be exclusively taken on a 'case-by case basis' (Welsh, 2008, p.548). The formulation of the R2P in the 2005 agreement therefore worked with the current principles of the UN Charter and the rules concerning the authorisation of force, making it clear that R2P-related crises would be dealt with through the UN's normal peace and security mechanisms, and did not require ''exceptional'' measures. (Bellamy, 2010, p.160) As Doyle (2014, pp.206-207) highlights, the decision to keep authorisation powers under the UNSC's discretion allowed the R2P to function as a "leash" on previous intervention practice interpretations of international peace and security, which had previously taken place "without restraint or credible attention to 'international'; whilst at the same time providing a "licence" in terms of generating greater legitimacy for action in R2P cases. By embedding the R2P within the framework of the UN Charter, it was subsequently possible to address what was seen as another significant barrier to the implementation process, the question of who holds the right to authorise protection.

However, this agreement to limit authorisation powers to the UNSC'S discretion failed to cool debates over when moral arguments may still override or limit the options available to UNSC members in which to block potential interventions. In this sense, R2P supporters have continued to try and push the R2P beyond the initial 2005 agreement, by arguing that the R2P always requires states to do more even if this may mean bypassing the UN Charter (Bohm, 2014, p.195). Subsequently, this can be acknowledged by a continued emphasis on the need to put in place a "Responsibility Not to Veto (RN2V)" principle, as first proposed by France,

alongside a number of non-governmental organisations (Adams, 2014). The current contestation within the UNSC, over the necessity of introducing such a proposal, reiterates how states continue to contest the strength of the responsibilities outlined by the R2P, and the extent to which these responsibilities should constrain state decision-making further than the original 2005 WSOD. What this suggests is that the R2P's refinement in the WSOD has so far failed to end a range of debates concerning the authorisation process for legitimising intervention practices, again suggesting that it was never simply a question of deciding which authority should legitimise intervention, and thus instead implying that such debates were always part of a larger point of contestation, regarding how moral appeals interact with political and legal structures at the international level. The significance of this interaction will therefore be explored in Chapter 6 and 7 of the thesis.

Summary

The creation of the R2P can be conceptualised as an attempt to limit the apparent obstacles to protection, as well as being a principle that must be understood in relation to past moral failures of inaction. With significant hostility to the previous idea of humanitarian intervention, the process of distancing the R2P from this norm was therefore crucial to the eventual unanimous agreement by member states to the 2005 WSOD (Bellamy, 2009, p. l94). The successful adoption of the R2P in 2005 was therefore argued to have been achieved through attempting to address some of the most pressing questions surrounding intervention debates at that time: When can sovereignty be overridden? What body can authorise such action? Which acts constitute legitimate grounds for action? In helping to forge greater consensus on these issues the R2P has been recognised by its many advocates as a "game-changer" (Thakur, 2011a) and furthermore an idea that "has begun to change the world" (Bellamy, 2014, p.111). However, in relation to R2P's ability to convert moral sentiment into effective collective action, there remains a number of considerable barriers that continue to limit the R2P's ability to

successfully exert further political pressure on actors in the international system. Thus, despite the increased consensus and perceived clarity on many of the issues outlined above, contentious debates have continued, in particular, those concerning the role of the UNSC in authorising intervention and the complexity of locating a trigger point for action. The ability to address such concerns therefore requires greater engagement with the R2P as it exists today, as a moral and political principle that is seeking to change how states react to mass atrocity crimes through embedding a more collective understanding of responsibility founded in the imperative of our common humanity. As the thesis will explore in Chapter 6, it is only though a better understanding of how humanity functions in relation to the R2P that one can begin to locate the key long term obstacles to the goal of preventing and protecting those threatened by mass atrocity crimes.

Transferring Moral Sentiment into Political Will: Reflecting on the R2P Implementation Puzzle

In recent years, the increased presence of human centric security practice within the UN has been argued to have created the impetus for states to now become more accountable to the so-called wishes of humanity. As Weinert (2015, p.84) contends, human beings have increasingly, if inconsistently, been situated at the forefront of the UN's work in recent years. The assumed importance and value of common humanity has therefore become a consistent feature throughout the normative appeals made by R2P scholars, to such an extent it is often framed as the central issue in the challenge to change state positions on intervention against mass atrocities. As highlighted by this chapter so far, at the heart of the motivation behind creating the R2P is a moral sentiment, one that is built on the idea that states can further recognise obligations to common humanity, and that this can be achieved through reiterating the scope of such responsibilities in an international doctrine. Consequently, what the framing of the R2P concept suggests, is that with previous barriers to protection now redefined, political will can

be changed through reinforcing the obligations states have to the lives of distant strangers who are directly threatened by mass atrocity crimes. However, placing value on the lives of strangers also potentially requires states to risk their own citizens in order to protect them as well as risk political fallout from domestic audiences. As Bellamy (2009, p.58) previously acknowledged, preventing future Rwandas boils down to one key obstacle, the ability to persuade states "to accept risk in order to save people in distant lands, when there are few strategic interests at stake". Underlying this dilemma is a normative problem, one directly linked to the ability of states to better recognise their responsibilities towards a common humanity. In regard to the R2P, it still remains unclear how the construction of the concept can help to create a significant shift in the political will of states in the future. Correspondingly, one must therefore examine the broader context in which the political will of states is influenced.

First and foremost, it is vital to acknowledge that any humanitarian intervention is ultimately influenced by a range of factors and motives, including both self-interest and power management. Although this is not to suggest that an intervention cannot also be influenced in some part by humanitarian motives working in tandem with others. As Paris (2014, p.573) highlights, "patterns point to an interplay of material self-interests and humanitarian norms in intervention decisions". Despite claims from realist scholars that humanitarian intervention is only ever a cover for self-interest and ambition of power, one can draw attention to a number of recent studies that in fact demonstrate interventions to be a combination of values and material interests (Binder, 2009; Murray, 2013; Kreig, 2013). As Caney (2005, p.242) acknowledges, it is unrealistic to assume that states can never be motivated by other concerns, which must be seen to include ideological commitments. Furthermore, it is also clear that a state's pursuit of the national interest can in fact include a commitment to humanitarian ideals, in which it is artificial to "separate interests from their values" (Caney, 2005, p.242). This is

44

something that was expressed rhetorically by President Obama in regard to the 2011 Libyan intervention, where he claimed that,

There will be times, though, when our safety is not directly threatened, but our interests and our values are. Sometimes, the course of history poses challenges that threaten our common humanity and our common security. These may not be America's problems alone, but they are important to us (Obama, 2011)

Obama in this statement is recognising that protecting those threatened by acts of mass atrocity can still be a key interest of a state, despite their inability to directly threaten state security. In this sense, it is important to conceptualise state interest as encapsulating much more than simply security, whereby values and norms can arguably be seen to play a significant role in influencing state policy. Consequently, the question of creating political will must be understood as a battle on a number of fronts.

However, what this thesis is focused upon is the specific role the concept of humanity is playing in such debates and the extent to which its influence is able to fundamentally shift and influence state policy in the long term. As debates concerning the political will of states have continued, despite the creation of the R2P, it suggests that the normative battles over state responsibility will continue as states struggle to match up their obligations to humanity along with others. Thus, as Gallagher (2010) argues, the R2P "has not resolved the fundamental problem of altering political will". Yet despite this, one cannot instantly conclude that the concept of humanity has ultimately failed to have any impact upon state decision-making in such situations. As earlier highlighted, the concept of humanity has been central to affirming state agreement on the four specific crimes of R2P, outlined in the 2005 WSOD. However, in terms of creating a stronger *motivational push* factor for state action, the concept of humanity has been much more limited in its ability to create a fundamental change in practice following

the creation of the R2P. The increased reliance on the power of humanity to change state behaviour has ultimately restricted the potential success of the doctrine, leading to inconsistent results. The continued inconsistency of state response to mass atrocities can be seen to significantly challenge the original promise of never again, and thus leads to general confusion as to what success for the doctrine must entail. As the next section will examine, the tension that lies at the heart of the concept creates a number of problems, highlighting how the concept of humanity as a motivational factor is often undermined by the very construction of the R2P.

The Inconsistency of the R2P

Academics and commentators have been quick to call out the apparent failures of the R2P in light of recent UNSC deadlock, with Syria being the case that has led some to suggest the doctrine has already come to the end of its lifespan (Nuruzzaman, 2013). With major powers Russia and China both remaining fundamentally opposed to the use of coercive measures to help resolve the crisis, attempts by Western powers to pass a resolution in favour of such action has been routinely blocked. The blame in this situation has hence been firmly placed on the dominance of national interests over others. Yet, as Welsh (2014, p.137) has noted, such incidents do not necessarily mean that "only pragmatism and self-interest, and not normative considerations, affect behaviour". In this sense, it is vital to acknowledge again that both normative and non-normative considerations remain at play, and thus continue to create outcomes that vary in consistency.

Furthermore, claims that such action marks the death knell for the R2P have often been made without fully understanding how the construction of the R2P itself make the chances of inconsistent results a common reality. As highlighted earlier, the R2P is built upon a pragmatic interpretation of when states should intervene and thus is unable to manufacture a universally consistent response to mass atrocity situations. As the WSOD articulated, intervention will

always be taken on a "case by case" basis. However, despite this explicit articulation of "case by case" practice, the most prevalent criticism of the R2P has continued to be its apparent inconsistency. As Paris (2014, p.579) makes clear, "inaction in the face of mass atrocities stands to weaken R2P by making it seem hollow, but conversely, employing coercive force in the name of R2P highlights the unavoidable inconsistency of the international response, which is just as likely to cast doubt on the doctrine". This contradiction lies at the heart of the R2P and relates to a number of difficulties for those attempting to measure the success or failure of the doctrine in any concrete manner.

Despite this, one can still focus on the role of humanity within such discussions and the extent to which the R2P has been able to reinforce the obligations the concept is seen to create. The response to the current inconsistent reality from critics has been a clear suggestion that the R2P is not yet "sufficiently consolidated to compel states to principled action to prevent and respond to genocide or mass atrocities" (Crossley, 2012). This is also a key criticism put forward by Hehir (2011) who has questioned the strength of the moral principle seen to underpin the concept. He therefore suggests that "action taken on the basis of a commitment to a principle derived from altruistic individual impulses cannot be reasonably cited as constituting a precedent or new norm" (Hehir, 2011, p.19). Thus, it is argued that whilst an increase in more altruistic state behaviour is most welcome, the behavioural change required can only be "impelled by a unique constellation of necessarily temporal factors", creating major inconsistencies in its use (Hehir, 2011, p.19). In this sense, the creation of the R2P has not addressed what Hehir views as a key underlying problem, the inability of the R2P to fundamentally change political will when it comes to humanitarian intervention, and begin to challenge the record of consistent inconsistency in relation to humanitarian response. For Hehir then, the R2P is left toothless by its failure to change international law or hold states to greater accountability than before.

This inconsistency has now become an increasing focus for the UN, following continued critique in relation to how the UNSC has handled recent humanitarian crises. As the previous UN Secretary-General Ban Ki Moon argued in his 2015 R2P report, "the Council's inconsistent response to situations featuring genocide, war crimes, ethnic cleansing and crimes against humanity continues to affect the standing of the responsibility to protect" (p.13). Subsequently, he went on to suggest that "the Security Council has too often failed to live up to its global responsibility, allowing narrower strategic interests to impede consensus and preclude a robust collective response" (Ki-moon, 2015, p.13). In reply, he called for the protection of populations to be "elevated above political and strategic interests and thus for states to recognise the R2P as an "enduring obligation", whereby the responsibilities it creates cannot be turned on and off by states (Ki-moon, 2015, pp.16-18).

Conclusion and Key Questions to Address

In light of the critiques highlighted by Ban Ki-moon it is critical to reflect on a number of pertinent questions concerning the future salience of the R2P principle. Firstly, what is behind the UNSC's inconsistent response? As highlighted earlier, inconsistent state action in protecting those threatened by mass atrocity crimes has been a consistent feature of international relations both before the Cold War and throughout the recent post-Cold War period, including the subsequent rise of the R2P concept. The decision to structure the WSOD within a pragmatic "case by case" framework can therefore be argued to have done little to fundamentally shift the original issue of inconsistency that has been a regular feature of UNSC decision-making. Yet this does not instantly suggest that the R2P principle has had no impact on state behaviour regarding how the issue of humanitarian protection is framed. However, as Doyle (2015, p.11) has argued, "articulating the principle is not the same as honouring it in practice" and as such, demanding principles of humanitarian protection are "often honoured in the breach". What this suggests then, is that there remains a number of significant barriers to

building greater consensus on the principle which therefore requires more detailed examination.

Secondly, what role is humanity seen to play in potentially shifting the current behaviour of states towards greater consensus on R2P implementation? Ultimately, this also comes down to a question of why states should want to live up to this so-called global responsibility? It is therefore critical to further trace the moral underpinning of such responsibilities in order to assess the extent to which political will can be changed in order to achieve the goals set out by the wider R2P project. Key to this process will be the need to more carefully locate how the dual function of humanity interacts with competing political and legal pressures on overall state decision-making. Thus, as Brunnee & Toope (2006, p.133) argue, "The need for real commitment to the responsibility to protect is both ethical and pragmatic", whereby debates concerning political will are more than simply the dominance of security interests over ethics and moral principles. For the R2P to begin to address this tension requires a greater understanding of the complex interaction between moral, political and legal pressures on state decision-making at the international level. The starting point for which must be to better locate what is being referred to when we appeal to humanity, through analysing the philosophical roots of the concept and its relation to the very crimes in which the R2P is focused.

Chapter 3: What Is Humanity?

Introduction

The discourses that surround the idea of humanity have rich and complex philosophical, theological, and historical origins, yet in spite of this it has often been the case that humanity is presented as a self-evident truth, by which the existence and importance of humanity is rarely questioned, or the implied requirement to protect it. It is vital then to recognise that the concept of humanity is "not as clear as its wide-spread appearance in political and ethical discourse might suggest" (Feldman & Ticktin, 2010, p.1). This has a number of significant implications, but most importantly for the focus of this thesis, it presents a number of pressing questions concerning how we can theorise what responsibilities we may owe to those beyond our borders and to what extent we can locate universal human harms. As Weinert (2015) argues, the manner by which we construct notions of humanity has a significant impact upon our understanding of international relations. In this sense, there is a need to note that "both humanization and dehumanization perform powerfully constitutive and regulative functions in the unfolding of world order" (Weinert, 2015, p.81).

This chapter will thus begin to interrogate the tendency to overlook the key philosophical connection between atrocity crimes and the concept of humanity itself. It will be argued that only through a recognition of the concept of humanity can we fully conceptualise what harm is generated by mass atrocity crimes and thus begin to assess the strength of moral imperatives in support of the protection and prevention of such crimes, wherever they occur.[2]

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[2] It is vital at this point to briefly clarify the focus of this chapter and the thesis as a whole, in regard to debates concerning what responsibilities states may owe to those beyond their borders. Whilst there remains much debate concerning the scope of responsibilities the international community should be addressing on behalf of humanity, ranging from global poverty to environmental protection, this thesis focuses specifically on the relationship

Consequently, without greater philosophical scrutiny of our understanding of mass atrocity crimes and their connection to humanity, it is not possible to fully draw the link between the legal and moral right of intervention.

Part of the challenge in theorising a conception of humanity is being able to reconcile a set of universal values with the plurality of values that are embedded in particular communities (Bartelson, 2009, p.7). In order to do so there is a need to recognise that "particularism and difference are not incompatible with the existence of universal principles" (Boucher, 2011, p.283) and thus the existence of many different 'humans' who coexist in difference is what goes into the make-up of humanity (Mazlish, 2009, p.95). As Lu (2006, p.192) highlights, the idea of a common humanity is ultimately "an account of what is common and distinctive about being a human agent". Recognising that we as human beings all share natural vulnerabilities (Lu, 2006, p.193). This chapter supports the need to reinforce a "thin conception of universality" which is essential to defending the ideal that every human being belongs to a single community of humankind and that everyone therefore also shares a set of natural capacities (Bartleson, 2009, p. 171). Building on this thin universalism, the chapter puts forward a distinct *dual conception[3]* of humanity, understood through the critical interaction between ideas of *humankind* and *humanness*.

Through constructing a moral argument based on this specific understanding of humanity, it makes it possible to reassess how we think about the harm created by mass atrocity crimes, and how we should then look to formulate a response to it. Thus, it is argued that an ability to locate universal harms created by certain acts of violence must be framed through a

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between mass atrocity crimes and humanity in order to better explain both the significant weighting atrocity crimes have been given in the work of the UN as well as the role such crimes play in generating consensus regarding the identification of universal human wrongs. The decision to strictly focus on the four major crimes identified by the R2P will also be further justified in Chapter 4.

[3] When we talk about humanity it can include appeals to humankind and humanness. The term dual is used in order to emphasise the importance of combining these two separate conceptions of humanity.

clear understanding of common humanity. It is through an assessment of this relationship between collective responsibility and universal harm that one can then begin to talk of a specific moral obligation in relation to state actors. In order to begin locating the theoretical grounding for such obligations, this chapter will first provide a clearer theoretical understanding of what we can refer to as our common humanity.

The chapter is structured as follows. First, an understanding of humanity will be outlined, articulated by two interdependent definitions of the concept, namely *humankind* and *humanness*. It will be argued that a *dual conception* of these two understandings of humanity is essential to the ability to ground mass atrocity crimes as universal harms. This will be reinforced through a Kantian informed understanding of common humanity, which emphasises how mass atrocity crimes directly challenge the foundation of a Kantian ethics of humanity. It will then be built upon, in relation to the importance of our shared ability to recognise each human being's equal capacity to suffer or be harmed by others and thus linked to a concept of moral concern that focuses on the existence of universal human harms (Lu, 2000). Following on from this discussion, the chapter will analyse approaches that seek to deny the existence of a common humanity, focusing on challenges from communitarianism and anti-foundational arguments. This section will demonstrate how these contrasting approaches still fail to move beyond the idea of shared human capacities that are ultimately rooted in a universal conception of common humanity. In further responding to these critiques, a transcendental argument for humanity will be presented in order to highlight how the concept has become a central component in our moral thinking around mass atrocity crimes and that this in many ways suggests the existence of common humanity, whether or not it can be empirically 'proven' to exist. One can therefore highlight how we continue to speak as if humanity exists and thus socially reconfirm its existence through the construction of language, law and performative action. The chapter will conclude by highlighting the need to then apply this theoretical

approach to our understanding of the four major crimes of R2P, in order to practically locate the universal 'human' harms created by such acts.

Historical Context

From a purely empirical view, it is perhaps most obvious to suggest that our most basic understanding of humanity comes from its definition as a pre-given biological categorisation, encapsulated by the fact that human beings are members of the same biological category of Homo sapiens. Whilst this may be true, it is but one interpretation of humanity, built on a scientific categorisation, locating what is specific about the species through an understanding of genetic code. However, the very idea of humanity can be seen to stretch back much further in time than the discovery of specific biological categories. Through casting our eyes back to Greek literature, one can find a more philosophical understanding of what humanity may represent. Take for example the work of Homer (2000) in the Iliad and the Odyssey, by which he acknowledges that what separates man from the Gods is the mortality that we all share, with the human condition characterised by "feebleness and misery" (Baldry, 1965, p.13). Moreover, he also argues that there are specific characteristics of humanity, which separate it from beasts, namely the development of arts and language. His understanding of humanity is therefore an attempt to define particular features of human beings that tie us together as humankind, recognising that these can often be best understood through the fragility of being human. The ideas present in Homer's work can be associated with the theories of early stoic philosophers of Greek times, who began to conceptualise the concept of world citizenship, by which the world citizen is one who identifies with humanity alone (Ossewaarde, 2007). The stoic position therefore asserts the idea that all persons possess an equal moral status due to the fact human beings share a common capacity for moral reasoning, which suggests, as a condition of the universality, each individual has a primary moral affiliation with the rest of humanity as human moral agents (Hayden, 2005). It is from this understanding of the equal moral capacity of all

human beings and the corresponding assignment of a common moral 'brotherhood' (Cicero, 1998), that one can begin to discuss the role of humanity, and the idea that each person whose life is at risk deserves equal consideration (Barnett & Weiss, 2011, p.126). Moving forward to more contemporary history, it is critical to also reflect on the way appeals to humanity have been specifically shaped by the "context of humankind entering upon a time of total war" (Mazlish, 2009, p.35). As Adorno (2000) recognised in the aftermath of the Nazi atrocities, whilst people may still not agree on what is good, they can be clear on the question for what is bad and should be resisted. Consequently, the attempts made by states to eradicate certain groups from the face of the earth reinforced awareness of what could clearly be defined as inhumanity, thus leading to the development of humanity as a legal concept itself (Mazlish, 2009, p.36). The concept of humanity has therefore been acknowledged in international law through references to "the common interests of all human beings" reflecting the increasing expansion of the idea of a moral community into practical initiatives (Oates, 2016, p.214). As a result, one can point to the qualities of humanity as essential to the normative underpinning of both the United Nations Charter and the Universal Declaration of Human Rights (Fast, 2016, p.113).

However, as Feldman & Ticktin (2001, p.1) argue, any claim to be speaking on behalf of humanity is one that is attempting to go beyond the categories of political, religious and social divides, in order to assert a fundamentally powerful universal position. Despite the often assumed neutrality that is implied by the concept, an understanding of what humanity specifically represents and how we can define it is still severely contested. Due to the almost limitless interpretations of what humanity consists of it can often appear as though we should simply dismiss the concept altogether, as ultimately an empty signifier, where despite universal claims to its ability to encompass all human beings, it is in fact "so historically, geographically situated, as to have no meaning beyond its particular instantiation" (Feldman & Ticktin, 2010,

p.2). Nonetheless, to completely dismiss the concept of humanity is to fundamentally ignore how the concept has continued to shape understanding around such diverse issues as climate change and mass atrocity crimes. This is best encapsulated by the language used around the concept itself. For example, former UN Secretary-General Kofi Annan (2001), spoke of a need to act "in defence of our common humanity". Similarly, President Obama (2011) described the Libyan intervention as "necessary to protect common humanity". What these two examples support is the idea of humanity as a concept that must be considered worth defending and protecting, due to its implied universal value. The decision by both diplomats and scholars to build arguments around the concept of our common humanity, demonstrates an assumption that we all recognise what common humanity represents, and furthermore that the acknowledgement of its value is implicit to our understanding. Thus, as Shapcott (2010, p.14) points out, despite there being clear divisions of humanity based upon "historically constituted communities" it is still possible to both identify with and have a moral concern for humanity.

However, more often than not, it is unclear what moral values are being referred to and where the obligation to protect and defend humanity comes from. Moreover, one can often point to examples where humanity is defined as an exclusionary concept that is used to define who is included and who is excluded from harm (Fast, 2016, p.113). Consequently, there is a need to systematically unpack these assumptions and address claims made against the universal category of humanity. In doing so, this chapter will first put forward two distinct interpretations of what is often being referred to when we talk of a "common humanity".

Humanity as Humanness

Humanity can firstly be interpreted as referring to the quality of being human, encapsulated as humanness. Humanity is thus the essence of what makes us human, which must be seen as an abstract property, rather than the human race or a set of individuals (Luban, 2004, p.90). In

other words, there are certain basic values that are considered inherent in all human beings. These values have most often been connected to "behaviours and dispositions that are congruent with the (moral) view of being humane" such as human capacities for friendship and empathy (Fast, 2016, p.116). The consequence of this reading of humanity implies that there is something fundamental to being human and how we define these elements of humanness has a profound impact on our overall understanding of the concept of humanity. In beginning to unpack this notion of humanness, it is vital to delve deeper into a number of contrasting interpretations of what this idea can signify. This process will help to uncover a central theme, which unites these contrasting conceptions of humanness, namely the recognition of specific human capacities that are seen to be universal.

For Gyekye (2004, p.97), the notion of humanity represents a surrogate for a whole collection of characteristics and ideals, which are argued to make up an individual human being. This understanding stipulates that we can pin point certain basic values, norms and ideals that will be reflected in an individual if they are a human-being, one such example is human dignity (Gyekye, 2004, p.97). It is argued that the very possibility of a human society must be grounded on the reality of certain fundamental core human values, thus human values must be considered universal (Gyekye, 2004, p.46). It is these core values that are essential to our ability to flourish as human beings and thus transcend the particularities of culture. Presenting humanity as a normative concept in this way is significant, as when we talk about a crime committed against humanity, we are insinuating that the very basic moral sensibilities that are instinctive to human beings are challenged, and thus the foundations of human worth are directly under attack. Humanity is therefore understood against a background of "the fundamental value and disvalue experiences of human beings"; it is these experiences that are arguably common to all human beings, and which make it possible to speak of a so-called shared humanity (Gyekye, 2004, pp.97- 98).

This line of argument is also supported by Parekh (1999), who suggests that part of our understanding of who we are is based on a belief that we as human beings have several capabilities, which are unique to humans and thus reinforce a privilege we are deemed to have over the non-human world. Through recognising the fact of human uniqueness and superiority, we are able to formulate the concept of human dignity (Parekh, 1999). Human dignity thus forms an essential part of the idea of humanness, by which certain traits and characteristics are seen to belong to our common humanity. For Parekh (1999, p.147), human dignity exists because humans "have capacities which non-humans do not and which humans consider being so significant, as to make them the basis of an appropriate moral practice". Dignity in this case is a collective status, as it is only acquired through individuals possessing certain species-specific capabilities, and thus to say that we have dignity is to say we must treat humans in a certain manner, not as inanimate objects (Parekh, 1999, p.147). This interpretation places significant emphasis on the importance of human capabilities, in which humanity can only be understood by what makes human beings different to other animals.

For Bauman, the idea of human dignity is also central, whereby morality is understood as pre-social, in that humanity can be seen as intrinsically moral (Best, 2013). In this regard, individuals are deemed to have a moral capacity or impulse that is part of the essence of humanness. Bauman is therefore committed to the dignity of humanity, which guides his belief in transcending the humiliations of the everyday in order to strive towards an alternative imagination that is fit for humanity (Bauman & Tester, 2001). The realisation of our humanity subsequently requires us to recognise cultural variety as critical to discussions of shared human values (Bauman, 2001, p.136). It is thus argued, that the universal nature of humanity must accommodate pluralism in order to best serve the cause of humanity, which can then help to enable and encourage greater discussion around a shared conception of the good (Bauman, 2001, p.140). Consequentially, it is clear that the full realisation of our common humanity is

something that we must strive for through an appreciation of the shared capacity we have as human beings. In this sense, the very ability to strive recognises that we have an innate moral capacity to share in this experience and construct alternative ways of representing humanity, through this process. This understanding of common humanity therefore places a much higher emphasis on the need for humanity to represent a common good, one that is inclusive of many contrasting interpretations of the good life. As such, the capacity to strive is provided by a universal moral disposition that is intrinsic to humanness.

Whilst many view the notion of humanness as stipulating characteristics that are intrinsic to all human beings and which naturally exist within us all, there have been contrasting interpretations that have viewed these characteristics as only created through our interaction with society. The debate is thus centred on where the characteristics that make us human come from. As Parekh (1999, p.140) highlights, the grounding of the concept of a common humanity is most often linked to an appeal to the "allegedly transcultural concept of human nature". However, in challenging this assertion it is possible to view human nature as a socially and culturally constructed concept that one does not uncover through abstraction. In this sense, one can argue that there is no raw human nature that we can hope to uncover through looking deeper inside us (Parekh, 1999).

Similarly, Levinas (2005) questions the idea of humanness as an inherent natural quality found within us. For Levinas, to be moral is not to be autonomous, but to be "responsive and responsible for the other" (Bernstein, 2002, p.264). As Bernstein notes, it is because we, as humans know what suffering is, that creates obligations not to cause needless suffering (p.265). Thus, if we are failing to respond to the demands and needs of those who suffer, then we are arguably succumbing to the 'law of evil' (Bernstein, 2002, p.265). Levinas's understanding of humanity is therefore tied to a respect for the other, in this sense "to become a human being is to transcend my own law of being and ethically respond to the non-

intergratable evil that afflicts my neighbour" (Bernstein, 2002, p.265). For Levinas, humanity is not a preconditioned ideal, but is argued to exist in the proximity where self and other meet (Todd, 2008, p.8). What this suggests is that humanity is distinctly connected to the concrete situations in which we find ourselves and is formed through lived encounters with the other human being. However, despite Levinas attempting to reject an explicit ideal of humanity that is innate, his focus on humanity as a responsibility to respond to human difference can still be interpreted as an appeal to a sense of human dignity as universal. Levinas's approach to humanity is grounded in the infinite value of the other, which he upholds through an essentially Kantian construction, by stating the need to respect the other as an end in itself (Wu, 2007, p.11). In this sense his understanding of humanity is still built upon an inherent human essence, which recognises the notion of sensibility as integral to our common humanity.

In contrast, perhaps the most important way in which to understand humanness is in terms of its relation to dehumanisation. As Fast (2016, p.117) acknowledges, examining "humanity's opposite, inhumanity" forces us to make explicit some of the assumptions we often take for granted when talking about humanity in a positive light. The logic that underpins the idea of dehumanisation can thus be seen to assert that as human beings we are all vulnerable to our status as humans being challenged or taken away from us, thus creating a need for us all to defend it. Consequently, when we refer to the process of dehumanisation one is at the same time explicitly assuming certain notions of what humanness must consist of, and therefore we can potentially learn a lot about humanity itself from examining how it can be violated. At this point it is useful to refer to the work of Haslam (2006), who has developed greater understanding of how we can categorise humanness in relation to dehumanisation. He consequently draws on two separate conceptions, Uniquely human (UH) characteristics, which relate to the boundary that separates humans from the related category of animals, and human nature characteristics, that are typically or essentially human but may not be the same ones that

distinguish us from other species (Haslam, 2006, p.256). Whilst human nature characteristics are inherent in our nature, UH characteristics are instead thought to vary between people and cultures, as they are acquired rather than inborn (Haslam, 2006). It is thus claimed that "different forms of dehumanization occur when the characteristics that constitute each sense are denied to people" (Haslam, 2006, p.256). It is through these two categorisations that one can tease out specific concepts that are regarded as integral to humaneness. For when human nature characteristics are denied to a victim they are seen as "lacking in emotionality, warmth, cognitive openness, individual agency"; in contrast, when UH characteristics are denied to others, the victim is viewed as "lacking in refinement, civility, moral sensibility, and higher cognition" (Haslam, 2006, pp.257-258). This process of dividing up the essence of humanness therefore provides a useful way in which to conceptualise the wide variety of human capacities that we can consider as integral to human beings.

However, it also raises a number of difficulties when one is attempting to speak of a universal form of humanness. If we view UH characteristics as relative, and thus reject the idea that these capacities represent an inherent natural quality, it may significantly alter the way in which one can view the relationship between mass atrocity crimes and humanity itself. In regard to crimes against humanity, it is then more difficult to claim that specific crimes directly damage fundamental human values that we all share, instead our understanding of the value that is threatened is potentially reliant on contrasting ideas of humanness. Nevertheless, one can argue that the ability to speak of unique human characteristics is still built upon a universal conception of human capacity, whereby the recognition of these features must first derive from a shared capacity to differentiate ourselves from animals, connected to our innate human nature. In this sense, we can still appeal to a universal harm that is created when a perpetrator refuses to recognise the unique human characteristics that separate us from animals. It is therefore argued that the ability to acknowledge uniquely human characteristics, and at the

same time be able to deny their existence to victims, provides a clear indication of the universality of humanness as a concept.

What links these contrasting interpretations of humanness outlined above is their ability to recognise that humans have at least the innate capacity or ability to foster a specific form of human essence, which can be viewed as unique to human beings alone and which distinctively defines what it means to be human. Often what is referred to as the core feature of humanness is some form of human dignity, which in a sense qualifies membership of common humanity. It is this basic acknowledgement of a shared human dignity that helps to provide a universal human value that can be seen to transcend cultural divides and which must be respected and protected. In this regard, we must also think of humanity by what it is not, denial of rights, persecution and degradation of the person, "all of which imply the absence of respect and dignity" (Fast, 2016, p.115). It is through this ability to recognise attacks on the unique value of humanness that we can make claims to the existence of both a distinct human community and our membership of a shared moral community (Cicero, 2001; Kant 2002). Thus, when we attempt to categorise the harm committed by mass atrocity crimes we must be able to acknowledge the potential impact this has on a shared universal notion of humanness. This will be outlined more explicitly in the later sections of this chapter.

Humanity as Humankind

In contrast, humanity can also be referred to as simply humankind, meaning the aggregation of all human beings. This requires the ability to accept that as human beings we all belong to one collective group and that this allows us to have interconnections with human beings as a whole. Reinforcing such claims is scientific analysis relating to the universal biological features human beings share and the similarities in every human being's basic needs and interests. The collective element of this understanding of humanity is thus based on the fact that we are all

members of a human species, living in the confines of the planet, by which we are both constrained and interconnected by this reality.

The concept of humankind can also be potentially split into two further categories. Firstly, humankind can refer to every human person, treated collectively, but still remaining conceived as a composite set of individuals (Macleod, 2010, p.293). Secondly, humankind can refer to every person, but thought of as a collective and singular body (Macleod, 2010, p.292). In this sense, humanity is thought of as one entity that can be said to have a conscience or interests on its own terms (Macleod, 2010, p.295). In illustrating this distinction, one can acknowledge that rather than mass atrocity crimes staining the conscience of every individual human being, it is the group of humankind whose conscience is damaged. This reading therefore recognises that certain properties and values belong to the group in its own right, rather than being properties reducible to all members (Macleod, 2010, p.297). When we discuss certain acts as "staining the conscience of humanity" it is difficult to argue that every single human being has had their conscience stained, but by referring to the group of humankind, one can more easily construct an argument to suggest that a significant group representing humankind has been directly affected as a singular body. In this sense, humanity as sovereign or as a global community is shocked or offended by certain acts (Geras, 2011, p.49). If we assume that groups can be assigned responsibility as well as be the victim of harm, one can view certain acts as violating key interests of that group, for example, attacks on the diversity of culture and people (Macleod, 2010, p.297). Thus, humanity arguably has an interest in the maintenance of its relative diversity and security (Macleod, 2010). Insofar as individuals identify with humankind, then damage inflicted on a collective body is also a secondary damage against that individual. Implicit in this understanding of humankind is an assumption of the existence of some form of universal moral value. This idea will be expanded upon

through applying a Kantian informed conception of humanity in the following section of the chapter.

Directly related to the notion of humankind are ideas of human interconnectedness, which have been discussed at length by Linklater. He talks directly of an increased human interconnectedness, whereby humans have acquired more "universalistic structures of consciousness", in order to become more adapt at interacting with strangers and outsiders (Linklater, 2009, p.482). He claims that as humans enjoy the benefits of increased global and intellectual exchange, we are able to identify more with distant people and to assist them by "drawing serious violations of human rights to the attention of a worldwide public" (Linklater, 2009, p.490). The increased sense of interconnectedness with humans across the world also links back to his discussions of a global harm narrative, in which he argues that recognition of harm must be a key element of a universal global ethic (2009, p.492). In his work on harm, Linklater's (2011, p.5) central aim has been to understand if the modern world has made progress in making the concept of harm a key moral and political question for humanity. This is important, as it can be argued that the near universal recognition of the idea of harm can help to unite those who disagree profoundly on many other matters (Hurrell, 2012). He therefore demonstrates how global interconnectedness and understandings of harm have changed over time, leading to a greater recognition of the impact of harm as an ideational concept employed within global politics. The concept of harm will thus be returned to later in the chapter in order to emphasise its significant role in underpinning claims to a universal moral motivation to respect others as human beings.

What the ideas presented so far suggest then, is the importance of acknowledging how the greater recognition of human beings as a collective entity drives the need for us to scale up social and political association (Linklater, 2009, p.493). This process is thus directly related to the creation of the R2P which is argued to be part of a growing trend to redefine international

standards of ethical behaviour, creating new mechanisms that are able to reinforce the notion of our common humanity (Linklater 2011). Consequently, when discussing these ideas in relation to debates surrounding mass atrocity crime, Linklater's work into human interconnectedness can be used to explain how very different cultures are able to agree on the prohibiting of crimes such as genocide and crimes against humanity. Furthermore, one can expand the arguments based around increased human interconnectedness, to claim that certain crimes can in fact harm humanity itself, not just the direct victims. As Linklater (2009, p.493) argues "the widening of emotional identification, has shaped long term trajectories that have come to affect humanity as a whole". It is through this increased understanding of the impact of harm and greater interconnectedness that one can then begin to assume specific responsibilities attached to humanity as humankind.

Subsequently, it is important to note that defining humanity in this way places significant weight on the role of social relations that human beings have built up over time. Critical to a notion of humankind is thus the ability of individuals to relate to a collective entity, whereby something other than "material entanglements" can bind strangers together in recognising harms committed against others (Linklater, 2009, p.492). Consequently, there is a need for greater ethical engagement with the "social consequences of interconnectedness", in order to counterbalance the tendencies to instead privilege in-groups whom we may attach significant emotional meaning (Linklater, 2009, p.493). Humanity is therefore fundamentally attached to a growing and fluid understanding of changing global relations, which relies upon the ability of individuals to recognise the collective and interconnected nature of humankind. In this regard, the ability to acknowledge the significance of the collective group of humankind is critical to forming a universal conception of harm created by mass atrocity crimes. Only through this acknowledgement can one begin to locate a moral imperative for states to act in defence of those threatened by such crimes.

A Kantian Based Conception of Humanity

Whilst both categorisations prove useful in breaking down different elements of what we often refer to as our common humanity, it is important to note that the two interpretations do not exist independently of one another. It is often the case that when people refer to humanity they interpret its existence as containing elements of both humankind and humanness. One can see this in a statement by Robertson (1999, p.220), who claims that crimes against humanity "diminish every member of the human race". Implicit in this claim is the suggestion that certain crimes not only concern the whole of the human race, in regard to a collective understanding of humanity, but that these actions directly challenge and diminish human essence, which is key to the idea of humanness. To further explore the interconnected nature of these two interpretations, this chapter will now focus on a conception of humanity that is informed by the thinking of Kant, in order to highlight the importance of both reason and harm to the chapter's conception of humanity and to emphasise the existence of a thin universalism. It is argued that by drawing on Kant's theoretical claims regarding the concept of humanity it will be possible to also reinforce the need for a dual understanding of humanity, in order to fully locate the idea of universal human harms. This will then be utilised in order to begin underlining the key relationship between common humanity and the crimes which are seen to be in direct violation of the concept.

First and foremost, Kant's philosophical claims regarding the concept of humanity can be seen as central to theorising humanity as a limit on all other ends that can be pursued. In this sense, the formula of humanity put forward by Kant is used to pick out a negative requirement based upon the intrinsic worth of humanity itself, as a supreme principle of morality (Kernstein, 2006). As Korsgaard (1996, p.114) argues, the distinctive feature of humanity is the capacity to decide under the influence of reason that something is desirable and thus deemed important or valuable as an end in itself. Humanity is thus encapsulated in the capacity shared by humans

to exercise reason in order to set ends. Based on this understanding one is able to frame the concept of humanity in distinctly universal terms and allow the theoretical recognition of universal harms to be more easily located and identified.

Central to Kant's approach to moral philosophy is therefore the concept that one should always treat other human beings with respect as having ends in themselves (Sensen, 2009, p.102). The need to respect all human beings is seen to exist due to the absolute inner worth all human beings possess (Sensen, 2009). Kant's supreme principle of morality is expressed in the categorical imperative, by which he acknowledges the duty to: "Act only in accordance with that maxim through which you can at the same time will that it become a universal law" (Kant, 2002, p.222). This duty applies to us unconditionally and is considered independent of any personal motive or desire. It thus requires that one's actions should accord with universalisable maxims that respect each person as an end in themselves (Kant, 2002). As Pogge (1998) highlights, what one can view as central to Kant's moral philosophy is the idea that moral principles must be universal, in this sense a maxim can only be adopted if and only if everyone is obligated to.

Building on this initial interpretation of the categorical imperative Kant moves on to express the formula of "the end in itself" more specifically, through focusing on the concept of humanity. Kant's second categorical imperative therefore states that one must "Act in such a way that you treat humanity whether in your own person or in any other person, always at the same time an end never merely as a means" (Kant, 2002, p.230). This conception of common humanity can thus be seen to rest on the idea of human dignity, encapsulated in the notion of intrinsic worth, referred to by Kant as unconditional and incomparable (Merry & Ruyter, 2011). Human dignity is therefore used to describe the basic values people have irrespective of their own individual characteristics (Merry & Ruyter, 2011). Consequently, by placing greater emphasis on the unique value of human beings as requiring our ultimate moral respect, Kant

provides a more personal understanding of morality. As Wood (1998, p.165) suggests, Kant's formula of humanity arguably has the greater "resonance with our culture's moral consciousness, since it helps to ground "human rights in terms of which decent people everywhere frame both their protests against obvious wrongs and their ideals of a better world".

This Kantian position therefore makes it possible to recognise humanity as encapsulating both appeals to humanness and to humankind. For example, one can read Kant's second formulation of the categorical imperative as referring to humanity as the species of human beings, by which each member of this class must be treated as an end (Hill, 1980, p.85). However, the second formulation is also a recognition that humanity is not represented by the collective of humankind alone, but in fact humanity itself can also relate to a specific set of characteristics which make persons human (Hill, 1980). This formulation of the categorical imperative expresses a moral law that we must all respect humanity, as an intrinsic rather than relative value (Hayden, 2005), based upon a recognition of both humanness and humankind. For Kant, to act morally is therefore always to act for the sake of the value of humanity in a person. In this sense, it is claimed that humanity is an end in itself, whereby "its objective value takes the form of its being an existent or self-sufficient end which has dignity or absolute worth" (Wood, 1998, p.171). This understanding of humanity is built upon the idea of all humans having a capacity to reason, by which our ability to reason is integral to the creation of moral rules. Humanity is thus a value that grounds moral rules, providing a motive for obeying duties based on the dignity of reason as absolute and unconditional value an end in itself (Wood, 1998, p.177). Accordingly, respect for humanity is "the fundamental reason why we should conform to moral laws and pursue moral ends" (Wood, 1998, p.177).

However, whilst this Kantian approach focuses specifically on the possession of reason as "the characteristic that distinguishes us from animals", providing us with the ability to create ethical rules, it is also key to build on this approach in order to consider alongside reason, the

importance of "human emotions and other elements that motivate people to act" (Shapcott, 2010, p.45). In this sense, humanity cannot be fully recognised through a purely rationalist logic of justification. Instead, it is argued that a focus on the role of suffering is also central to understanding how shared human capacities impact upon the motivational power behind the idea of humanity. As Sherman (1998, p.105) has highlighted, respect for an idea of human dignity can be galvanised by appeals to empathy that are brought about by harm recognition. Furthermore, an appeal to the shared threat of harm can also be seen to provide a more specific connection between the idea of humanness and threats to humanity, whereby being able to recognise human suffering is central to what it is to be human and is thus tied to our motivation "for treating others as equals in order that they do not suffer, or that they suffer less" (Shapcott, 2010, p.46). The condemning of cruelty and suffering therefore translates into, at a minimum, "a moral obligation to uphold the principle of humanity" in order to help prevent such suffering (Lu, 2000, p.256).

The overall point to emphasise here though is that a recognition of both reason and harm is crucial to an overall dual understanding of humanity, neither one alone can fully capture the concept's complex moral grounding. Thus, as Kateb (2010, p.16) has argued, "violations of human dignity have existential weight independent of suffering itself" and thus suffering and harm alone cannot be seen to fully capture what it means to be treated as non-human. The concept of reason is therefore key to the recognition that we are all social agents able to construct moral rules that can help us to further reflect on what it means to be a human being. Moreover, as this section has highlighted, humanity also does not only exist in its relation to reason but must also be recognised through a shared understanding of pain and human suffering that can better capture the key role of emotions in reinforcing moral motivation (Shapcott, 2010, p.46). Moving forward, humanity must be grounded on an

understanding of both reason and harm in order to fully capture the complexities of debates that surround the idea of conceptualising threats to humanity.

When we begin to apply this theoretical approach to discussions of mass atrocity crimes, one can note that by demanding respect for humanity as an end in itself, any crime against humanity is thus a principled rejection of the value of humanity, directly attacking the very basis of Kantian ethics outlined above (Anderson-Gold, 2009, p.195). It is argued that these crimes affect humanity in a number of ways, not only through denying the humanity of individuals but also in denying humanity itself, its range of identities (Anderson-Gold, 2009, p.197). Subsequently, one can categorise crimes against humanity as attempts to both directly exclude particular groups from their right to humanity, by which these acts are wholly contrary to the rights of future generations and thus concern all of humanity, furthermore, the direct harm and suffering caused by such crimes must be viewed as a threat to the rational capacity of human beings as social agents (Lu, 2000, pp. 256-257). Taking this on board, it can be seen to feed into a key argument made by Kant (1998, p.440) that, "a transgression of rights in one place in the world is felt everywhere". This understanding again reiterates a dual understanding of humanity, incorporating both the importance of *humankind* and *humanness*. The debates in Chapter 4 of this thesis will therefore build upon this theoretical understanding of humanity, connected to both harm and reason, in order to further develop the importance of framing universal harms in the context of a common humanity. Yet, for now, it is still necessary to further clarify the strength of this conception of humanity in contrast to a number of theoretical approaches that have questioned the underlying premise of a common humanity. This will be critical in order to examine a number of key limitations found in opposing approaches, which an appeal to a universal conception of humanity can more successfully address.

Debating the Existence of a Common Humanity

Whilst it may be possible to bring together a variety of interpretations for defining what humanity is and its relative importance, there are still many who directly question the very existence of any form of shared conception of humanity and thus contest its relevance to debates about what moral responsibilities we owe to others. Focusing on both communitarian and anti-foundationalist approaches in particular, this section will outline the philosophical debates that have sprung up against appeals to a universal humanity. In responding to these claims the chapter will ultimately focus on the need to highlight the implicit universal claims that still continue to underpin these theoretical approaches, in order to argue that a recognition of the role played by the concept of humanity remains integral to our ability to fully locate why mass atrocity crimes pose a threat beyond the theoretical borders of the state in question. Furthermore, in reply to those sceptical of the concept, the section following this one will then conclude by putting forward a transcendental argument to support the existence of a common humanity.

Communitarian Approaches

From a broadly communitarian position, the central commonality we all share is particularism whereby "we participate, all of us, in thick cultures that are our own" (Walzer, 1994, p.83). Thus, as Etzioni (2009, p.114) argues, communitarians ultimately subscribe to a "particularistic moral culture" that is informed by shared norms, values and meanings attached to a "collective history and identity". In this sense moral norms can be regarded as cultural rather than universal and thus morality is communal rather than global in nature (Shapcott, 2010, p.51). For cultural relativists such as Taylor (1993, p.45) embeddedness in a single culture is in fact critical to social identity as "outside of the reference points of culture, I would not know who I was as a human subject". Culture is thus essential to the ability to identify the self, without which one cannot develop characteristically human capacities. This is reinforced by MacIntyre (1995) who also suggests that "deprived of the life of [my] community, I would have no reason to be

moral". Consequently, one must recognise communitarian approaches to morality as being deeply sceptical towards substantive universalism, and thus instead seek to emphasise the contextual origins of community and ethics which are argued to override any abstract bonds between members of the human species (Shapcott, 2010, p.50). Communitarian and cultural relativist approaches are therefore critical of cosmopolitan values that are seen to directly threaten cultural communities as the source of moral beliefs, as well as the very diversity of distinct cultures.

As a consequence, communitarians ultimately reject any notion of humanity as a motivator for us to act on behalf of distant strangers, as it is only the communities in which we identify that can provide the moral motivation to do good (Kymlicka, 2001). In this respect, obligations to those beyond our borders are understood as extremely minimal whereby what happens within other communities should not generally concern us directly. However, one must at the same time highlight that this need for communal belonging is in fact a universal statement based upon the needs of all human beings as part of *humankind*, and moreover, it also reinforces the existence of specific human capacities, for instance the need to live within meaningful communal associations, as universal and key to *humanness*.

Subsequently, in regard to the threat to the diversity of culture, communitarians claim that particular norms and cultures are fundamentally of value and thus must be protected (Taylor, 1985), the imposition of universal standards are therefore regarded as "a denial of integrity or group autonomy" (Shapcott, 2010, p.69). Nevertheless, the ability to give equal weight to the rights of each group arguably rests on a universal principle of equality, without which it cannot function. The ability to acknowledge a need to protect communities that are directly threatened by harm must be considered as critical to the concept of common humanity. One can argue that an appeal to common humanity inherently requires the ability to recognise the importance of diversity, as any attempt to threaten this diversity could be characterised as

71

an attack on the very characteristics of the concept (Arendt, 1963, p.261). Consequently, if we can consider domination and assimilation of communities as bad then why should we regard the same acts to be acceptable within communities themselves? (Shapcott, 2010, p.82) Mass atrocity crimes that directly threaten diversity within wider communities must also be understood through a conception of humanity, in order to locate why such acts can be seen to create a universal harm. In this sense, when we talk of a crime against humanity, one can understand its significance in terms of the desire of the perpetrator to eradicate or refuse to share the earth with the specific victims. What is considered universal and critical to the identity we share as a species, is thus the diversity that exists between us. The only way to recognise the importance of this diversity is through a universal conception of the inherent worth of humanity itself. Consequently, communitarians such as Walzer (1977) still recognise that a certain minimal universalism must exist, by which nation states should uphold universal moral duties in certain circumstances, such as genocide and mass violence. In this regard, Walzer (1977, p.107) can be seen to uphold an approach that still acknowledges and appeals to an understanding of universal humanity through a justification of humanitarian intervention, in cases which are seen to "shock the moral conscience of mankind". This again reinforces the need to adopt certain universal premises, such as equality and the universal importance of defending cultures, as part of a common humanity.

Advancing the Humanity vs. Solidarity Debate

For those who support a greater focus on the role of solidarity to inform our moral understanding of harm, much of the debates around common humanity have predominantly concerned the assumed abstract quality of the concept. The lack of theoretical consensus surrounding the concept of humanity, and its apparent misappropriation in political discourse, has resulted in a number of theorists attempting to move beyond the universal construction of

a so-called "common humanity". Appeals to a more easily definable concept of solidarity have been utilised, in order to try and locate a contrasting foundation for the ethics of intervention.

This discrediting of the concept of common humanity is put forward by anti-foundationalist scholars such as Rorty (1989, p.59), who reject appeals to a larger entity such as humanity, as meaningless. It is argued that humanity's assumed ability to possess an intrinsic nature or value can be directly questioned. From a Kantian perspective, it can be claimed that there is an essential truth to the nature of humanity. In contrast for Rorty, these truths are simply truths of a particular liberal perspective. Rorty (1989, p.196) rejects direct appeals to the idea of a common humanity, opposing any attempt to ground universal moral imperatives in a concept of human reason. His theory can be conceived as one based on developing a social theory of solidarity in place of a moral philosophy concerning the concept of humanity (Booth & Dunne, 1999). It is therefore argued that nothing is prior to history or beneath socialization, which is "definatory of the human", thus, he suggests the need to improve "greater human solidarity, which does not have to rely on the idea of an essential moral self that must be common to all humanity" (Rorty, 1989, p.xiii).

His approach is therefore categorised as an attempt to move beyond the debate between relativism and universalism, through an appeal to human sympathy rather than an abstract moral truth. For Rorty, there are no intrinsic features of human beings, instead the self is simply "what acculturation makes of it" (Geras, 1995, p.65). In this regard, Rorty's rejection of a common humanity can be viewed as an attempt to question the idea of something universally human that can be used as a foundation for ethics (Geras, 1995, p.54). Humanity in this case is solely a "biological rather than a moral notion", by which we cannot view human nature as specifying a set of characteristics common to human beings, which then also provide a moral reference point for shaping our thinking on human dignity and moral obligations (Geras, 1995, p.54).

However, one must question Rorty's argument that a shared human capacity for experiencing pain and suffering does not originate from a common human nature (Wheeler, 1997, p.18). It is instead argued that Rorty's idea for greater solidarity is still aiming to provide something common to us as humans that we share, whereby he is still reliant on the existence of common characteristics in human beings, including susceptibility to humiliation and capacity for language (Geras, 1995, p.89). Consequently, Geras (1995, p89) goes on to argue that Rorty still puts forward an essentially universalist basis for his solidarity argument, which does not fully escape the idea of a common human nature, but more narrowly defines it. Despite Rorty claiming to put forward an anti-foundationalist approach, he still holds on to essentially liberal values when conceding that all humans ultimately share a recognition of pain and humiliation (Wheeler, 1997, p.22). In addition, it is clear that Rorty also invokes human considerations of pain and humiliation as normatively 'bad' that in some way threaten the ability of people to be distinctively human. In accepting this point, he fundamentally undermines his original premise of attempting to move beyond foundational and universal claims to humanity and as a consequence reaffirms the integral nature of humanity itself.

In an attempt to build upon and further clarify Rorty's appeal to solidarity, Bellamy (2002, p.474) argues that in the search for a criterion to legitimatise humanitarian intervention, we must locate a starting point for constructing a pragmatic solidarism, which acknowledges the difficulty of grounding conversations on the abstract concept of common humanity. This solidarim is "rooted in pragmatism which holds that human solidarity is based on sentimentality rather than common humanity" (Bellamy, 2002, p.489). Subsequently, he argues for humanitarian intervention not to be based on universal moral principles, but instead "informed practice based upon the extension of values created within particular communities" (Bellamy, 2002, p.489).

Whilst Bellamy is reluctant to base any legitimising criteria for intervention on a universal concept such as humanity, he arguably still appeals to a universal human capacity, in this sense sentimentality. In doing so he fails to recognise this trait as a specific part of our humanity, in that our capacity to feel sympathy for others and acknowledge pain is only possible through the existence of a shared human capacity. As Geras (1995) has also pointed out, the very concept of humanity involves a relationship with solidarity itself, whereby the two cannot simply be separated as opposing concepts. Sympathy and solidarity must instead be seen to also rely upon a willingness to sacrifice for the political project of common humanity, through which ideas of sympathy can help lead to a "more intense moral or practical commitment" to common humanity (Geras, 1995, p.98). It therefore suggests that there is a need to recognise a deeper connection between these two concepts.

An appeal to the concept of solidarity is also one supported by Habermas (1990), who is likewise cautious about appeals to an inherent human nature, instead grounding his ethics in the "postmetaphysical realities of intersubjectively shared forms of life" (Wilde, 2007, p.175). However, Habermas appeals to a purely political conception of human beings, whereby membership in an ideal communication community can help to generate a "consciousness of irrevocable human solidarity" (May, 1996, p.42). Consequently, he argues that a process can occur, whereby one can increasingly abstract oneself from the particularities of life, up to a point where all that is left is one's common humanity (May, 1996, p.42). Thus for Habermas (1990, p.244), solidarity is grounded in the "realization that each person must take responsibility of the other because as consociates all must have an interest in the integrity of their shared life context in the same way". Nevertheless, this statement still assumes that the ability to locate solidarity is a capacity that is shared by humans. Furthermore, the basis of Habermas' intersubjectivity and deliberative model is Kantian by design, and rests on a moral argument that human beings all share a rational and moral capacity, the recognition of this

capacity is thus fundamental to human co-existence and co-habitability, and the idea that individuals ought to be members of this self-law giving global community (Habermas, 2008). The argument put forward by Habermas is therefore built on the need to support solidarity, but rather than discredit the concept of common humanity as part of this process, he is seemingly able to acknowledge it as integral to recognising the need for solidarity in the first place.

It is vital to conclude then that these two concepts, humanity and solidarity, are not mutually exclusive and by attempting to separate them, it is not possible to fully escape from a universal conception of some form of inherent human capacity. As Lu (2000, p.256) highlights, the moral condemnation of cruelty must be translated to an obligation to uphold the concept of humanity, through a need to alleviate human suffering. It is therefore argued that both reason and suffering are things common to human beings everywhere and consequently, they should be used to provide the basis for a "justifiable moral universalism" (Shapcott, 2010, p.47). What this suggests is the importance of critically identifying the impact suffering has on human agency and autonomy, whereby our ability to recognise concern for strangers comes from seeing them as human beings (Shapcott, 2010). As Falk (1992, p.22) argues, identifying with moral universals must be seen as essential to any moral project committed to relieving human suffering. The concept of humanity therefore allows one to identify the universal capacities humans have to recognise suffering as well as reason.

What these contrasting discussions of humanity and solidarity demonstrate, is that despite scholars often rejecting the notion of a universal concept of humanity or human nature, many continue to speak of features that are universal to all humans, still acknowledging capacities that ground us all collectively, when attempting to understand the harm created by mass atrocities. Whilst the connotations of the concept itself may be rejected, it is clear that escaping from a complete rejection of what it means to be human is more difficult. As a result, it is clear that there are shared moral assumptions in which humans make claim to and explicitly

appeal to, which can be seen to ground moral expectations not just of ourselves but of states and political actors too (Boucher, 2009, p.291). What humanity ultimately represent then is a vital acknowledgement of central human characteristics that are thought to hold value. Whilst it may be impossible to empirically prove the existence of an inherent human nature that exists within us all, it is a step too far to disregard the concept of humanity as a consequence. When examining the moral language connected to the framing of our common humanity, one can highlight a shared experience that is created through the concept's social construction. This relationship is important as it suggests that the construction of a universal human trait is now deeply embedded in our moral understanding. Despite the difficulty in defining the concept and its assumed abstract quality, humanity continues to be a concept that cannot be fully removed from the construction of moral language, and more importantly, in the construction of international law.

Transcendental Argument for Humanity

In order to fully reply to those who question the fundamental existence of a common humanity and thus remain sceptical of its value to debates concerning mass atrocity crime prevention and protection, it will be critical to establish the strength of applying a transcendental argument to our understanding of humanity. Firstly, it is vital to give a general definition of transcendental deductions and provide an overview of their use in theoretical debate. One can define its construction as a claim that "one thing (x) is a necessary condition for the possibility of something else (y)", as such it is said that the latter cannot obtain without the former (Stern, 1999, p.3). Consequently, the argument is set up in relation to the presuppositions of the person the claim is arguing against, in order to demonstrate incoherence of the sceptical position (Walker, 1999, p.13). Another important feature of the transcendental deduction is the centricity of experience which is taken as the subject matter, Kant (1998, p.665) explains this focus by noting that, "in transcendental cognition, as long as it has to do merely with concepts

77

of the understanding, this guideline is possible experience". Thus, as Stern (1999, p.4) highlights, contemporary transcendental arguments tend to follow Kant in focusing on the necessary conditions of experience and language, in order to demonstrate that the conditioned is something the sceptic would be prepared to assume at the outset. We can therefore view transcendental deduction as an attempt to establish what we must think about the world (Walker, 1999, p.13).

One can demonstrate the use of a transcendental argument in context through examining Kant's conception of freedom. At the core of Kant's critical philosophy is "an attempt to establish a system of *a priori* principles for the purpose of understanding the external world", this is informed by his understanding of the human mind as giving "meaning not only to our empirical experiences, but also providing meaningful order to the world around us" (Brown, 2009, p.33). Based on this underlying epistemological position, Kant sought to better understand the idea of morality, beyond simple empirical experience, whereby morality has the ability to provide guiding principles that could be confirmed by practical reason (Brown, 2009, p.34). Central to morality is the idea of transcendental deduction, which informs the assumption that individuals are free to make moral decisions and thus supports the idea that moral decisions are not simply made under determined causes alone, but instead "find imperative weight principally through choices of our free will" (Brown, 2009, p.34). It is through the ability to make decisions based on moral judgements, and thus informed by reason, that allows one to demonstrate their freedom, and ultimately define what is inherently human in their nature. For Kant, our capacity for freedom is an innate right, which belongs to every human by virtue of his or her humanity (Kant, 1996, p.30).

Consequently, it is important to note that Kant does not explicitly try to prove the existence of freedom, he maintains that it cannot be proven empirically, but instead establishes that the concept is at least logically possible (Pereboom, 2006, p.545). In this sense, he claims

that our conception of being free does not involve inconsistency and thus the legitimacy of this belief that we have must rely on practical reason. We are therefore able to form a transcendental conception of freedom through reason; by which we are making a claim only about how we think about or experience the world. Kant therefore strives to demonstrate that it is "practically rational for us to believe that we are transcendently free and practically irrational for us not to" (Pereboom, 2006, p.548). Accordingly, whilst a belief's theoretical basis may be weak, there are practical benefits from their capacity to guide action and thus justify having them.

Based on Kant's transcendental argument for freedom, one can subsequently apply the same logic in defence of those who directly question the existence of a common humanity. This argument is framed as a response to sceptical approaches, which aim to question the value placed on humanity by ourselves and others, and the specific actions we take as a consequence (Stern, 2013, p.28). Whilst it may not be possible to prove the existence of the concept, one can instead transcendentally presuppose the concept, as a precondition of coherent experience (Bardon, 2014). It can therefore be suggested that we must accept the concept of humanity because it is a required component of "the practices we justifiably or indispensably engage in" (Stroud, 1999, p.156). In this sense, an acknowledgment of humanity is seen as central to our ability to frame a range of issues related to our own existence and value, whereby the language associated with the concept has become an essential part of our understanding of the world.

One can subsequently argue that humanity itself has taken on a certain transcendental status, as we continue to speak as if the concept exists and can be destroyed, which in turn assumes its existence and consequently socially reconfirms itself. Moreover, whether or not we do have a shared ideal of unconditional common humanity, the fact that we bring up the question of 'should we act' in the face of mass atrocity crime in the first place, assumes that we have some moral ideals and principles, by which we recognize and condemn certain acts (Luban, 2002, p.99). It also presumes, transcendentally, that we can act morally. Without some

form of shared moral concept, the question of should we act in the face of mass atrocity crimes simply would not arise. This again relates back to a Kantian understanding of human capacities and the metaphysical idea of morality, by which moral agency is seen to stem from human existence within moral communities, through which we speak of moral actions in terms of people being either morally right or morally wrong (Brown, 2009, p.41). Kant therefore argues that we all have a capacity for moral reasoning and that this represents a universal attribute of the human species (Brown, 2009, p.42). Consequently, one can highlight how the concept of humanity has been constructed through language to form an essential part of the moral decision-making involved in legitimising practices such as protection of refugees or humanitarian intervention. Moreover, many punitive international laws are built upon an *a priori* assumption of humanity's existence and thus it remains an essential value in the process of consensus building. Humanity therefore continues to be presented and referred to as a concept that has an inherent value and furthermore is a concept that is seen to guide the framing of moral decision-making, due to its implied universal status. However, to what extent it can also provide the key-motivating factor for state engagement on such issues, still remains severely contested, but it is clear that notions of humanity continue to be used as appeals to reinforce the assumed moral good of certain actions.

In order to demonstrate how we come to acknowledge humanity as a vital component of the practices we seek to justify, one can turn to its influence in international law and conduct as an example. As Ntoubani (2007, p.42) argues, the process of creating laws or principles of humanity can be seen to support the existence of a transcendental form of humanity, which is used to define how we consider specific acts. It is the very idea of transcendental values and principles that provide the precursor for the modern notion of crimes against humanity (Ntoubandi, 2007, p.42). Moreover, one can acknowledge how even those who commit acts considered as against humanity frame their actions and motivations through an understanding

of humanity. They recognise they are directly threatening humanity through a process of dehumanising, for example, the use of phrases such as "rats" (Holocaust), "cockroaches" (Rwanda Genocide) and "maggots" (Uganda Cultural Revolution) to refer to victims. This demonstrates how the language of humanity is deeply embedded in our understanding of specific mass atrocity crimes, which are made obvious not only to the potential rescuer but also to those committing the very crimes in the first place. The significance of this relationship between humanity and mass atrocity crimes will be further explored in Chapter 4, in order to highlight how the concept of humanity plays a critical role in defining the universal harm of certain actions and our understanding of moral oughtness that is attached to such claims.

This transcendental argument for humanity is also advanced through a constructivist concept of moral value. From this perspective, it is argued that people think and experience the world in certain ways and thus our view of reality is itself constructed. As Stern (2008, p.271) notes, we should "confine our claims about the conditions of experience to claims about a world we have constructed". The application of humanity can thus take on a socially constructed form through the way in which it has continued to influence legal and political actuality over time (Mazlish, 2009, p.32). This change is evident in the socially constructed nature of reality, which we shape through shared agreed meanings communicated through language (Berger & Luckman, 1966). Thus, we commit certain actions and make certain judgements based on a socially constructed understanding of humanity, through an acknowledgement of its perceived existence. However, it is also important to acknowledge that despite the relative shifts in understanding and language surrounding the concept, one can still regard the foundation of humanity as holding certain transcendental truths, which have continued to be socially reconfirmed over time. As Weinert (2015, p.59) argues, there is something stable about notions of human dignity, in which they "fundamentally imply living in a life worthy of being lived". Without acknowledgement of such foundations it would leave

us unable to fully respond to the basic question of "what is wrong with slavery" (Weinert, 2015, p.60). In this sense, the concept of humanity remains central to the language of mass atrocity crimes and protection, whereby appeals to the concept are heavily embedded in our thought processes. Consequently, when we see mass atrocity crimes and label them as such, we are already acting and believing in the concept of humanity. Thus, we can argue that humanity in some form already exists. However, the question remains as to how to give further substance to that humanity.

Conclusion

What this chapter has demonstrated is that the concept of humanity must be understood as a "necessary mechanism for imagining a global condition" (Feldman & Ticktin, 2010, p.25), whereby the complete rejection of the concept leaves us theoretically impoverished when attempting to discuss the challenges human beings face in coexisting together on this planet. This is perhaps best underlined by the centrality of humanity to our ability to construct ideas of universal jurisdiction in order to prohibit the most heinous crimes against human beings, which at the same time can be seen to offend collective global sensibilities (Wilson, 2010, p.29). In response, this chapter has put forward a distinct theoretical approach for conceptualising common humanity. This has been informed by the creation of a distinct *dual conception* of humanity, founded in the notions of *humankind* and *humanness* and reinforced by the central role of both reason and harm in capturing humanity's complex moral grounding. This approach therefore provides a clear acknowledgement of the universal nature of our common humanity, which is arguably critical to locating the specific harm created by mass atrocity crimes. What this suggests is that to a certain degree humanity should be recognised in the first instance, as less about "a claim to global connection and more about the identification of universal threats" (Feldman & Ticktin, 2010, p.5)

Subsequently, despite attempts to reject the idea of humanity as simply an abstract turn of phrase, it has been argued that our ability to talk of shared understandings, such as sentimentality towards pain and suffering, must be considered as an integral part of our common humanity. Humanity, as an abstract concept and a lived experience, thus provides a way for us to conceptualise our shared capacities as human beings, whilst also relating to the inherent interconnectedness of our species through narratives of harm. Moreover, the chapter has also presented a transcendental argument for the theoretical existence of humanity, which draws upon the construction of humanity through language and experience, as an essential part of framing our understanding of mass atrocity crimes. However, at the same time it remains crucial to also acknowledge that humanity as an idea in practice "unfolds through an ongoing struggle of who is or is not a member and who has status – and to what degree" (Weinert, 2015, p.174). In this sense, tensions between the universal and the particular are usually brought out through the imposition of concrete policies that require us to act upon such moral claims. Moving forward there is a need to explore in greater detail how the theoretical claims outlined in this chapter have been transposed into international legal frameworks in order to try and assess the extent to which knowledge of humanity's properties help to generate motivational compliance. This is crucial to outlining why such abstract ideas matter in practice and reflecting on why their imposition has so far been fundamentally uneven and inconsistent. The next chapter will therefore focus more specifically on the question of how can we categorise a crime as directly challenging a shared understanding of humanity? By examining the distinct characteristics and social construction of the central crimes of the R2P, it will be possible to demonstrate how their conception as universal harms are underpinned by the theoretical approach outlined in this chapter as well as the importance of examining what moral responsibilities they are seen to generate in response.

Chapter 4: Threats to our Common Humanity –

Why Humanity Matters

Introduction

Central to the analysis in this chapter is the question of why is it possible to insist that other nations should not commit mass atrocity crimes against their own populations? The responses to this question, by both diplomats and scholars, are most often articulated by an appeal to the universality of our common humanity, yet frequently without much further clarification (Ki-moon, 2016b; Thakur, 2015; Welsh, 2012). In this regard, by appealing to humanity, state leaders are implicitly arguing that the existence of a common humanity provides certain moral obligations for both states and individuals, when mass atrocity crimes are committed. But to what extent can we say that obligations created by an appeal to common humanity carry moral weight? Moreover, can we conclude that certain acts can be conceived of as against humanity? In order to address these questions, it will be vital to assess first of all, how recent literature has attempted to conceptualise humanity as a key component in our understanding of why certain crimes generate international concern. The significant contribution of the chapter will therefore be to move beyond claims that such crimes are simply "conscience shocking" in order to present a more theoretically informed argument that addresses how we can conceptualise the impact such crimes have on the values and ideas that are argued to be essential to our existence as human beings. Through building on the theoretical approach outlined in the previous chapter, it will be argued that such crimes can be seen to challenge a *dual conception* of humanity, generating not only a harm against the diversity of *humankind* but also

challenging our distinct *humanness*, understood through our ability to coexist as political animals, as well as our capacity to reason and develop moral rules.

In addressing the key questions outlined above, the chapter will be split into three key sections; firstly, the chapter will outline the conceptualisation of crimes against humanity, highlighting how notions of universal moral law connected to the concept of humanity have a long and significant historical background. It will therefore be possible to trace how the legal concept of crimes against humanity has gained acceptance and now forms a key part of international criminal law. Secondly, the chapter will present an extensive critical analysis of the current international law literature, analysing contrasting conceptions of why certain crimes must be seen to concern all of humanity. Guiding the focus of this discussion will be an assessment of how contrasting interpretations of humanness and humankind influence how scholars understand crimes against humanity. The chapter will therefore argue for the need to understand crimes against humanity as a threat to both elements of a *dual conception* of humanity and will aim to highlight the key limitations of other approaches which have generally ignored this theoretical framing. Thirdly, the chapter will present the case for recognising mass atrocity crimes as distinct global harms. It is argued that the concept of humanity is the core concept underpinning the need to recognise a hierarchy of crimes and thus provides an understanding of why mass atrocity crimes threaten a shared idea of our common humanity. This will then be reinforced through the outlining of a new theoretical approach for conceptualising crimes against humanity, which builds upon a *dual conception* of humanity, underpinned by the centrality of both moral reasoning and harm recognition, in order to fully capture the uniquely global harm of such crimes. It will thus be possible to present an argument in support of transferring the prosecution based focus of previous arguments to the question of why states should have a responsibility to both prevent and protect those threatened by mass atrocity crimes beyond their borders. Consequently, the chapter concludes by reinforcing the

centrality of our common humanity to the ability to reach greater consensus on the acts that represent global harms. In building on this foundation, Chapter 5 will then examine how the moral and philosophical claims outlined so far have been interpreted by states into decision-making at the international level.

The Four Crimes of R2P

Before moving on to discuss the historical conceptualisation of crimes against humanity it is critical to first clarify the scope of the chapter's focus and in particular the decision to emphasise the category of crimes against humanity specifically. Whilst the R2P holds that crimes against humanity are viewed as just one of the four crimes it will be argued that this term can best capture what is egregious about all four mass atrocity crimes, beyond the narrow legal definition of each crime. In order to explain this argument, the link between crimes against humanity and each of the remaining three crimes will be taken in turn.

Genocide

There has long been a strong historical link between genocide and crimes against humanity, due to their emergence in response to the Nazi atrocities committed during World War II. It was in this context that genocide was recognised as a type of crime against humanity, a link that has continued to be strongly reinforced in international law, as referenced in the 1997 Tadic case at the International Criminal Tribunal for the Former Yugoslavia (ICTY) (Nersessian, 2007, p.246). What therefore makes the label of crimes against humanity so distinct is that its commission is argued to not simply be an assault on the victims involved but an offence against all humanity (Wald, 2007, p.624). It is this idea of a harm to humanity that remains strongly connected to the crime of genocide and is thus integral to how we conceptualise the overall harm caused by both these crimes. However, it is still important to acknowledge that crimes against humanity and genocide do have different legal definitions and

interpretations. What is most notable in relation to crimes against humanity is that they encompass discriminatory acts against a much wider range of groups than genocide, along with many other kinds of acts beyond the five that are listed in the Genocide Convention (Wald, 2007, p.626). The act of genocide can therefore be conceptualised as being much more restrictive in its scope due to its focus on specific groups (racial, religious, national or ethnic), as well as the need to establish the intent of the perpetrators to destroy the group in whole or in part. Yet despite these differences what the two crimes share most importantly is an acknowledgement that very serious offences "shock our sense of humanity" and therefore "constitute attacks on the most fundamental aspects of human dignity" (Nersessian, 2007, p.246). Consequently, it is unpacking and exploring this key claim which remains the central focus of this chapter and thus underpins the decision to categorise genocide as a type of crime against humanity.

Ethnic Cleansing

From a distinctly legal angle, it has long been the case that ethnic cleansing, understood in a broad sense as the forcible deportation of an ethnic or religious group, has been recognised as a crime against humanity. As there is no formal legal definition of ethnic cleansing it was recognised as a crime against humanity under the statutes of both the International Criminal Court (ICC) and the ICTY. Furthermore, the crime of ethnic cleansing is also often recognised to constitute one of the foregoing genocidal acts, thus further reinforcing the important interconnection between the three crimes of genocide, crimes against humanity and ethnic cleansing (Sirkin, 2010, p.491. Consequently, one can highlight that ethnic cleansing results in similar harms to those of genocide and crimes against humanity, and can therefore be seen to derive from similar agendas (Sirkin, 2010, p.492). As a result, it makes sense to understand the harms caused by ethnic cleansing under the term crimes against humanity both from a legal sense as well as in relation to the types of harms generated by the crime.

War Crimes

The central difference between the legal definitions of war crimes and crimes against humanity concerns the circumstance in which the crime is committed. War crimes are defined as criminal conduct that takes place in the context of armed conflict, whereas crimes against humanity can occur in war or in peacetime. As a result, some war crimes may not meet the threshold of crimes against humanity, in terms of being widespread or systematic in nature, and thus could simply constitute random acts of violence in the context of war. However, the hierarchical nature of war crimes was acknowledged by the International Law Commission, in which it was argued that only war crimes committed in a systematic manner or on a large scale could be considered crimes within the code, this hierarchical approach to identifying war crimes was again reaffirmed in the wording of the Rome Statute when the ICC was established in 1998 (Frulli, 2001, p.335).[4] Consequently, it is still the case that actions such as inhumane treatment or rape can form the basis for charges of both war crimes, and crimes against humanity (Wald, 2007, p.631). As a result of this close connection between the harms generated by both crimes, it is increasingly the case that war crimes and crimes against humanity are charged together, rather than the single charge of war crimes (Wald, 2007, p.631). With this in mind, it makes sense to also discuss war crimes under the wider umbrella of crimes against humanity, when such acts are deemed to have reached the same threshold.

The Motivational Role of Humanity in Relation to the Four Crimes

In reflecting on the harms caused by each of the four crimes, it is critical to acknowledge the central role humanity plays in regard to how state actors frame their moral concern. In this regard, the perceived emotional pull of these crimes does not come simply from the technical

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[4] Article 8 of the Rome Statue states: "The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes" (ICC, 1998).

legal definition of the crime, but from its connection to the potential harm it may cause to a collective humanity. Thus, when it comes to the question of responding to such crimes the motivation to do so is most often directly linked to an idea of humanity and its need to be protected, regardless of the eventual classification of the crime itself. To further clarify, whilst the crime of genocide may be perceived to represent the "crime of crimes" and thus may carry increased normative and motivational power, one can highlight how states and other actors still predominantly focus and appeal to humanity as the central motivational force in such discussions. This best exemplified by Kofi Annan's comments at the United Nations Millennium Summit, in which he asked: "how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that affect every precept of our common humanity"? (ICISS, 2001). Furthermore, motivational appeals in response to war crimes and ethnic cleansing can be seen to gain increased traction through a recognition of their close links to the broader category of crimes against humanity. One can therefore highlight the increasing practice of prosecuting both crimes under or in connection with crimes against humanity, thus helping to reaffirm the shared global harms caused by these international crimes (Sirkin, 2010, p.491). Categorising each of the four crimes under the umbrella of crimes against humanity therefore makes it possible to focus on the most important element in which they all shared, the link to a collective threat underpinned by the idea of humanity.

As previously highlighted, the R2P's moral content begins from the claim that certain crimes are of such global significance that they require us to provide an argument for the moral conditionality of state sovereignty, which can be suspended or superseded by events of a certain kind (Vernon, 2002, p.242). It is therefore implied that there are certain legal obligations for states and communities in regard to the protection of humanity, whereby the protection of humanity is not simply a legal figure of speech but must instead be acknowledged as a "metaphysical and practical identity of all human beings, as the supreme value for humankind,

and as a species" (Chen, 2013, p.25). As Chen (2013, p.26) argues, humanity provides normative reasons to perform and abstain from certain actions, based on humanity representing the supreme value of human existence and humanity as a species. Based upon this reading it can be argued that all four of these crimes can potentially violate and harm humanity itself, which ultimately necessitates the need for the international community to prosecute those responsible (Chehtman, 2010). The universal jurisdiction is thus predicated on the idea that these four mass atrocity crimes[5] can offend the interests of all humanity and are violations of jus cogens (Hayden, 2005, p.115). This acknowledgement recognises that these crimes should also be applicable to all legal systems, persons and systems of law, in which no state can derogate in any circumstances (Geras, 2011 p.88).

The concept of humanity is thus imperative to our ability to conceptualise the very worst crimes that humans can commit. As Arendt (1963, p.272) argued in "Eichmann in Jerusalem", what separates the crime of murder and the crime of genocide, is that an "altogether different order is broken and an altogether different community is violated". What Arendt is referring to in this passage, is that the crime committed is against a much broader community, namely humanity itself. It is through separating out this difference between domestic and international crimes that one can begin to assess what role the concept of humanity has on our understanding of why states should have a responsibility to save strangers from mass atrocity crimes. It is therefore argued that the concept of humanity is central to differentiating specific crimes from others and thus helping to further our understanding of the values that are threatened by mass atrocity crimes on an international scale. As Hayden (2005, p.107) highlights, what is both significant and novel about the acknowledgement of a crime being against humanity, is that a

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[5] As Scheffer (2008, p.320) has previously argued, the use of the term "mass atrocity crimes" provides an important shorthand for grouping international crimes that require "the highest priority" in order to "react quickly and effectively to stop further commission of such crimes".

universal moral concept (that of humanity as a collective moral and legal entity), is the one in which the crime is committed against. This abstract idea is therefore central to the underlying moral imperative enshrined in the R2P, in which this chapter will explore in more detail.

The Legal Conception of Crimes against Humanity

It is vital to begin by looking more closely at where the idea of a crime committed against humanity originates from, and how its original conception has continued to influence how we come to value the importance of humanity itself. As Badar (2004, p.76) argues "the contemporary status of crimes against humanity under international law cannot be understood or appreciated without reference to its history". Before locating how ideas of humanity have come to influence state interaction with international law in the 20th century, it is important to acknowledge that notions of common humanity and universal moral law have an extensive history. One can highlight this in our ability to recognise shared physical vulnerabilities, which played a critical part in influencing a variety of early cosmopolitan thinkers from the Sophists to the Stoics (Linklater, 2011, p.94). Furthermore, in the eighteenth century we can point to the development of humanity as a "normative-legal idea" underpinned by theories of natural rights, providing particular relevance to the anti-slavery movement in England (Zagor, 2011, p.269). Although engagement with these debates is beyond the scope of this thesis, it is still vital to acknowledge that ideas of humanity have long been critical in developing both natural and cosmopolitan law perspectives in relation to international harm. The influence of which can be seen in the eventual creation of crimes against humanity.

Whilst the law of crimes against humanity was first officially stipulated in the Nuremberg Charter, its conceptual underpinning had been acknowledged previously in international discourse, perhaps most notably in the 1907 Hague Convention, which first made official reference to the "laws of humanity". However, arguably the most significant example

of state engagement with the idea of crimes being in direct violation of humanity, before Nuremberg, was in connection to the Turkish massacre of Armenians in 1915, which was condemned as "a crime against humanity and civilization" (Vernon, 2002). As Schabas (2009, p.20) has argued, this can be seen to constitute "the first use, at least within an international law context, of the term 'crimes against humanity'". This case is also significant in regards to the reaction of the US, to Britain and France's attempt to prosecute Turkey for these crimes. The US at the time objected to the idea of "laws of humanity" and argued that this form of law had no specific content, and as such the proposal to conduct trials of the Turkish perpetrators never materialised. What the example highlights, is the relative newness of ideas surrounding the influence of humanity on international law, and moreover, it demonstrates that the concept of humanity had a considerable normative worth to some states even before the concept was recognised in international law. It therefore further reinforces the concept of humanity as a social construct, by which the phrase, laws or principles of humanity, embody the idea that some transcendental humanitarian principles exist, that are beyond the conventional law of the time (Ntoubandi, 2007, p.42).

The modern notion of crimes against humanity was first codified in 1945 by the four major Allied powers of World War II, and stated within the International Military Tribunal (Nuremberg Charter) (Hwang, 1998, p.459). The creation of the Nuremberg Charter is of central importance to the focus of this chapter, as it represents an official recognition of the value of humanity as a legal concept and at the same time stipulates that humanity itself can be challenged by certain acts. This acknowledgement of crimes against humanity as representative of a distinct category of international crimes, understood in relation to the collective idea of humanity, embodies a significant moment in the development of international law. Perhaps most considerably, it represents a critical step in acknowledging the potential conditionality of state sovereignty, through a recognition that specific actions by states against their own people

can create a legal right for the international community to prosecute those involved. The definitional development of this category of crimes throughout the rest of the twentieth century further reinforced its continual relevance to how states understand the most extreme crimes humans can commit.

In examining the theoretical development of the concept from the Nuremberg Charter, one can highlight a number of significant clarifications to its application. Firstly, the move from defining crimes against humanity as an extension of the humanitarian law of war to their eventual recognition as an "autonomous source of rights accrued to individuals in periods of peace as well as in war" (Badar 2004, p.140). By removing the conditional link between war and crimes against humanity, found in the Nuremberg Charter, it is possible to apply the law to situations in which states were committing acts on an internal scale during peace-time. This shift is connected to a broader development over time which has resulted in further state agreement to try and limit the ability of states to commit atrocities against their own people without consequence.[6] The creation of the R2P must therefore be understood under the same normative lineage as will be examined in greater detail within later chapters.

A second key development from the original Nuremberg Charter was the move to recognise other actors beyond the state as potentially able to commit crimes against humanity. In 1951, the ILC adopted the first Draft Code of Offenses against the Peace and Security of Mankind in which explicit recognition was made that both state authorities and private individuals may commit crimes against humanity (Hwang, 1998 p.464). Through again expanding the application of crimes against humanity, it reinforced a clear acknowledgement that these crimes were not simply acts defined by the application of state power by certain individuals, but must be understood and defined through their impact upon the victims and

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[6] See also The International Criminal Tribunal for Rwanda (ICTR) and International Criminal Court (ICC) as examples of this normative development.

humanity understood collectively, regardless of involvement by state apparatus. As Hwang (1998, p.47) argues, it is this shift in definition, which "gives the act its great dimension and makes it a crime against humanity imputable to private persons or agents of a state". The move to apply crimes against humanity beyond individuals in control of the state reflects an ambition to cover the acts of terrorist groups or organisations which have the capacity to effectively control territory without necessarily occupying it permanently (Robertson, 1999). This again is an acknowledgement of the need to capture a great number of crimes that can arguably represent a challenge to humanity and expand how threats to humanity are identified.

Finally, the development of crimes against humanity has also resulted in further clarification of the scope and characteristics of such crimes. In the 1993 U.N. Secretary-General's report on the ICTY Statute, it was argued that inhumane acts have to be "committed as part of a widespread or systematic attack" (UNSC, 1993). This requirement of "widespread or systematic" was subsequently included in the definition of crimes against humanity for the ICTR as well as the 1998 Rome Statute. Consequently, this definitional element of crimes against humanity has become a central component for distinguishing crimes against humanity from common crimes, which do not rise to the level of crimes under international law (Badar, 2004, p.109). This policy requirement therefore reinforces the idea that isolated and random acts cannot amount to crimes against humanity and provides a clarificatory role in outlining the importance of having a hierarchy of international crimes (Chesterman, 2000, p.316). In this sense, crimes against humanity are seen to "shock the conscience of mankind and warrant intervention by the international community precisely because they are not isolated, random acts of individuals, but instead result from a deliberate attempt to target a civilian population" (Chesterman, 2000, p.316). By specifying these criteria, it makes it possible to draw a stronger conceptual link between the moral idea of a collective humanity and the crimes that are seen to directly threaten it. These parameters therefore set critical benchmarks for how we can begin

to theorise the international dimension of crimes against humanity and why the normative idea of humanity is so integral to our ability to categorise certain crimes above those of national jurisdiction.

However, the philosophical question of how humanity itself can in some way be threatened by these crimes and furthermore why states across the globe should respond to these crimes needs to be examined in greater detail. Whilst legal definitions are a useful starting point in locating the significance of categorising certain acts as international crimes, as well as establishing a certain intersubjective and ideational understanding of acceptance, the normative and moral underpinnings of these crimes requires further philosophical scrutiny in order to explain why they demand certain responses by states. The complexity of this debate can be highlighted through deliberations concerning the concept of "inhumane" contained within the original Nuremberg charter as well as featuring in subsequent definitions in international law. For example, crimes against humanity in the language of Article 6(c) of the Nuremberg Charter are referred to as "inhumane acts", which one can conceptualise as offences committed against humaneness (a specific human characteristic). However, as a definition it has come under severe scrutiny and critique. Perhaps most significantly, because it is argued to fail in setting a high enough threshold of what can count as a crime against humanity (Bassiouni, 1999, p.330). There are thus many acts that we speak of as being inhumane, but to how many can we claim concern the whole of humanity? One must consequently further define and expand upon what it is that differentiates crimes against humanity from a particularly gruesome act of murder. As a consequence, the next section of this chapter will therefore take stock of current debates concerning how to conceptualise the moral and philosophical underpinning of crimes against humanity. By assessing the relative strength of contrasting interpretations, it will be possible to outline a more comprehensive understanding of humanity's normative role in defining such acts. The chapter will therefore argue for the application of a dual understanding of humanity,

in order to demonstrate the essential nature of humanity to our understanding of why certain crimes concern the whole of the international community.

Contesting the Philosophical Foundations of Crimes Against Humanity

This section brings together a range of conceptualisations regarding crimes against humanity, in which to explore why we should consider crimes against humanity as threats to a collective understanding of humanity, and will thus help to reinforce why common humanity and its protection matter. The focus is therefore not specifically on defining what a crime against humanity is or its strength as a legal concept but instead theorising the idea of a collective harm through locating what values and beliefs are challenged by crimes against humanity, understood through its moral capacity. Whilst there are a number of long running legal debates over the definition of the term[7] as well as its legal application in regard to prosecution (Altman, 2012), this section will instead concentrate upon the need to theorise how notions of *humanness* and *humankind* make up essential elements of our understanding of what harms are created by crimes against humanity and ultimately why such acts should concern states. This will then make it possible to further conceptualise the international scope of such crimes and therefore begin to build upon the need to recognise a moral imperative for the protection of individuals from these crimes, by the global community. The section will consequently, assess a range of arguments that attempt to locate a specific harm created by crimes against humanity and thus engage with the central question of, why should states respond when others commit such atrocities around the globe? In tackling this question it will later be argued that our understanding of humanity and why it matters is fundamentally central to locating global harms

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[7] For a further legal overview of these debates see; Jalloh, C. (2013) 'What makes a Crime against Humanity a Crime against Humanity,' AMU International Law Review (28): 382-441. See also; Robinson, D. (1999) Defining "Crimes against Humanity" at the Rome Conference, 93 AJIL 43.

and therefore allows us to begin to theorise why states have specific obligations to recognise those threatened by mass atrocity crimes around the globe.

The Inhumanity of Crimes against Humanity

In their most basic form, crimes against humanity can be understood in regard to their opposition to humanity itself. In this sense, the focus is often on the inhumanity of the act involved, whereby its meaning is tied directly to our understanding of what is *humanness* (Ntoubandi, 2007). As highlighted in the previous chapter, humanness is understood as the essence of what makes us human, acknowledging that there are certain basic values that are considered inherent in all human beings. Crimes against humanity are therefore seen to reject the values attached to humanity in favour of appeals to brutality or barbarousness (Ntoubandi, 2007). In attempting to reflect this understanding in a legal conception, Article 6(c) of the Nuremberg Charter referred to crimes against humanity as "inhumane acts", understanding such crimes as offences against specific human characteristics. However, it is vital to note that the very notion of inhumanity is subjective in nature and thus requires further clarification when we attempt to scale-up this understanding to the international level. Part of the difficulty in recognising crimes against humanity as simply inhuman comes from the fact that a wide variety of crimes can in certain senses be regarded as inhumane. Consequently, in framing the specific harm of such crimes as their inhuman nature, it fails to set a high threshold of what can count as a crime against humanity and most importantly, how we can conceptualise such acts as international in scope. There are many acts that we speak of as being inhumane, but to how many can we claim concern the whole of humanity?

The decision to focus on the significance of humaneness in the original Nuremberg charter was therefore heavily challenged by Arendt (1963, p.275) at the time, who questioned the idea that the Nazis "had simply been lacking human kindness". On a similar line of

argument, Vernon (2002, p.238) argues, "we cannot suppose that the most inhumane results (however measured) reflect the most subjectively measured inhumanity". In other words, collating crimes against humanity into crimes of inhumanity places far too much emphasis on specific circumstances to make it possible to trace directly the agent's moral feelings or lack of them (Vernon, 2002, p.238). Moreover, Macleod (2010) is also critical of attempts to understand crimes against humanity in terms of humanity representing the idea of an inherent human nature. He rejects the assumption that crimes against humanity are those that are in fact inhumane, and is therefore sceptical of attempts to understand the idea of crimes against humanity as those that involve acting contrary to human nature. As many crimes can arguably be classified as going against our human nature it would specify crimes against humanity as "merely a particularly egregious enactment of a lower-order crime" (Macleod, 2010, p.293). One must therefore further interrogate what differentiates crimes against humanity from a particularly gruesome act of murder. What the language used in the Nuremberg Charter fails to do in this case, is create a holistic understanding of the "crime", which can then help to explain the need to recognise such acts as creating global harms.

A Threat to the Interests of Humankind

Expanding on this requirement to better conceptualise crimes against humanity as denoting international concern, Macleod (2012, p.297) argues that an action can only be categorised as a crime against humanity if and only if it is a crime that damages humankind. In this sense, humanity is thought of as the victim of the crime committed, rather than humaneness as a moral quality being lost or denied, damage is done instead to humanity as a collective entity (Vernon, 2002, p.238). As such, humankind is argued to be damaged when one of its interests is violated, for example the reduction of cultural diversity, which is argued to impact upon the overall group of humanity in which we are part of (Macleod, 2012, p.203). In doing so, this reasoning helps to provide a possible justification for why the global community should address states

committing mass atrocity crimes against their own people. When crimes are seen to damage humankind and in effect citizens around the world, one can make a case for the interest of the global community to prosecute those individuals on behalf of humankind collectively.

However, Macleod's understandings of humanity's interests are arguably underdeveloped. If one accepts the idea that humankind is in theory the relevant object of protection, and as such it is humankind that has the authority to recognise these crimes as illegal and as offences against humanity, then one must question in virtue of what, are these crimes treated as offences against humanity (Geras, 2005, p.169). What are the potential consequences of these crimes that can justify regarding them as an attack against all human beings? Macleod does not provide a conclusive response to this question and does not enumerate how certain crimes harm humankind and its values collectively. This failure to fully conceptualise the specificity of the harm created by crimes against humanity limits the usefulness of an approach that focuses so heavily on a conception of humanity as representing humankind.

Locating Humanity in Humanness

One way in which to more comprehensively locate the harm caused by crimes against humanity is to instead place a greater emphasis on the role of humanness beyond simply the inhumaneness of the crime itself. In order to qualify this approach, Renzo suggests that crimes against humanity cannot be understood as simply inhumane, but directly deny the rights we have as humans. For Renzo (2012), humanity is understood and defined as humanness, whereby a shared human value or human characteristic is violated when crimes against humanity are committed (p.449). This understanding is based on the idea of human rights being inherently tied to our humanity. In this sense, human rights are possessed by individuals in a pre-political state of nature (Renzo, 2012, p.449). Consequently, the existence of human rights is not dependent on their embodiment in any political institution (Renzo, 2012, p.450). Human

rights are those we have simply in virtue of our humanity, meaning that crimes against humanity are those that deny the statues of the human being by violating these natural rights we all have (Renzo, 2012, p.451). In this sense, crimes against humanity are an attack on these fundamental natural rights, which are argued to be essential for a minimally decent life (Renzo, 2012 p.453). This is a critical distinction, as it allows Renzo to reject the idea that all attacks on human rights constitute international crimes. Instead, he recognises that certain basic rights represent a clear moral minimum, and thus constitute "everyone's minimum reasonable demands upon the rest of humanity" (Shue, 1994, p.19).

Although Renzo acknowledges that crimes against humanity directly violate our natural rights, he rejects claims by other legal theorists such as May (2005) who suggests that humanity itself can be harmed in the process. For Renzo (2012), the wrongness of the crimes only creates accountability for these crimes to members of the international community. We are thus accountable to all our fellow human beings in virtue of our membership in the community of humanity (Renzo, 2012, p.457). In other words, it is because crimes against humanity fail to recognise the basic rights we all share as human beings and thus treats the individual not as a human, that means we can talk of a universal obligation to punish this specific crime. Renzo's (2012) accountability-based model therefore places the emphasis on the accountability for the wrongdoer rather than a specific global harm caused by such acts, with responsibilities attached to our identity as human beings. This idea is very much founded on the concept of human dignity, which is the value that explains why all humans are said to have human rights, and furthermore, it is human dignity that is understood as the value that human rights are intending to protect (Renzo, 2012, p.450). Consequently, Renzo's theory suggests a need to recognise certain human characteristics and values as universal, in order to articulate why crimes against humanity should then be of global interest. This requires a strong belief in the idea that we are all members of the international community and thus we must all be answerable to this

community when we commit crimes that directly attack human dignity. Moreover, as Chen (2013) highlights, the attack must therefore be considered to be against the victims' metaphysical existence or human status as well as their physical bodies, whereby humanity is seen to represent a metaphysical being.

This argument is also supported by Duff, who makes a similar conclusion to that of Renzo. Duff (2009, pp.20-21) rejects any notion that mass atrocity crimes such as genocide actually harm or victimise humanity as a whole, but instead views certain crimes as wrongs that properly concern the whole of humanity. As such, Duff (2009) believes that perpetrators must have to answer not just to a specific political community but also to humanity itself. This concept is built on the idea of humanity representing a moral rather than political community, whereby certain wrongs are everyone's business simply because of our shared humanity with their victims and the perpetrators (Duff, 2009). Crimes against humanity are therefore not dependent on the existence of the state or any system of rules or conduct, it is instead a form of natural law that creates the obligation not to commit such crimes, based on being a human being, not simply a fellow citizen (Renzo, 2012).

However, one of the key criticisms of this humanness approach to understanding crimes against humanity is that both Renzo and Duff broaden out our understanding of the concept to include a greater number of crimes. Through a focus on individual violations of human rights, rather than only violations that have a collective dimension, Renzo is forced to recognise any case of murder as a crime against humanity. Consequently, there is an argument to be made that whilst many crimes may attack certain human characteristics of the victim, a focus solely on humanness still does not help us to fully capture why states may have moral obligations to the international community in order to respond and acknowledge such crimes. Whilst Renzo and Duff suggest that the perpetrator has a responsibility to answer to humanity for their crimes, they don't place a significant level of emphasis on the impact the crime may have on humanity

as a metaphysical entity. This is significant as often our intuitions of the harm created by mass atrocity crimes is framed in language that relies upon the idea of humanity itself being directly threatened or the creation of a global harm. It therefore indicates that crimes against humanity may threaten more than the individual rights of the victim. In this sense, one can argue that we need to be clearer and more systematic when trying to understand what makes crimes against humanity so different to an act of murder. By broadening out the concept of crimes against humanity it can be seen to devalue why the specific crime itself was created in the first place. It is argued that an entirely different order is broken when crimes against humanity are committed than when a single murder takes place. We must therefore not lose sight of a need to maintain a hierarchy between domestic and international crimes.

Moving forward it is therefore vital to locate the ethical underpinning of a wider global harm, in order to explain why certain acts can be of such significance to those living thousands of miles away from the location of the crime. This arguably requires a greater emphasis on the idea of humanity as also representing humankind. Furthermore, it is important to underline that what both Renzo and Duff leave unanswered is the extent to which we as citizens and members of the international community collectively should have a responsibility or obligation to assist in preventing and protecting those threatened by crimes against humanity. The emphasis of the legal philosophy literature, outlined above, is placed on the responsibility of the perpetrator as directly accountable to humanity. In doing so, the humanness approach put forward by Renzo and Duff is unable to conceptualise what may drive a state to intervene on behalf of humanity, when in theory state security cannot always be described as under threat from these actions. In other words, if we do all have natural rights, why should the global community have a responsibility to protect them and in what circumstances should they be protected?

Communitarian Approach to Crimes against Humanity

In order to articulate how we can differentiate crimes against humanity from national crimes such as murder, it is crucial to locate other values and ideas that are challenged by crimes against humanity. In doing so it is useful to also reflect on how one can further conceptualise the global harm element of such crimes. The chapter will therefore now focus on a communitarian based approach to our understanding of crimes against humanity. As previously highlighted, communitarian approaches place a significant moral worth on the idea of groups and thus argue that embeddedness in a single culture is critical to social identity (Taylor, 1993, p.45). Consequently, when applying this ethical position to our understanding of crimes against humanity, it is useful to focus on the group based element that is often implied, where crimes are committed by a certain group or against one (Chehtman, 2010, p.94). This often means that in order for a crime to be categorised, as against humanity, it has to represent "the commission of certain inhumane acts as part of a widespread or systematic attack directed against a civilian population" (Chehtman, 2010, p.94).

This group-based understanding of crimes against humanity underpins May's (2005) international harm principle, which focuses on why group based violations concern the international community. The international harm principle is thus used to show how certain group-based crimes actually harm humanity, which in turn justifies the international community's ability to criminalise these acts (May, 2005, p.82). Just as domestic crimes are seen to harm a particular national community, crimes against humanity can be seen to harm the world community, in terms of humanity representing humankind. This claim is reinforced by May's belief that a key interest of humanity is for its members not to be harmed and thus when a crime against humanity occurs, it is argued that the harm is caused by an entity standing in for a particular community. Thus, a harm to humanity is understood as a harm that is based on no-individualised characteristics of the individual, whereby it is group based harms that

should be of interest to the international community as they are "more likely to assault the common humanity of the victims" (May, 2005, p.83).

Furthermore, for May (2005), humanity arguably has interests and a key part of its interest is that its members, as members, are not harmed (p.82). The international community and humanity itself are therefore harmed when "the perpetrator of a crime does not react to the individual features of a person, but rather to those features that the individuals shares with all, or very many others" (May, 2005, p.83). Moreover, a victim's humanity is assaulted when they are treated according to group characteristics, by which the disregard for the individuality of the person represents an attack on "what is common to all humans and hence to all of humanity" (May, 2005, p.85). Consequently, this argument acknowledges that humanity itself is a victim when the intentions of the perpetrators are to harm individuals on the basis of group characteristics, rather than individual characteristics. Crimes against humanity thus harm all of us based on the "solidarity that we feel with fellow humans' on the basis of our common vulnerability to violence and harm" (May, 2006, p.376).

It is important to also note here that May's conception of the international harm principle is conditional to what he calls the security principle. This principle is premised on the idea that if states "fail to provide physical security and subsistence of its subjects, then that state has no right to prevent legal bodies from justifiably infringing that state's sovereignty", an idea that has many parallels with the format of the R2P principle (May, 2005, p.68). However, other states only have an obligation to prosecute the perpetrators of such crimes when there is also a direct harm to the international community understood through the international harm principle. Together these two normative concepts attempt to provide a more complete answer to the question of why some entity might legitimately cross the borders of a sovereign state to prosecute victims, and more significantly, why the international community has an interest in what is going on within a state's borders (May, 2005, p.81). Thus, what makes

group based violence significant for May is that they create harms that are of direct interest to the international community. Firstly, because group based harms are more likely to assault the common humanity of the victims, understood as the need for social belonging, and secondly because they are more likely to create issues around borders and damage the broader international community (May, 2005, p.83).

However, there are a number of significant objections to May's group based conception of crimes against humanity, and the perceived ability of these crimes to directly harm our common humanity. As May (2005, p.85) argues, the rationale behind the international harm principle states that humanity is harmed when "the sufferer merely stands in for larger segments of the population who are not treated according to individual difference". However, as Chehtman (2010) argues, what is doing the justificatory work in his thinking is the fact that the victim is a member of a vulnerable group or persecuted minority, rather than the victim simply being targeted for reasons they cannot change (p.98). The victims of these acts are arguably chosen because of their affiliation to a specific vulnerable group, it is thus the group that is harmed by the crimes, not humanity representing humankind (Chehtman, 2010, p.98). This point is supported by Altman (2006, p.369), who argues that the form of religious hatred that leads to anti-Semitic genocide, hinges on the notion that Jews are different from the rest of humanity, and it is this difference that leads to their selection as targets from among all humans. Consequently, May directly ignores the specific rights individuals hold regardless of group affiliation. This is significant as we need to understand humanity as representing more than group affiliation and thus it needs to also represent the rights of every human being.

Furthermore, Altman (2006) takes issue with the construction of May's domestic and international analogy, which stipulates that crimes at the international level harm the global community in a similar way to crimes at a domestic level harm the national community. It is argued that the international situation is different, whereby the absence or ineffectiveness of a

state would not condemn individuals to lives of horrific insecurity in the same way the absence or ineffectiveness of a domestic state would impact on the individuals in a particular territory (Altman, 2006 p.370). In highlighting the Rwandan and Cambodian genocides, Altman (2006, p.370) argues that these events did not affect the interests of Australians in the same way domestic murders in their country would, as such genocide and crimes against humanity can be seen to not directly challenge the vital interests of most humans. The implications of such an argument are that states should not view mass atrocity crimes as a significant security issue if these crimes are taking place beyond their borders. Yet one must also question if there are values that are challenged by mass atrocity crimes that go beyond simply issues of security and thus impact upon the metaphysical idea of humanity in ways that are more concerning to humankind at large than Altman is willing to acknowledge.

Expanding Humankind: The Role of Diversity

In moving away from the communitarian based approach put forward by May, there has been a range of theoretical arguments that have attempted to place a significant emphasis on humankind whilst still recognising the role ideas of humanness need to play in our understanding of crimes against humanity. Arendt (1963) therefore provides a more nuanced conception of what humanity's values are and what is directly at stake when crimes against humanity are committed. Arendt (1963) claims that the act of genocide is a crime against humanity, which directly offends the human status. Humanity is in this case more than just the human race as a whole, but also property that everyone has, by virtue of belonging to it (Vernon, 2002, p.239). A crime against humanity is therefore one designed to "eliminate certain races form the face of the earth", by which perpetrators are refusing to share the earth with certain people (Arendt, 1963). In other words, crimes such as genocide represent an attack upon human diversity, which must also be seen to signify an attack on a characteristic of the human condition, without which the words humanity or humankind would be devoid of

meaning (Arendt, 1963, p.261). Rather than focusing on the impact of suffering or the number of victims involved, Arendt (1973) argues that it is the threat to human nature and the organised attempt to eradicate the concept of the human being, which provides the defining feature of crimes against humanity. Diversity is thus conceptualised as characterising elements of both humankind and humanness, based upon an anthropological and normative universal that acknowledges diversity as a central part of humanity (Villa, 2000, p.79). Based upon this understanding it is argued that "an attempt to annihilate one group should be understood as an attack on the condition of human plurality" (Bilsky, 2010, p.206). Thus, crimes against humanity are not only attacks on the body of those victims but also a crime against humanity itself, understood through its diversity and plurality.

This understanding of the critical importance of diversity to our common humanity is one also echoed by Ignatieff (2001), who argues, "what defines the very identity we share as a species is the fact that we are differentiated by race, religion, ethnicity and individual difference". Based upon this understanding, an attack on any of these differences can be regarded as an attack on the "shared element that makes us what we are as a species" (Ignatieff, 2001). Elaborating on this point Ignatieff (2001) argues that the value of our humanity lies in the ability it gives us to honour and recognise difference, whereby this difference is a common inheritance that we must all defend when anyone is attacked for manifesting it. Subsequently, both Arendt (1963) and Ignatieff (2001) suggest that killing off a whole human grouping would harm all of humanity because as a species we are characterized by the abundance of groups and thus it is our consciousness of difference that is so central to what it means to be a human being. As such crimes against humanity are understood through the defining feature of group diversity.

Nevertheless, one must question why humanity would be devoid of meaning in the absence of diversity? Implicit in this formulation of crimes against humanity is an assumption

that local identity, displayed through the diversity of cultures and nations, must be regarded as a key element of our common humanity (Gaita, 2005, p.164). As such, the denial of space to any group is considered a crime against humanity, in which humankind is hurt and endangered (Vernon, 2002). Arendt (1963, pp.262-263) argues, that if these crimes go unpunished, then no "people of earth" will be able to feel assured of their existence, which is ultimately tied to the security of the space they share.

However, in a practical sense how we define the concept of "a group", or even diversity itself, has major implications as to who should be considered essential to protect and therefore makes up part of a common humanity (Brown, 2009). If we take the UN 1948 Genocide Convention as an example, the only groups defined in this document are "national, ethical, racial or religious groups" (UN 1948). Lang (2005, p.10) notes that the UN convention defined these groups as having special significance in social and cultural life, however, one can equally question how we can justify singling out these specific groups for protection? It is therefore argued that these groups "contribute more essentially to social structure and life (collective and individual) than others" (Lang, 2005, p.10). Due to this essential contribution, the absence of groups targeted by these crimes would leave humanity radically diminished (Lang, 2005). As the genocide convention outlines, when attempting to recognise group diversity as the essential part of humanity we run the risk of ignoring the value of individuals outside of the groups in which they belong to (Luban, 2005, p.116). This is particularly apparent when we consider that the value of certain groups will always be contested which can be demonstrated by the language utilised in the genocide convention. The implications of this distinction are therefore considerable, particularly when one is assessing how the concept of humanity can potentially impact on state decisions to intervene and stop these atrocities. Based upon this argument it is the significance of the group's cultural output that dictates if humanity is metaphorically damaged by such acts. Those who reject the cultural importance of a certain group are

effectively denying their relevance to humanity, how we decide this will always be plagued with political implications. Consequently, it remains vital to also recognise an individual element to the value of humanity beyond simply group diversity. This makes it possible to not be constrained by debates only concerning the values we place on certain groups over others.

Geras (2005) has also been critical of Arendt's formulation of crimes against humanity, as acts attacking the human status of their victims. He therefore, rejects the implied notion that crimes against humanity suggest "mankind in its entirety might have been grievously hurt or endangered" (Arendt, 1964, p.275). For Geras (2005, p.173), when judged on an empirical basis, "it seems that we are able as a species to survive successive genocides, the loss or the huge depletion of entire peoples, and just carry on". This raises the question, if humanity, represented as humankind, can continue to exist despite the continuation of mass atrocity crimes being committed across the globe, then how is it possible to argue that they threaten the existence of us all? Certainly on an empirical level this is a far too extreme take on the potential threat of these crimes. Yet, this argument by Geras seemingly underestimates the variety of harms caused by crimes against humanity, and the potential impact attempts to eradicate elements of human diversity may have on our ability to maintain space for politics and human plurality. What Geras therefore underestimates, is the potential for crimes against humanity to significantly reconfigure who is or is not deemed to be recognised as human and the negative impact this has on the ability of human beings to coexist on the planet. It is thus crucial to recognise the impact such crimes have on the long term sustainability of human existence.

The Political Nature of Humanity

In beginning to address some of the concerns highlighted above, Luban (2004) questions the idea of regarding group diversity as the defining feature of humanity. Whilst he is in agreement that the diversity of human beings, as well as human groups, is a natural fact, he argues that

focusing only on group diversity implicitly ignores the value of individuals apart from the group in which they belong to (Luban, 2004, p.116). For Luban (2004, p.115), crimes against humanity can be seen to assault both individuals and groups, separating this distinction ignores the possibility of groups posing an existential threat to individual identity. It is by attacking individuals on the basis of their group membership and targeting groups through individual members that we can understand crimes against humanity as assaulting humanness (Luban, 2004, p.117).

For Luban (2004, p.110), the defining characteristic of human beings is that we are political rather than just social animals, in this sense we require a form of artificial coercive organisation. However, it is these very organisations, which at the same time threaten our well-being and potential survival. As Luban (2004, p.90) goes on to state, it is because we cannot live without politics that we are forced to live under the permanent threat that the "institutions of organised political life will destroy us". Crimes against humanity are therefore the worst of these threats and are seen to assault this particular aspect of being human, our character as political animals (Luban, 2004, p.90). Accordingly, it is argued that all of humankind shares this interest in repressing these crimes, due to the fact we all must exist in politics. It is important to note here that Luban (2004) is not suggesting that our status as political animals is purely metaphysical speculation, but instead can be classed as naturalistic and anchored in observation. He views human beings as self-aware individuals with their own interests, but who ultimately have a natural need to live in groups. In this sense, humanity matters because when we threaten it we are attacking the very principles that make it possible for us all to survive.

However, there is an extent to which we might argue that there is something more visceral and instinctive connected to the harm of crimes against humanity, which may not be captured in Luban's understanding. Dubler (2008, p.97) has thus argued that his explanation is

unable to fully explain the instinctive reaction that many have to the "evil that accompanies a crime against humanity". Dubler (2008, p.97) therefore suggests that viewing such crimes as solely an attack against our character as political animals does not sufficiently capture the essence of the atrocity. However, it is also important to acknowledge that such crimes are not simply an attack against our political character but can be argued to directly threaten the very possibly of us to live as political beings. Nevertheless, the argument does draw attention to the idea of certain crimes creating harms beyond challenging the political foundations of our societies. Consequently, there remains a need to qualify further why crimes against humanity are often considered to be so potentially "conscience shocking", if one is to try and capture the full range of harms created by such crimes. In doing so, it is useful to also consider how crimes against humanity may also create a more significant psychological harm that goes beyond politics, a harm that is more shocking and visceral than is often accounted for.

The Terror of Crimes against Humanity

Whilst the examples highlighted so far have been able to construct an overall conception of how humanity can be threatened as a whole, it has yet to be outlined how crimes committed against humanity could in fact harm us all in a more direct manner. One approach made to address this is put forward by Geras (2005, pp.171-172), who suggests that crimes against humanity are fundamentally those that are committed against the human status of its victims, whereby the act is harmful to the key interests of human beings, threatening severe or irreversible damage to their well-being. But what he considers a more important question to examine, is can we conceptualise these crimes as having a direct impact on people across the globe who make up a common humanity?

In attempting to answer this question, Geras (2005) claims that crimes against humanity "terrorize us all". The logic behind this conceptualisation of crimes against humanity

is based on the idea that our "psychological well-being suffers from the sight of atrocities by fellow human beings" (Robertson, 1999, p.331). This understanding of psychological effects, representing the harm caused by crimes against humanity, is therefore used to support the idea of humanity being collectively the victim (Geras, 2005, p.175). However, the terrorizing element of crimes against humanity can hardly be defended as a universal one, as certainly not all human beings are terrorized through simply viewing or reading about these acts. Whilst these acts may metaphorically be seen to shock the conscience of humankind, forming an argument to suggest that humankind is the direct victim of crimes against humanity is much harder. Geras (2005, p.176) is only able to tentatively conclude that "the psychological well-being of some significant proportion of human beings is somewhat worsened by crimes against humanity". What Geras's argument highlights then is the difficulty in locating a universal principle of harm that is committed against all of us. Whilst it is easier to conceptualise how these crimes represent an almost universal conception of the wrong, taking the next step in demonstrating their threat to a collective humanity itself is far more complex. This difficulty in theoretically capturing a threat to a collective harm can therefore be seen to leave room for the application of more empirically focused approaches, centred on the role of the state in maintaining international peace and security in relation to common humanity.

A Threat to the International Community – A Statist approach

A further way of conceptualising the harm created by crimes against humanity is to understand humanity in relation to the overall international community. If we take the assumption that humanity refers to a community of nations and that the concept itself relies on this community for security, then crimes against humanity can arguably threaten the peace and security of humankind, or "the peace of the world" (Robertson, 1999, p.331). In other words, these acts are of consideration to all states simply because they have the potential to damage the balance of the peace or cause greater conflict in the future. In a number of international tribunals,

including both the former Yugoslavia and Rwanda, the idea of mass atrocity crimes as a threat to international peace and security has been used as a legal basis to establish such tribunals under Chapter VII of the UN Charter (Boot, 2002, p.610). This ultimately demonstrates how a state's ability to conceptualise the harm caused by such crimes is still very much intertwined with the legal framework of the UN. Subsequently, this conception of humanity attempts to take the emphasis away from the impact on those individuals who are persecuted, and instead focuses on the centrality of the state's role in protecting humankind, arguably placing the order of the international system as the most important factor to protect.

However, this heavily statist approach to conceptualising humanity has a number of key deficiencies, most significantly when thinking about the overall impact these crimes have on the international system. This approach firstly assumes that crimes against humanity such as genocide, directly threaten world peace and security. However, genocide that is potentially limited to a national territory and left to run its own course would not necessarily threaten anyone beyond the target group (Geras, 2005, p.169). Subsequently, one could even argue that attempts to intervene or prosecute the crimes committed could in fact further jeopardise international peace more seriously than non-intervention would. Contrastingly, it is still important to highlight that if the community of states consistently failed to intervene to halt mass atrocity crimes it would in many ways be giving precedent to the permissibility of such acts through the omission of a response. In this sense, one must argue that the decision by states to intervene and protect those threatened by mass atrocity crimes also has the critical role of acknowledging that such acts will not be permitted within the community of states. Furthermore, it is still vital to recognise that despite the containment of mass atrocity crimes to a specific geographical area the impact of the crimes often creates a significant number of civilians fleeing from the conflict, and thus places substantial strains on the surrounding states and region.

However, if we only view the harm created by these crimes as potentially impacting a traditional reading of international peace and security, then we fail to locate harms that have so often been ignored by states acting under a more rigid understanding of responsibility for maintaining international peace and security. To understand the motivation to create a moral and political concept such as the R2P requires an acknowledgement that previous state responses were often failing to prevent and react to serious instances of international harm. Consequently, thinking of humanity as only being represented by the international community of states severely limits any ability to discuss how individuals react to these crimes or the moral wrong committed by the perpetrator. In many respects, the interests of humanity in this case are seen as simply interchangeable with state ambitions for securing peace and security.

Through assessing a wide range of approaches to theorising the harm created by crimes against humanity, from both legal theorists and political philosophers, it has been possible to highlight the centrality of the concept of humanity to such debates. However, what has consequently been underlined is the lack of a fully consistent and systematic understanding of the link between crimes against humanity and the moral reasoning behind the responsibility of states to respond to potential threats to humanity, by way of intervention or assistance. Consequently, the question remains open as to how best to conceptualise the harm created by crimes against humanity and thus further systematic theorising of humanity's value and moral worth is required to fully address why states have responsibilities to those threatened by these crimes.

Reconfiguring a Dual Approach to Our Understanding of Global Harm and Humanity

The final section of the chapter brings together some of the key arguments located above in order to reconfigure what I am labelling a "dual approach" to understanding crimes against humanity, that focuses on better identifying the specific role humanity is playing in attempts

to locate a responsibility for states to protect and prevent such crimes. Significant to this reconfiguration will be an emphasis on a *dual conception* of humanity as outlined in Chapter 3, noting the importance of both notions of *humanness* and *humankind* to our ability to qualify how humanity might be harmed. It is through theorising crimes against humanity as threats to both the characteristics of humanness as well as to a collective understanding of humankind, which make it possible to understand such crimes as global harms. This ultimately demands a clearer understanding of the potential impact that a failure to respond to crimes against humanity has not simply on international peace and security or specific human characteristics but more holistically, how global harms directly threaten a collective idea of humanity that must be defended by all human beings.

Furthermore, this approach also draws upon the key role of both reason and harm recognition to our understanding of humanity, in order to fully reflect the impact crimes against humanity have, not just on our ability to create the appropriate social and political conditions to construct moral rules, but also in regard to the visceral nature of violence that connects these crimes back to our shared capacity for empathy. It is through such discussion that it will then be possible to conceptualise how this new theoretical approach can address the current gaps in the literature outlined above, helping to move beyond the *humankind* vs. *humanness* dichotomy. The next stage of this process will therefore require a greater assessment of how the moral ideas relating to harms against humanity, have so far impacted upon and influenced state behaviour at the international level.

Locating Global Harms

Central to assessing why states should respond to those threatened by mass atrocity crimes requires not simply a re-identification of the sovereign rights held by states, but a move towards further recognising the global harms such crimes create and the impact this has beyond the

management of peace and security. To demonstrate the importance of recognising crimes against humanity as specific global harms one must first define why this categorisation is required and what it can explain about the normative motivation for states to response to these crimes that have so far been overlooked. To address this, it is critical to begin by recognising crimes against humanity as challenging a *dual conception* of humanity, represented as both humankind and humanness. In regard to humanness, we need to understand crimes against humanity as attacking a fundamental quality of being human that must at the same time allow us to differentiate acts which might also attack human qualities, but would be understood as domestic rather than international crimes. Maintaining the ability to differentiate as to what is so significant about international crimes is an integral part of being able to locate why the influence of certain crimes can transcend borders. Building on the work of Luban (2004), who has arguably provided the most comprehensive conception of why crimes against humanity threaten both humankind and humanness so far, I will next outline how this criminal prosecution focused understanding can be expanded upon in order to reinforce the recognition of crimes against humanity as global harms, stimulating a collective responsibility to respond.

As stated in the earlier critical discussion, Luban (2004, p.159) defines crimes against humanity as an affront to our human nature as political animals and thus our natural need for the society of others. For Luban (2004, p.160) it is this characterisation of crimes against humanity that underpins why humanity has an interest in criminalizing atrocious violent persecution by organised groups against civilians. In expanding this conception of crimes against humanity to debates concerning the normative responsibility for states to protect and prevent such crimes, one must further conceptualise how the failure to ensure the overall survival of political communities impacts on the international community, in situations where states remain indifferent to such actions. Unlike the responsibility to prosecute such crimes, the decision to intervene is often heavily reliant on locating a more immediate global threat

and has thus led to an over emphasis on security narratives to define state responsibility, as demonstrated by May's (2005) focus on the security principle outline above.

In addressing this one must instead locate crimes against humanity as distinctly global harms. Recognition of crimes against humanity as global harms helps to reinforce the idea that the responsibility to respond to such crimes, on the basis of humanity, requires states to recognise not only the threat to international order or security but the harm caused to a collective idea of humanity when individuals represented as a group are under threat. Focusing on harm therefore captures a threat that is underplayed by a stringent focus on security and order. As Luban (2004) argues, this harm is to a central characteristic of human beings, the social nature of our political belonging. In this sense, our humanness is defined in terms of our status as political animals; crimes against humanity subsequently threaten this distinctly human status, violating the individuality and sociability of victims in tandem (Luban, 2004, p.120). Consequently, it is the threat to political life and its potential destruction that reinforces a collective need for humankind to repress these crimes and make sure sovereignty cannot provide a shield from culpability (Luban 2004, p.91).

However, there is arguably another vital element to normatively conceptualising crimes against humanity as global harms, which is underplayed in Luban's theoretical account. This harm must be understood in relation to the visceral nature of the violence used by perpetrators against specific groups, which so often defines crimes against humanity and becomes the driving motivational force for building a common moral empathy for collective state action. Thus as Zagor (2011, p.290) has argued "an effective principle of humanity both incorporates and necessitates a sentiment of empathy". This reality can be most comprehensively expressed in the consistent link made to crimes against humanity as supposedly "conscience shocking" in nature. The use of such phrasing can be viewed as an attempt to try and capture the extreme level of violence that is used by perpetrators to inflict a particular harm on individuals of a

particular human group association. In this regard, moral aversion to such crimes does appear to tap into an essentially human response to this form of violence, most often a shared outrage or shock as to the capability of humans to commit these crimes.

Central to this moral outrage is not only the potential destruction of political life but a type of extreme violence that is built on the will of the perpetrators to choose who can remain part of our common humanity and who cannot. Furthermore, this form of violence often takes the form of specific actions that seeks not to just kill or injure the victim, but represent an attempt to remove or degenerate their status as a human being through extreme violations of human dignity. This has often included acts such as torture, rape, sexual slavery, and extermination on considerable scales. In this sense, such crimes represent a move to normalise forms of dehumanisation that directly challenges our collective understanding of human status and work to fundamentally undermine ideas of bodily integrity. The whole of humankind therefore has an interest in limiting the ability of anyone who chooses to use violence as a tool to butcher humanity and the social groupings human beings can exist in.

However, as this chapter has highlighted the connection between the shock of extreme violence and empathy does not alone capture the global harm of crimes against humanity. Consequently, when describing crimes against humanity as global harms we must understand these acts as both an affront to our collective human nature as political animals and thus our ability to generate moral rules in which to live by; as well as acknowledging how this form of violence is used as a tool to not only destroy political association but to decide who has the opportunity to exist in groups and who does not, through acts of violence that directly aim to disfigure the individual human status of the victims.

Conceptualising crimes against humanity through this distinct dual approach makes it possible to acknowledge the significant implications such global harms have for both the

potential security of international order, caused by the breakdown in political association, as well as the potential longer term effects of legitimising practices of dehumanisation that attempt to radically alter shared conceptions of human dignity. It is through this reasoning that we can stake a claim to the need for all states to offer protection on behalf of a common humanity to whoever is threatened, wherever they may be. Allowing certain states and organisations to use violence to try and dramatically expel specific groups from humankind, whilst at the same time directly challenging central characteristics of humanness, must be understood as a fundamental threat to not only the diversity of humanity but to the continued existence of group association as a universal and distinct human characteristic shared by us all globally. It is this understanding of crimes against humanity that makes it possible to define these acts as truly global harms. Consequently, this chapter has reinforced the complexity of the threat created by mass atrocity crimes which has at times been underplayed in the current literature. Through applying a *dual conception* of humanity, supported by appeals to the centrality of reason and harm, the chapter has underlined the importance of acknowledging interconnected harms that generate moral obligations to not just prosecute these crimes but protect and prevent them as a matter of urgency.

Conclusion

To conclude, this chapter has demonstrated the significant values placed on the concept of humanity and has articulated a clear theoretical and normative understanding of how these values can be threatened. As Luban (2004, p.90) argues "the central questions for any theory of crimes against humanity are how these deeds violate humanness, and why they offend against all humankind". The chapter has thus put forward a distinct dual approach to conceptualising crimes against humanity that emphasises the centrality of political association to a conception of humanness, as well as highlighting a collective threat to humankind, when we allow the perpetrators of extreme violence to decide who can coexist as individuals, based

simply on group affiliation. Together, this understanding of crimes against humanity as an attack on humanity understood through both humanness and humankind, provides a comprehensive reply to the question of why humanity matters and ultimately why states should have a responsibility to respond to crimes against humanity beyond their borders. We thus need to locate the harm of crimes against humanity, not simply as enforced by a collective solidarity between peoples in regard to a shared aversion to suffering, but as part of a larger collective ambition to limit harms that challenge the ability of humans to co-exist (Linklater, 2011). However, whilst there may be a clear moral link between crimes against humanity and the responsibility of states to respond, the complexity of this relationship requires further examination.

As this chapter has highlighted, without greater philosophical scrutiny of our understanding of mass atrocity crimes and their connection to humanity, it is not possible to fully draw the link between the legal and moral right of intervention in the first place. The arguments in this chapter have thus provided the foundation for an understanding of why certain crimes must be seen to challenge the common humanity we share. In developing this argument further, the thesis will next examine how both moral appeals to humanity and its application to international law, founded in concepts such as crimes against humanity, have impacted upon the political decision-making of UN member states in responding to mass atrocity crimes across the globe. This will be crucial to exploring what impact the introduction of the R2P concept is having on this process, in particular, assessing its role in supposedly strengthening the moral obligations that are created by our common humanity.

Chapter 5: Humanity and its International Codification

Introduction

If the R2P is to be understood as a moral imperative deriving from our common humanity (Welsh, 2014b, p.127), and thus appeals to humanity remain integral to the normative justification for states to change their behaviour, then to what extent can humanity be seen to generate the sufficient political will to persuade states to fully respond to mass atrocity crimes? Central to addressing this question will be the need to first examine how appeals to humanity's *emotional pull factor* have shaped state behaviour at the institutional level. Consequently, what this chapter will demonstrate is the significantly uneven development in how states acknowledge the specific harm generated by mass atrocity crimes and frame their response accordingly. In order to chart this reality, the chapter will focus specifically on debates surrounding the issue of international peace and security and threat expansion, in relation to how the UNSC categorises the threat posed by mass atrocity crimes. In doing so the chapter will trace how the challenge of expanding the focus of the UNSC in terms of threat identification has ebbed and flowed over time, highlighting the complex role humanity has played in such discussions and thus challenging claims to its linear and teleological impact. What this historical analysis will demonstrate therefore, is the lack of a consistent pattern in the way both the UNSC and individual states have chosen to categorise the scope and impact of mass atrocity crimes, despite consistent rhetorical claims to the distinct threat they are argued to pose to our common humanity. In this sense, notwithstanding the creation of the R2P concept and the political agreement to four specific mass atrocity crimes, outlined in the 2005

WSOD, the threshold for dictating the point at which consensus can be forged in order to avert mass atrocity crimes continues to remain highly contentious. What this suggests in terms of the broader argument put forward by the thesis, is that the moral cause of humanity and calls for its protection have not directly reinforced the role of the R2P as distinct motivator for "converting a shocked international conscience into decisive collective action (Thakur, 2015, p.23). Consequently, it remains critical to explore how normative arguments concerning the motivational qualities of humanity feed into current debates concerning the R2P's implementation gap and how it can be addressed.

The chapter is structured as follows. First of all, the chapter will highlight a number of important points of contention within the current R2P literature and thus reinforce the need to develop greater understanding of how the R2P interacts with the current UNSC architecture. Secondly, the chapter will trace the relationship between sovereignty and the UNSC's interpretation of threats to international peace and security, focusing on how ideas of humanity and human protection have helped to forge new approaches to categorising threats and thus further challenged traditional interpretations of sovereignty. Following on from this analysis, the chapter will revisit debates in relation to the construction of the R2P concept, in order to assess the extent to which state agreement to the 2005 WSOD marked a significant shift in how states identify and react to threats to peace and security. In the third part, the chapter will briefly interpret the first 12 years of the R2P in practice, in order to highlight the limitations of its ability to forge new consensus on the scope of the UNSC's primary obligation. The chapter will then demonstrate how recent failures to bring about agreement on the scope of the UNSC's responsibilities have reignited normative debates concerning the need to further restrict the UNSC's discretion when it comes to identifying threats to international peace and security. In this sense, there has been an increased call for the UNSC to prioritise the moral value of humanity in mass atrocity crime situations, over all other interests. To conclude, it will be

argued that despite an increased focus on the motivational force of humanity, states have so far been unwilling to acknowledge potential restrictions on how they interpret threats to international peace and security. Consequently, rather than understanding recent developments in threat expansion as part of a fixed linear progression, one defined by a continual increase in state response to human suffering and the protection of a common humanity (Tietel, 2011), the chapter concludes by emphasising how the interaction between humanity, sovereignty and more traditional conceptions of threats to international peace and security have continually clashed, generating a process of development that has ebbed and flowed across time. Moving forward, the next chapter will analyse in more detail the limits of humanity as a motivating principle, and the extent to which this strict focus on the motivational function of humanity, has in fact led to an oversimplification of the complex processes behind state practice in regard to mass atrocity crime prevention and protection.

Humanity and the United Nations

The focus of chapter is framed around the workings of the United Nations and the interaction between state actors in constructing its agenda and normative goals. The justification for this focus is twofold, firstly, the UN can be argued to represent "the most vocal and visible space in which the contesting claims of universality and particularity in our globalized world find expression" (Mazlish, 2009, p.12). In this sense, it is the central forum through which states can be seen to debate their responsibilities to others. Thus, as Mazlish (2009, p.86) goes on to argue, one can highlight the UN Secretary-General in particular, as having a key role in commanding appeals to moral authority, generated through the authority of supposedly speaking for humanity. Furthermore, the UN Charter also plays a critical role in this process, with the understandings it embodies remaining "integral in shaping international consensus on rightful conduct" (Gallagher, 2013, p.71). In this regard, the UN itself must be understood as the institution that can arguably claim to be most representative of the interests of the

international community (Cannizzaro, 2014, p.211). Secondly, the UN can therefore be seen to act as the central forum in which the complexities of the relationship between the R2P concept and the normative power of humanity are played out. As the ICISS (2001, p.48) document argued, the United Nations is an organisation that has "the capacity (if not always the will) to deal with the whole spectrum of peace, security and human protection issues". In this regard, the UN provides a key point of reference for examining how state action and decision-making on intervention and prevention practices have evolved over time, and thus makes it possible to trace the development of the R2P's position within the UN's institutional structure alongside its relationship to competing normative interpretations, which have continually shaped its construction and application. Therefore, it can be argued that the UN and its organs have begun to increasingly derive their "jurisdiction to police the conduct of governments not only from state consent, but also from their role as executive agents of an international community that represents our common humanity" (Orford, 2013, p.104).

Consequently, the chapter focuses on a key interaction between the UN's structural design and the R2P concept, namely how the R2P challenges states to reinterpret their understanding of threats to international peace and security. This relationship is one that strikes at the heart of a much wider debate concerning the role of the UNSC in a global system, which looks increasingly different from the one that developed the original UN Charter in 1945. Central to the R2P is the need to forge greater consensus on the responsibilities and obligations states and the international community must now manage in order to better protect human dignity and our shared humanity. As the previous chapter highlighted, these are both values that are symptomatic of what we might refer to as the post Holocaust era, one in which states have begun to consider, yet often inconsistently, the wider implications of mass violence and grave human rights abuses to the overall maintenance of international peace and security (Weinert, 2015). The R2P is therefore a central part of this movement and one that seeks to

redefine the behaviour and actions of states within the international system. Thus, as Orford (2013, p.84) argues, one can point to the creation and emergence of the R2P principle in recent decades as an "insight into the place that moral arguments now occupy in internationalist debates", whereby moral appeals to concepts such as humanity, are seen to have generated greater enthusiasm for the reform of global institutions and laws.

It is through an analysis of this relationship between humanity and state conduct that it will be possible to challenge key assumptions regarding the significant impact the R2P has argued to have had on addressing the dual question of when can sovereignty be overridden and what acts constitute legitimate grounds for such action. Consequently, through an emphasis on recent UN practice, it is possible to highlight the limitations of humanity's motivational influence and thus bring into question the future trajectory of R2P's normative progression. This will be expanded upon in greater detail in Chapter 6.

Contesting the Scope of Humanity's Expansion

For advocates of the R2P, such as Ramesh Thakur (2015, p.11), there is a consistent assumption that "in the policy community, the principle per se is no longer contested but how best to implement it". Central to the theoretical strength of the R2P is thus argued to be its assumed ability to build greater consensus on the incidents that are deemed to require a significant response by the international community, in order to protect and prevent mass atrocity crimes. However, the framing of the debate in this example specifically overlooks how the R2P must interact with UN procedures of threat identification, whereby the UNSC must first forge agreement as to the scope of specific threats faced by populations across the globe before states can then work to implement the R2P in practice. In this sense, it is not simply that states disagree over who bears the responsibility to act and how, but is also still a debate as to what cases constitute international attention in the first place. The ability of the R2P to influence

how states now interpret the UN Charter and existing international law is therefore key to its future normative development, not only its invocation.

Due to the assumptions made as to the policy consensus on the R2P, it has often led advocates to claim that the R2P has significantly clarified how states now understand what constitutes a threat to international peace and security (Hubert, 2010; Evans, 2009). Highlighting the 2010 interactive dialogues on R2P as a critical moment of development, Serrano (2011, p.9) argues that these debates "made manifest a growing understanding of mass atrocities as threats to international peace and security and so meriting properly authorised international action". This development during UNGA debates is thus seen to be central to providing "the context for the unanimous condemnation of brutal actions against civilian populations in Côte d'Ivoire and Libya", whereby it would be difficult to "explain the readiness of the UNSC to respond, in a "timely and decisive manner" without the broad consensus built around the R2P (Serrano, 2011, p.11). This was further reinforced by Bellamy (2011, p.264) who claimed that following the Libyan intervention "the Council has now set a precedent that it will not be inhibited as a matter of principle from authorizing enforcement for protection purposes without host state consent". Yet in contrast to this reading of the R2P's influence on the expansion of threat identification, recent practice within the UNSC concerning cases such as Syria, Central African Republic and Burundi,[8] paint a far more complex picture. Moreover, it remains important to note that the readings of the Libyan intervention put forward by Serrano and Bellamy remain highly controversial, in which the consensus on the role of the R2P as a key motivational principle driving the 2011 intervention, is hotly contested (Morris, 2013). Subsequently, as the chapter will also examine, state agreement to the recognition of four core

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[8] See: Cinq-Mars, E. (2016) *How the world failed the Central African Republic*. Available at: https://www.washingtonpost.com/news/in-theory/wp/2016/02/18/how-the-international-community-failed-the-central-african-republic/ (accessed December 10 2016) and Rugiririza, E. (2016) *What Hope for Burundi After All the Failed Initiatives?* Available at: http://www.justiceinfo.net/en/component/k2/25479-what-hope-for-burundi-after-all-the-failed-initiatives.html (accessed 12 December 2016).

crimes, enshrined in the R2P principle, has not put an end to debates concerning when domestic incidents of mass atrocity crimes constitute threats to international peace and security and thus the moral threshold as to when such crimes are deemed to have a global impact. In this sense, the UNSC has continued to be divided in regard to the scope of their collective moral concern in R2P situations.

In contrast to the positions taken by R2P advocates, Graubart (2015, p.207) has argued, that despite the UNSC's gradual expansion of the meaning of Chapter VII's threats to international peace and security, the R2P, up until 2011, had not categorically declared that "a domestic mass atrocity is sufficient for authorising force" rather that there needed to be "tangible evidence of a threat to international peace and security – meaning cross-border dimension". Moreover, whilst the reference to R2P within the 2011 Libyan Resolution 1973, was reflective of a move to address this lack of clarification, the appeal to Pillar I of the R2P was used predominantly to reinforce the responsibility of the host state to deal with such atrocities, and can therefore be seen as an attempt to reconfirm state autonomy and responsibility rather than that of the international community to respond. Subsequently, in the aftermath of the intervention the decision to rely on the imminent threat of mass atrocity crimes rather than the cross border threat to international peace and security, remained contested, and has thus led to further friction in the UNSC regarding the limits of threat expansion (Graubart, 2015, p.215). In light of this, Fraser (2014, p.212) has argued that the recent lacklustre international response to the Syrian crisis can be seen to be "symptomatic of the general inconsistency with which the UNSC refers to R2P in its determination of international peace and security".

Consequently, it has led some to suggest that "the R2P does not have any implications for the decision-making in the SC" (Oellers-Frahm, 2014, p.206). In this sense, despite the R2P reinforcing the need to legitimate "intervention in cases that are not of an interstate character",

the process of authorising intervention remains the same (Oellers-Frahm, 2014, p.186). Which is enshrined in the decision of the UNSC and underscored by the procedures laid out in article 27 of the UN Charter. In this regard, whilst the R2P is still grounded in the legal foundation of the 1948 Genocide convention (Arbour, 2008) the R2P does not introduce any new legal obligations or attempt to re-write UNSC procedure concerning the imposition of coercive action against another state, by the international community. Because of this, the R2P is in fact better understood as a distinctly moral imperative, rather than a legal one (Tacheva & Brown 2016), whereby the moral imperative is grounded most strongly on the concept of a common humanity (Welsh, 2008, p.105). Understanding the normative dimension of the R2P in this way therefore opens up the question as to what extent the R2P, underpinned by the motivational capacity of humanity, can further encourage states to recognise a more expanded concept of threats to international peace and security? This is a question that has remained unanswered in the R2P literature and one that needs to be addressed in order to better clarify the scope of the R2P's influence on UNSC action, as well as the role the concept of humanity plays in underpinning the motivation for such behaviour. However, in order to fully understand how the R2P has sought to change state behaviour and practice in relation to mass atrocity crimes, it is crucial to thoroughly examine what impact moral claims to humanity have had on UN procedures before the R2P's development.

Managing International Order: Sovereignty and Threats to International Peace and Security

Before beginning to assess the role of concepts such as humanity, in influencing an expanded conception of what constitutes a threat to international peace and security, it is vital to first briefly clarify the relationship between sovereignty and the management of international peace and security. This is important, for a number of reasons, but most significantly because, despite the development of the R2P principle, it is still the legal framework through which any coercive

intervention must be authorised by the UNSC, for humanitarian purposes. In this regard, whilst R2P advocates have predominately focused on the importance of re-framing sovereignty,[9] the introduction of a broader understanding of sovereign responsibility does not automatically address the issue of when internal acts by a state may be seen to threaten international peace, and thus the engagement of the UN Charter. Subsequently, as the UN Charter outlines, the principle of non-intervention is contained in Article 2(4) and is further supported by Article 2(7), which prohibits the UN from intervening "in matters which are essentially within the domestic jurisdiction of any state". The clear qualification to this principle is then contained in Article 24, which confers responsibility for the maintenance of international peace and security on the UNSC (Martin, 2011, p.166). The powers to enforce this responsibility are contained within Chapter VII, which stipulates that any necessary measures can be taken, including force, in order to maintain or restore international peace and security. Consequently, the justificatory mechanisms for agreement on coercive action for protection purposes, leading to the bypassing of state sovereignty, is closely tied to how the UNSC decides what should be seen to constitute a threat to international peace and security. However, it is vital to qualify at this point that the idea of justifying humanitarian motivated action through this process is a relatively new reality and one that only began to gain traction in the final decade of the 20th century. As this section will explore, understandings of what constitutes a threat to international peace and security remain fluid and have thus continued to be influenced by a wide range of moral, political and legal claims over the last seventy years.

Certainly for much of its history the UNSC has held a restricted conception of threats to international peace and security. As Fassbender (2002) argues, the founders of the UN took the idea of international peace and security to essentially refer to the prevention of another

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[9] As the thesis will examine in Chapter 7, the conditionality of sovereignty existed long before the creation of the R2P (Glanville, 2013), and thus in many ways the explicit focus on sovereignty has often led to an over exaggeration of its impact on hampering humanitarian action.

major war that could potentially "shake the foundations of the established state system and threaten the survival of humankind", as opposed to the protection of civilians from interstate violence. Thus, the creation of the Charter was an attempt to maintain the status quo through averting further large scale interstate war (Fassbender, 2002). The five permanent members of the UNSC were therefore given veto rights on the UNSC, but at the same time were also burdened with a special primary responsibility for the maintenance of international peace and security. As such, it was not originally thought that the actions of the UNSC would be guided by "universally shared values such as the protection of human lives and human rights", due to the overriding responsibility of the P5 in their role as maintainers of the peace (Nasu, 2011, p.391). However, in the Post-Cold-War era there has been a significant shift in global security objectives. This has been caused in part by a decline in outbreaks of interstate wars, an increasing need for the UN to manage the impact of civil wars on international order and a growth in human security initiatives. This has ultimately led to a slowly broadening notion of international peace and security (Weinert, 2015, p.91). As Weinert (2015. p.91) argues, we might now consider it a central aim of the UNSC and the UN to "try and counter dehumanizing realities by encouraging forms of responsibility that deliver on the promise of protection". Furthermore, as Tardy (2007, p.60) also points out, the question that is increasingly being asked of the UN is, not only how best to ensure international peace and security as defined by the 1945 state centric system, but also "whether the organization is able to meet popular expectations when individual security is threatened and ethics demands that action be taken".

Nevertheless, the extent to which the UNSC has been willing to accept the increasing expansion of threats to international peace and security, in particular those to human suffering, has been vehemently contested. Part of this contestation lies in the fact that the UNSC is a legal body which is able to create legally binding resolutions, authorised by the UN Charter, on matters of international peace and security; but at the same times as Doyle (2015, p.116)

highlights, it is also a "political body, authorised to decide based on its own judgement of what constitutes threats to the peace". This combination has a significant impact on the ability of the UNSC to consistently act upon the number of security threats it is now demanded to consider. The result has often been a growing criticism of the UNSC's fit for purpose in the 21st century (Amnesty International, 2012). But before one can begin to examine how the current procedural workings of the UNSC are now being challenged, it is vital to trace how the concept of threats to international peace and security has developed over time and the response of the UNSC in adapting to this changing global reality. This will be crucial in order to later highlight the limitations of viewing the R2P as a distinctly new approach to building consensus on the authorisation of measures to protect and prevent mass atrocity crimes.

The Broadening of Peace and Security (1945 – 1999)

The Cold War period after the creation of the UN Charter continued to be defined by what one might refer to as a negative or traditional reading of international peace and security, whereby threats "were confined to the absence of inter-state intervention" and thus marked a general indifference by the UNSC to the internal actions of states, which were seen to constitute purely domestic matters (Buchan, 2013, p.100). In this sense, the UNSC would most often reject jurisdiction over internal conflicts and human right abuses if involvement would infringe on actions that had no clear international repercussions (Manusama, 2006, p.57). Yet in spite of this dominant reinforcement of state sovereignty, there were a number of times when the UNSC did begin to consider the scope of how it defined international peace and security, perhaps most importantly in the case of South Africa and Rhodesia in the 1960s and 70s.

The UNSC's decision to challenge the actions of South Africa, in their attempt to export apartheid to Southern Rhodesia, has been suggested to represent a significant move by the UNSC to begin responding to "human welfare and dignity (Weinert, 2015, p.101). As Weinert

(2015, p.100), argues, this was one of the first instances in which the UNSC was prepared to "expand the parameters of the meaning of international peace and security by including in its calculus systematic violations of human rights" and thus expanding its focus on the domestic impact of state actions. Consequently, Resolution 221 was adopted by the UNSC, implementing sanctions and constituting that the situation in Rhodesia represented "a threat to the peace" (UN, 1966, S/RES/221). For Weinert, (2015, p.103) this case is therefore argued to represent a distinct move by the UNSC "toward advancing a conception of human dignity". However, it is important to highlight at this stage, that the UNSC's engagement of Chapter VII in relation to Southern Rhodesia was also heavily motivated by "a desire to protect the territorial integrity of the sovereign state and the UK" (Buchan, 2013, p.103). Furthermore, as Fassbender (2011, p.3) has claimed, these actions were very much situated in "the special context of the fight against colonialism and racial discrimination" not as direct action against the violation of human rights and international law. Nevertheless, this incident can be seen as an early example of the emergence of a "nascent international community" beginning to form, one that was potentially more responsive to the threat of violent human suffering and abuse (Buchan, 2013, p.103). Furthermore, as Dunne and Staunton (2016, p.48) argue, examples such as this demonstrate how "international peace and security was increasingly being understood in ways that were only intelligible in relation to claims about the justice and protection of peoples". Consequently, the South Rhodesia case in particular, represents a significant precursor to a distinctly post-Cold War turn towards greater recognition of the human element of security policy. It is thus argued by de Wet (2004, p.150) to be representative of an emerging "double strategy", in which the UN would utilise "the impact of a situation within a country on international relations to address the internal situation itself under Chapter VII of the Charter". This "double strategy" would come to be more widely implemented by the UN in the following decades.

The beginning of the Post-Cold War era brought with it a new verve for redefining the parameters of the UN's responsibility, underscored by new thinking around the limitations of the UNSC's traditional interpretations of international peace and security and the idea that strict adherence to this more negative reading of the UNSC's responsibilities could in fact be harming human rights (Fassbender, 2011). This was perhaps best articulated at a UNSC meeting on 31st January 1992, in which heads of state acknowledged that the nature of maintaining international peace and security was changing. It was therefore declared that the "absence of war and military conflicts amongst states does not in itself ensure international peace and security" and that "non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security" (UN, 1992b). Consequently, what the interventions of the 1990s clearly demonstrated was a move to try and include the threats posed by 'failed states' and ethnic conflicts as part of a shared understanding of global security threats in an attempt to broaden the legitimacy of the use of force in such situations (Del Sarto, 2006, p.508). However, as Yamashita (2007, p.567) highlights, the UNSC at this time still viewed grave human rights violations and humanitarian crises as being in some way "unique" and requiring "exceptional measures", demonstrated by resolutions on the situations in Northern Iraq and Rwanda. The use of such wording was particular to this type of threat and therefore suggests that the idea of human rights abuses as a threat to international peace and security had not yet matured, and thus lacked fully-fledged recognition as legitimate ground for Chapter VII action (Yamashita, 2007, p.567). Consequently, this can be demonstrated in UN Resolution 688, which focused on the repression of the Kurdish population in Iraq. Whilst the resolution expressed concern at the magnitude of human suffering, the threat to international peace and security was in this case clearly identified as the "massive flow of refugees towards and across international frontiers" (UN, 1991). Similarly, in the case of Rwanda in 1994, the UNSC referred to the situation as "a unique case" but sought to limit its

scope as representing a threat to peace and security in the region rather than internationally (UN, 1994). As Hurd (2012a) notes, both these examples highlight how the UNSC was beginning to change and adapt its language in order to try and legitimise humanitarian problems as part of the international peace and security architecture. Thus, the threat determination of serious human rights abuses was at this point most often made on the basis of multiple threats to the region, in which the humanitarian element is combined with the potential threat of interstate conflict (Yamashita, 2007, p.567).

Yet, in contrast to these two cases, the UNSC was on occasion able to detach the more traditional security threats caused by mass atrocity crimes, such as refugee flows across borders, from the harm of grave humanitarian suffering as a threat in and of itself. This was perhaps best demonstrated in the case of Somalia. Following the ousting of President Mohammed Said Barre in 1991, the country sparked into civil war, as persistent heavy fighting erupted in the capital Mogadishu. In response to the escalating violence and human suffering, the UNSC passed resolution 794 in 1992, firmly stating that "the magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security" (UN, 1992a). Whilst there was certain uniqueness to the Somalia situation in which the government had completely collapsed, thus placing the UN as an unofficial trustee role (De Wat, 2004, p.157), it did nevertheless represent a significant moment in which the UNSC was able to recognise the impact grave human rights abuses can have beyond a threat solely to territorial space (Buchan, 2013, p.112). The unanimous adoption of the resolution was thus a landmark in the development of state understandings of threats to international peace and security where for the first time the UNSC had been able to view human suffering as a distinct threat, and thus authorise action under Chapter VII accordingly (Glanville, 2013, p.184). Yet this high water mark for moral responsibility was in direct contrast to a number of serious

failings by the UNSC later in the decade, most significantly the UN response to the Rwandan genocide in 1994, which can be seen to have left a lasting mark as to the sustainability of this initial progress towards recognition of human suffering (Hehir, 2013a, p.46). Whilst there may have been an increasing "double strategy" approach by the UN during the 1990s, linking internal situations to a wider regional impact of human rights violations, there remained a certain uniqueness or exception to each situation, which was central to generating consensus (Yamashita, 2007).

What this period represented was a gradual growth in states becoming more susceptive to the potential of mass atrocity crimes and extreme human suffering to directly threaten international peace and security. Furthermore, it saw interventions by the UNSC that can be seen to have further eroded absolute conceptions of sovereignty, and demonstrated that in certain circumstances "local actors claiming to uphold national sovereignty" could be overridden (Carter and Malone, 2016, p.279) Underpinning this shift, was an increasing emphasis on the responsibilities states had to a collective humanity, with humanity playing an increasingly important role as an identificatory and reflective concept. In this sense, states had begun to identify distinct human harms that required the UNSC to re-think how it might best address such acts moving forward. However, most significantly, the decade cannot be seen to represent a significant deepening of humanity's motivational push factor, towards forging greater moral support for action. In the UN resolutions examined above, it was most often the case that the prevention of human suffering was reduced to an instrument for achieving an alternative goal, that of regional security, as opposed to being recognised as a goal in and of itself (De Wet, 2004, p.143). As the 1999 independent inquiry into the UN's failure in Rwanda would conclude, "there was a persistent lack of political will by member states to act or to act with enough assertiveness" (UN, 1999). Furthermore, as Bellamy (2014, p.52) acknowledges governments with the capacity to act at the time clearly prioritised other interests and priorities

that led them to avoid committing resources for protection of Rwandans from genocide, as will be explored in more detail in Chapter 7. Thus, despite the UNSC's identification of the potential threat to peace and security in the region the response of the UNSC was wholly inadequate for the protection of those threatened. The decade therefore represented a growing ambition for the expansion of threats to international peace and security, highlighted most significantly by the agreement of UN Resolution 794 regarding the situation in Somalia, however, the scope and ambition of the practical responses put forward by the UNSC during this period could be seen to suggest that there still remained a considerable lack of political will to fully support extensive UN missions with the sole aim of protection.

Bringing in Humanity: Sovereignty and The Development of the R2P

Without going over the construction and development story of the R2P again in too much detail, there are a number of critical points that need to be raised at this stage in order to better explain how the development of moral claims to the protection of humanity became increasingly connected to the question of "how much shock is required to trigger intervention" (Ludlow, 1999)? In an address to the UN General Assembly in September (1999a), Secretary-General Kofi Annan challenged the member states of the UN to "find common ground in upholding the principles of the Charter, and acting in defence of our common humanity". This potentially contradictory statement first highlighted the need to create a new form of conditional sovereignty, through which common humanity could be fully defended alongside the goal of maintaining peace and security. Inherent in this statement is the belief that the UN must better represent humanity in order to maintain its legitimacy as a force for peace and justice, whereby states must be prepared to act in the name of a "collective conscience of humanity". Consequently, it is possible to argue that Annan was appealing to an understanding of humanity that aimed to incorporate the collective harm caused by mass atrocity crimes and thus significantly redefine international peace and security accordingly. This is a conception of

harm ultimately rooted in an understanding of humanity, whereby one can present a moral argument that underpins why such crimes are considered an affront to our shared humanity.

In attempting to construct this shared collective responsibility the document wrestled with a significant dilemma, how to reconcile the UN's foundational principle of member state sovereignty and the accompanying primary mandate to maintain international peace and security with the growing emphasis on the interests and welfare of people within those states (ICISS, 2001). In UN Charter terms, it required finding a way to balance the objective of trying to "save succeeding generations from the scourge of war" whilst at the same time sufficiently protecting "we the peoples of the United Nations" (UN, 1945). In response, the ICISS report was explicit in recognising that the UNSC has increasingly taken a very expansive view as to what constitutes international peace and security, whereby the cross-border implications of such threats have been limited. The document therefore proclaims the rise of an "emerging guiding principle of the responsibility to protect" which recognises "state practice in regard to reconciling a state's obligation to peace and security and humanity" (ICISS, 2001, p.50). This statement is important as it encapsulates a clear attempt to establish a further responsibility for UN member states to live up to. In this sense, the R2P must go beyond simply redefining and expanding what is considered a threat to international peace and security and instead distinguish a clear competing responsibility to a collective humanity that may at times be separate from the UNSC's primary responsibility to the maintenance of international peace and security.

The idea of humanity, itself being the concept under threat is also implicitly suggested in the framing of the documents understanding of peace and security. It is therefore argued that there may be situations in which there is significant loss of human life, yet no "direct or imminent threat to international peace and security in the strict sense" (ICISS, 2001, p.52). In this regard, the proposal calls for states to recognise threats to humanity that may go beyond

international peace and security. The motivation for the expansion of this understanding must be understood in relation to the concept of humanity. This is articulated by the argument that mass atrocity crimes pose the most serious threat to the very ideals humanity is built upon; "Nothing has done more harm to our shared ideal that we are all equal in worth and dignity, and that the earth is our common home than the inability of the community of states to prevent genocide, massacre and ethnic cleansing" (ICISS, 2001, p.75). As Glanville (2012, p.10) argues, whilst there was no legal argument offered, a moral argument was expressed through the demand of our common humanity, and by the need to deliver 'practical protection for ordinary people, at risk of their lives'. The ICISS report therefore explicitly states a need to "strengthen the prospects for obtaining action…. in response to conscience-shocking situations of great humanitarian need" (ICISS, 2001, p. 74). This statement again reinforces the centrality of the moral principle of humanity to the motivational strength of the overall R2P concept. Preventing and reacting effectively to mass atrocity crimes must therefore be considered a universal goal for the international community, based upon the importance of human dignity to the management of international society. This is deemed critical for ensuring a significant moral claim made in the proposal, that the R2P can provide the best way to ensure no more Rwandas (ICISS, 2001, p.VIII).

In this sense, as Fraser (2014, p.205) argues, the ICISS report "articulated a moral appeal to elevate the prevention of, and end to, human suffering above the principle of non-intervention in the UNSC's determination of threats to international peace and security". Thus, the ICISS document can be seen as clearly having a human security focus, particularly in regard to the security of the individual and the emphasis on government responsibilities to prevent and react to human insecurity (Fraser, 2014, p.204). What the ICISS proposal is pledging then, is for states to finally consider the impact of mass atrocity crimes on our collective humanity, in order to move beyond the deadlock caused by a restrictive interpretation of peace and

security. As the ICISS (2001. p.74) document states, one of the key aims of the R2P must be to "help stimulate support for action by reminding states of their common responsibilities". Thus, implicit within the ICISS document framework is the assumption that preventing major atrocities in the future requires states to place the demands of a common humanity and human security above narrower debates concerning the categorisation of threats to international peace and security.

In contrast the 2005 agreement to the WSOD can be seen as part of a process to "bend the meaning of international threats to peace and security", as understood in Chapter VII, by broadening the standard for authorising the use of force whilst at the same time restraining its application to four core crimes, namely genocide, crimes against humanity, war crimes and ethnic cleansing (Doyle, 2015, p.144). This was a process aimed at alleviating the previous failures of the UNSC to adequately protect those threatened by mass atrocity crimes, through building further consensus on the legitimacy of force to protect populations, as well as reinforcing the need for states to consider the potential impact mass atrocity crimes have on their ability to maintain international peace and security. In other words, the agreement aimed to rectify the way states have inconsistently conceptualised what constitutes a threat to international peace and security whilst at the same time better defining the parameters in which states can make use of force to intervene in the sovereignty of other states. This can be argued to assist states in defining their political responsibilities to both their own populations and the international community at large, outlining the threat of mass atrocity crimes as a central element of the P5's primary responsibility for the maintenance of international peace and security (Doyle, 2015, p.144). The 2005 WSOD therefore creates a politically driven agreement asking states to now consider how domestic based crimes can directly threaten international peace and security but does not place any new legal obligations on states that would demand a more consistent application of protection for mass atrocity crimes.

Subsequently, it is critical to acknowledge how the 2005 R2P agreement expands the political scope of identifying threats to international peace and security, but at the same time rejects the idea of specific harms to the collective idea of humankind and common humanity as constituting sufficient grounds for intervention. Thus, the 2005 agreement narrows the possibilities of implementing collective responsibility, whereby it is "no longer the challenging framework of common humanity which creates the moral responsibility, but rather the specific political commitment of states to act through the UN to address potential or real atrocities" (Welsh & Banda, 2010, p.225). The 2005 WSOD is therefore argued by Waldorf (2015, p.56) to have shifted the focus from "moral judgments about what shocks the conscience of humanity (ICISS, 2001) to legal determinations about what violates international criminal law" and is seen to a have replaced "subjective moral judgments (and selective political decisions) with something more consensual and more consistent". However, whilst there is clearly an attempt to define the parameters of accepted intervention practice within the framework of four core crimes founded in international law, the mechanisms for the implementation of protection forces are still reliant on a process of political debate, which ultimately concerns the moral hierarchy of identifying threats to international peace and security. In this sense, there was a clear desire to maintain the political element of R2P, which arguably led to the dilution of the R2P in the 2005 WSOD, particularly in regard to "the removal of references to criteria for action" (Morris, 2016, p.8). Thus, as Botte (2015, p.1033) argues, "the R2P is above all, a concept developed to remove threats to international peace and security" and as such, the UNSC as a political body is authorised to decide based on its own judgement, what it views as constituting a threat to international peace and security and the hierarchy of such threats (Doyle, 2015, p.116).

The commitment to R2P is therefore based upon the responsibility to take collective action in accordance with the UN Charter when "national authorities are manifestly failing to

protect their populations" (WSOD, 2005). Subsequently, as Hurd (2012a, p.13) points out, the concept is "necessarily limited by the legal framework provided under the charter" and "does not create any additional exceptions to the prohibition on the use of force under the Charter". Thus, the 2005 agreement must be understood as reinforcing existing, but fragile, state agreement as to the potential of mass atrocity crimes to threaten international peace and security, rather than an attempt to create a distinctly new responsibility founded in the respect of human dignity and common humanity. As a consequence, states do still face what Gallagher (2012, p.343) has referred to as a "clash of responsibilities", "between the international responsibility of states to assist other states and the national responsibility of states to pursue survival within anarchy". The R2P agreement does not therefore demand states to recognise the core crimes of R2P as always constituting threats to international peace and security but does reinforce a political pressure for states to understand them as such, on a case-by-case basis.

Thus, as Brown (2013, p.440) acknowledges, "states do not simply clear their in-trays and abandon all other considerations when faced with gross violations of human rights". In this sense, the UNSC's primary responsibility remains to the maintenance of international peace and security, whereby the R2P mainly generates enhanced legitimacy for mass atrocity crimes to be considered as direct threats to peace and security. The ability of the UN to activate responses remains premised on a "political assessment of what constitutes a threat or breach of peace and security" and thus often contributes to the ambiguity surrounding the ability of the R2P to remain impartial and consistently operationalised (Tacheva & Brown, 2015). Based upon these terms, it makes sense to classify the R2P as representative of a distinctly pragmatic framework of protection, defined by a "duty of conduct" which at a minimum generates a "responsibility to consider" the appropriate action concerning all incidents of mass atrocity crimes (Welsh 2013a). Whilst this more pragmatic interpretation of the R2P is clearly an

attempt to shrink down the influence of moral obligations, the framing of a theoretical 'responsibility to consider' must also be understood and interpreted through the language of common humanity, which informs our ability to recognise why we should consider the harm of mass atrocity crimes in the first place. As this chapter demonstrates, the R2P agreement therefore places the pressure for change not on a new legal expectation but on the normative force of our humanity. Consequently, what the 2005 R2P agreement left open was whether the UNSC was expected to take action "if it finds that national authorities are manifestly failing to protect their population from mass atrocities even without making a finding of a threat to the peace" (Nasu, 2011, p.413). The debates concerning this question have thus continued to define and reshape the application and restriction of the R2P in the 12 years following this agreement, as the next section will examine more closely.

12 Years of the Responsibility to Protect – Contesting the Expansion of Threats

In the twelve years since the adoption of the WSOD, one can certainly highlight evidence of a continual process of R2P language becoming further embedded and commonplace within UNSC resolutions (Gifkins, 2016, p.148). As Gifkins (2016, p.160) highlights, "R2P has been regularly reaffirmed in a wide array of conflicts and thematic issues". Yet, in spite of this changing reality, there still remains a considerable lack of consensus surrounding Pillar III action, and in particular, discussions concerning the hierarchy of international threats to peace and security. For Hehir (2016, p.171), the lack of Pillar III engagement has been a consistent feature of R2P discussions, and has arguably increased since it was alluded to in relation to the 2011 Libya intervention, following which members have continued to hold diverse views on how Pillar III can be applied and when certain criteria demand its application. This recent literature ultimately demonstrates how the increased use of R2P language, particularly in regard to Pillar I responsibility, is symptomatic of humanity's motivational force of identification and reflection, which has seen growing consensus on the need to promote state

responsibility for protection. However, the motivational push of humanity to compel states into action on behalf of others remains much weaker and ultimately contested. The contestation regarding this responsibility is often played out in the debates concerning a dividing hierarchy of threats to international peace and security. The question that frames the focus of this section is therefore, how has the consolidation of a more formal expansion of threats to international peace and security, articulated by the WSOD agreement, impacted on state identification and action towards instances of mass atrocity crimes? In addressing this question, it will be vital to analyse how the concept of humanity has become increasingly integral to the perceived motivating capacity of the R2P, as advocates attempt to challenge past collective failures of protection. It will therefore be concluded that the 2005 agreement has so far had a relatively limited impact on the UNSC's willingness to more consistently expand its understanding of threats to international peace and security. As a consequence of this situation, there has been an increasing push by both the UN and NGOs to redefine state responsibilities beyond threats to international peace and security, in R2P cases.

Despite the unanimous agreement made by states to the 2005 WSOD, there has been a level of pushback against the implications of the document by major states in the years following, most significantly in regard to the scope of international peace and security. One can highlight this pushback in a number of UNSC dialogues since WSOD agreement, for example in a 2008 UNSC meeting on Peace and Security in Africa, Russia spoke forcibly against recent attempts by member states to highlight threats that they considered to go beyond the UN Charter's understanding of international peace and security. Russian ambassador Vitaly Churkin, therefore argued that "we have of late seen an increasingly obvious attempt to take the UNSC beyond its UN Charter prerogatives and beyond the maintenance of international peace and security" (2008). This line of attack was challenged by a number of other UNSC members at the time, including Panama, who stated that "In today's globalized and

interdependent world, the concept of threats to international peace and security has evolved to include situations in which there are serious and widespread violations of human rights" (UN, 2008). Russia's push back against expanding the application of the UN Charter further highlights just one example of the contestation that has continued to exist in relation to the parameters of the UN Charter and the actions that are deemed to be beyond its stated aims. This ambiguity is exacerbated by the fact Russia had in the past been able to recognise threats that go beyond the strict 1945 based reading of the UN Charter, such as in the case of Somalia and Resolution 794. Consequently, rather than Russia being against any form of peace and security expansion, it suggests that Russia wants to limit such expansion to exceptional cases only and thus not prioritise a continual expansion of threats. It therefore reinforces the idea of a hierarchy of threats to peace and security in which certain grave human rights abuses and mass atrocity crimes do on occasion require action in order to maintain international peace and security. However, Russia ultimately believes in a need to restrict a blanket expansion of threats to peace and security in which serious human rights abuses are but one potential threat to peace and security, not part of an overriding principle that must force states to engage an obligation to protect in all cases and bypass state sovereignty. In this regard, despite the 2005 R2P agreement formalising a political responsibility to recognise mass atrocity crimes as potential threats to international peace and security, it did not represent the articulation of a definitive moral obligation for states to always place potential threats to humanity and human suffering, above other pressing security concerns of major powers.

In light of the continued contestation concerning the identification of threats to peace and security, and the potential for further deadlock within the UNSC, the Secretary-General reopened debates concerning the scope of the UNSC's primary obligation to the maintenance of international peace and security. In the Secretary-General's 2009 report, 'Implementing the Responsibility to Protect", he argued that whilst the UNSC has the primary responsibility for

the maintenance of peace and security, it does not have the total responsibility (Ki-moon, 2009). In this sense, there may be cases where "perpetration of crimes relating to the responsibility to protect may not be deemed to pose a threat to international peace and security", consequently, the General Assembly "can then address such issues when the UNSC fails to exercise its responsibility with regard to international peace and security because of the lack of unanimity among its five permanent members" (Ki-moon, 2009). This acknowledgement refers back to a key principle found in the ICISS report, which argued for the ability of the UN to seek support for military action from the General Assembly. In the case of a divided UNSC, an "Emergency Special Session" could be called under the established "Uniting for Peace" procedures, with two thirds of votes in favour of action helping to confer legitimacy on a possible intervention, and encourage the UNSC to rethink its own position. Whilst this would not be creating a legal right to use force it would bestow a certain level of legitimacy on any subsequent action, and thus represent a direct criticism of the veto power (Gallagher and Ralph, 2013). The move by the Secretary-General to reemphasise the usefulness of this principle reflects a continual battle within the UNSC, concerning the ability to forge consensus on threats to international peace and security and the ambition that "we can, and must, do better. Humanity expects it and history demands it" (Ki-moon, 2009). This debate is therefore representative of an ongoing struggle between the demands academics and diplomats place on the motivational role of our common humanity and the current limitations of political will for states to drastically change their behaviour on account of a moral initiative. In order to explore this debate in greater detail it is important to next focus on a number of significant R2P cases.

Libya

In spite of the often hostile reaction to attempts to more consistently expand the application of threats to peace and security, in the years directly after the 2005 R2P agreement, the 2011

intervention in Libya was heralded as a moment of clarity for R2P advocates in which the R2P had made good on its promise of protection and forced states to collectively intervene on behalf of the international community, thus prompting much fanfare (Thakur, 2011a; Weiss, 2011). As Chesterman (2011, p.280) argues, what was perhaps more notable about the resolution was the UNSC's decision not to include language that characterised the situation as "exceptional" or "unique" in order to persuade states that may have been sceptical to the use of force in Libya, but instead the resolution directly enforced the broadening of the UNSC's international peace and security mandate (Chesterman, 2011, p.280). The resolution was thus clear in characterising the evolving crisis in Libya as constituting "a threat to international peace and security" (UN, 2011a). Yet despite the UNSC not making use of the language of exception, the conditions for reaching this agreement did have the hallmarks of a relatively unique set of circumstances, in which there was clarity over the threat of mass atrocity, a short time frame and agreement from regional actors (Bellamy, 2011, pp.263-269). The intervention itself can therefore be seen to display some similarities with the way unique and exceptional situations had been able to motivate action against mass atrocities, in the pre R2P era. As Hehir (2013b, p.137) rightly points out, whilst the UNSC decision to adopt Resolution 1973 on Libya was representative of the normative ambition and spirit of the R2P, it must be understood as part of a much broader "trajectory of Security Council responses to large-scale intra-state crises that predate the emergence of R2P". Thus, "the response to the situation in Libya is better understood as an aberration rather than the product of a new disposition and the harbinger of a new era" (Hehir, 2013b, p.158). Moreover, as Morris (2013, p.1273) points out, "states did not cite R2P in the debates over Libya simply because it did not figure significantly in their thinking". In this sense, it marked only that the R2P had "become part of the context of UNSC deliberations" (Byers, 2015, p.113). Consequently, it remained unclear as to whether the expansion of threats to international peace and security in this specific case would herald more

consistent practice by the UNSC, in identifying mass atrocity crimes as clear threats to peace and security.

However, in the years immediately following the Libyan intervention there remained consistent opposition and scepticism as to the application of force under Pillar III of the R2P by a number of major powers, including Russia, South Africa, China and India (Beresford, 2015; Bloomfield, 2015; Averre and Davies, 2015; Lee and Chan 2016). As the next section will highlight, rather than further clarifying consensus on the identification of threats to international peace and security, the Libyan example appeared to further divide states as to the parameters of threats and thus put into question the limits of moral appeals to the motivational cause of protecting a shared humanity.

Syria

As anti-government demonstrations swept across the Middle East at the beginning of 2011, the Syrian Government began to violently crackdown on protesters in Syria, sparking the beginnings of a major civil war in the region. In August 2011, the UNSC expressed its concern at the "the deteriorating situation in Syria", and months later, states had begun to call out the direct role of Al-Assad's forces in many of the civilian attacks in the country (UN, 2011b; UN, 2012a). Subsequently, in President Obama's 2012 State of the Union Address, he reinforced a stark message to Assad that he would "soon discover that the forces of change cannot be reversed and that human dignity cannot be denied". Tragically this would not prove the case, as millions of Syrians continued to face the threat of mass atrocity crimes on a daily basis as the conflict escalated at an astounding rate. In contrast to Libya, the crisis in Syria was plagued by a distinct lack of agreement as to the best way to ensure protection for those threatened by such crimes, and thus the UNSC remained in deadlock over its ability to highlight the conflict as a threat to international peace and security.

Despite clear accounts of crimes against humanity and grave human rights abuses occurring within Syria (UN, 2014a), China and Russia were both clear in supporting the need to fully respect "the sovereignty, independence and territorial integrity of Syria" and defend these rights as essential to maintaining "peace and stability in the Middle East region, rather than complicate the issue" (UN, 2012b). While the position taken by both Russia and China was subject to considerable attack by other members (UN, 2012b), the position must still be understood as consistent with the 2005 WSOD, whereby states were required to consider mass atrocity crimes as potential threats to international peace and security, but ultimately the responsibility for action remained located within the UNSC's overall primary responsibility to maintain international order, which still allowed states to weigh up traditional security threats above those towards mass atrocity crimes and the alleviation of human suffering. In contrast to this, a number of states directly questioned the positions taken by the two states, leading Germany to argue that the UNSC had "again failed to assume its responsibilities and to live up to its mandate to maintain international peace and security" (UN, 2012b). The so-called failure of the UNSC is instead best defined as a moral and political one, in which no legal obligation had been broken, but instead state's own normative positions clashed and resulted in contrasting readings and interpretations of how best to meet the demands of the Charter.

Consequently, one must highlight how the case by case basis for implementation stated in the R2P will often create such clashes between states over the best way to maintain international peace and security. As Welsh (2013b) acknowledges, "a form of inconsistency is built into the very text as a recognition that the UNSC is a political body and must deliberate, and various calculations will come into that decision". In other words, the very possibility of disagreement between the permanent members of the UNSC and their capacity to veto a draft resolution is "a core structural part of the Security Council" (Chan, 2013, p.881). Thus, whilst the 2005 WSOD agreement was central to reinforcing a political agreement between states to

formally expand the identification of threats to international peace and security, it did so through the institution of the UNSC, meaning implementation of the doctrine will always compete with a range of other factors when states are weighing up the maintenance of international order. However, in contrast to the lack of consensus in the UNSC concerning the situation in Syria, the UN General Assembly was able to pass a number of resolutions (UN, 2012c; UN, 2014b) emphasising the threat the conflict posed to international peace and security; reminding the UNSC of its "primary responsibility for the maintenance of international peace and security and to take measures to put an end to all serious violations of international humanitarian law". The contrast between the two institutions further reinforces the complexities of the UNSC's primary responsibility to maintain international peace and security and the limitations to its ability to fundamentally shift its focus towards a more human focused security outlook. The way in which international threats are weighed up in the UNSC has subsequently caused many to question the suitability of its decision-making process, which has so often placed the impact of mass atrocity crimes and human suffering below more traditional state centric security threats. Yet alongside the ongoing humanitarian crisis in Syria, one can also point to another significant example in which UNSC members have raised more doubt as to the expansion of international threats to peace and security.

North Korea (DPRK)

During 2104 UNSC discussions concerning the situation in the Democratic People's Republic of Korea, China dismissed the role of the UNSC as a "forum designed for involvement in human rights issues", highlighting that "the Charter of the United Nations stipulates explicitly that the primary responsibility of the Security Council is to maintain international peace and security" (UN, 2014c). Subsequently, China argued "the Security Council should strictly abide by its responsibilities and concentrate on addressing issues that really concern peace and security" (UN, 2014c). These comments came despite claims by a number of states of grave

human rights abuses and potential crimes against humanity taking place within the state, and thus it was asserted that it is not the nuclear threat posed by DPRK alone that requires attention when addressing peace and security concerns in the Korean peninsula (UN, 2014c). What these exchanges highlight is a further continuation of debates concerning the scope of threats to peace and security and the extent to which the strict internal location of such crimes requires the UNSC to consider these actions as threats to international peace. Whilst there is almost always a potential threat to the regional peace and security of states caused by grave violations of human rights, particularly in regard to the outflow of refugees, China's statements imply a clear hierarchy of threats to peace and security in which the UNSC must prioritise certain threats over others, to maintain the overall stability of international order. The consequence of the traction of these statements has been a tendency to overlook the human protection crisis in the DPRK, even by those engaged with the R2P (Bellamy, 2015c, p.244).

Summary

The examples discussed here clearly highlight how both Russia and China in particular have often viewed the commission of core international crimes as not always needing to constitute a central focus for the UNSC (Botte, 2015, p.1036). Whilst some may argue that the cases highlighted above are representative of critical national interest to both states, and as such potential military intervention in these cases may have in fact only made the situation worse, it is still important to remember that the resolutions vetoed by Russia and China on Syria, "did not call for anything approaching military intervention" but were aimed to "impose economic and political sanctions" (Hehir, 2015, p.12). Thus, it is vital to reiterate that threats to international peace and security do not have to be limited to the imposition of force (there are a number of coercive options that are part of R2P's Pillar III), accordingly the contestation over the Syria and North Korea cases speak much more to the limitations of moral advocacy to limit

humanitarian harm than it does necessarily to debates regarding the pros and cons of military intervention.

Reframing State Responsibility towards Humanity

For major R2P advocates such as Simon Adams (2015b), Executive Director of the Global Centre for the Responsibility to Protect, the Syria crisis in particular represents a significant failure for the UNSC, due in the most part to the UNSC's inability to sufficiently recognise the actions of the Syria government as direct threats to international peace and security, this despite the later consensus over resolution 2170, adopted to recognise ISIL and Al-Qaeda affiliates as threats to international peace and security. This is a point also highlighted by Ainley (2015, p.42) who acknowledges how consensus has been relatively swift in regard to undertaking airstrikes against ISIL, justified as antiterrorist measures, yet this remains in sharp contrast to the reluctance of states to forge agreement on action to effectively alleviate humanitarian suffering in Syria. What these points seek to question is the current formulation of the UNSC's hierarchy of threats to international peace and security, in which threats in relation to grave human suffering and mass atrocity crimes have fallen down the list of motivating factors for action. Subsequently, this has led to the suggestion that the R2P is now "at odds with the complexities of the decision-making process of the UNSC and in particular, with the powers of the veto" (Cannizzaro, 2014, p.213). Critical to addressing this issue has therefore been a renewed drive to reinforce the motivational capacity of common humanity as a key moral influence on state behaviour and actions.

Contrasting interpretations of the weight placed on certain threats to peace and security have therefore played a significant role in influencing fresh proposals for a new restriction on the use of the veto in the UNSC. As Hehir (2015, p.9) acknowledges, "in the wake of the Arab Spring this idea has been increasingly vaunted as a means by which R2P can be leveraged

against the P5 intransigence so evident during the crisis in Syria". One can therefore suggest that the support for introducing a "Responsibility Not to Veto (RN2V)" principle is inherently tied to the much wider debate concerning the need to expand the peace and security concept and potentially move beyond it being the central authorisation for the use of force in the UNSC. This is encapsulated by a statement from the Global Centre for R2P, which heavily criticised the Syria double vetoes by Russia and China, in 2011, 2012 and 2014, on the basis that such actions went against the UN Charter's expectations (Global Centre for R2P, 2014). Those in favour of such an agreement suggest that the veto is often being used "to shield perpetrators of mass atrocities from accountability" (Adams, 2015a, p.2). Accordingly, Adams (2015a, p.2) argues that the crimes of R2P can "never be excused, exempted or misrepresented as being a matter of vital national interest" and such a perspective is argued to run "counter to international law and morality". This argument therefore articulates the idea of an obligation that goes beyond simply the maintenance of international peace and security, situated in a belief that attempts to respond to mass atrocity crimes must override all other objectives, often including those related to traditional peace and security goals. Furthermore, Adams (2015a, p.2) locates the motivation for all states to adopt this interpretation through an indirect appeal to our common humanity. He therefore argues that mass atrocity crimes "diminish us all" and are an "offence against us all" and thus create a universal responsibility to act. The link between the normative force of humanity and the implementation of R2P principles is therefore reinforced, in an attempt to significantly redefine the parameters under which the UNSC must make decisions regarding mass atrocity crime situations. Whilst the proposal to restrict the veto may at first be interpreted as simply a campaign to alter state behaviour rather than fundamentally change the powers of the UNSC, it is still premised on the belief that the decision by the UNSC to not recognise mass atrocity crimes as threats to international peace and security should be overridden by the responsibility the UNSC has to common humanity

and human protection more broadly. The mission to implement the RN2V concept is therefore normatively underpinned by the moral pressure seen to be generated by the concept of humanity, in order to redefine and override the currently inconstant identification of threats to international peace and security. Building on the renewed energy surrounding the responsibility not to veto concept, Ban Ki Moon (2015, p.6) has also subsequently reinforced the link between the concept of humanity and mass atrocity crimes within his 2015 Secretary-General report on the R2P, clearly stating that "genocide, war crimes, ethnic cleansing and crimes against humanity are a deep affront to humanity, to the very dignity of human beings" as well as recognising how atrocity crimes exacerbate wider protection needs. He subsequently argues that such acts must be seen to "represent a serious threat to international peace and security, as situations involving atrocity crimes can generate lasting instability, both within and across borders" (Ki-moon, 2015).

This focus by the UN Secretary-General on the broader threat created by mass atrocity crimes, along with support from a number of high profile NGOs, can therefore be understood as part of a strategy to further expand the remit of the R2P in order to challenge the UNSC to broaden its identification of when mass atrocity crimes meet the threshold of a threat to international peace and security. This is certainly a clear divergence away from the original 2005 R2P agreement, in which states are now being asked to prioritise their responsibilities to humanity and human protection beyond all others. The decision to try and reinforce this new remit is underpinned by appeals to the normative power of humanity and a belief in its ability to not only build consensus as to the scope of the crimes that define the R2P, but for it to also provide the key motivational force that can compel states to drastically shift their behaviour in the future. However, as Morris (2015, p.418) rightly argues, "where detractors criticise the P5 for not supporting, or even preventing international society's efforts to meet its residual obligations under the R2P, the claim being made is a normative one premised on a particular

view of rightful behaviour". In this regard, appeals to the moral cause of humanity can often be used to cover up the complexity of practical decision-making on the ground and overshadow the need for initiatives that reflect and take account of the political challenges of international decision-making.

The current limitations of the R2P agreement highlighted most starkly in the case of Syria, has therefore reignited a number of normative debates concerning many of the issues first highlighted by the ICISS document, including the restriction of the veto. As Hehir (2016, p.175) points out the logic of veto restraint, as well as the concept of R2P itself, "rests on the premise that the P5 can be convinced to change their foreign policy priorities so that they give more consideration to the protection and promotion of human rights". Debates thus take on a circular logic in which the failure of humanity to drive sufficient consensus for action is met with further calls to change the decision-making process in order to reinforce respect and support for our common humanity and the need to act in its defence. This current situation is therefore reminiscent of previous comments made by Wheeler (2002, p.134) in regard to humanitarian intervention, in which he argued that "changing the decision-making mechanism will not eliminate the challenge of balancing the moral imperative to use force to rescue imperilled humanity against the pragmatic question of whether force will succeed and do more good than harm". Consequently, it leads one to question further the limits of the motivational power of humanity. Whilst the concept remains so integral to our understanding of mass atrocity crimes as well as our ability to reflect on and locate global harms, its ability to motivate shifts in state behaviour and action is arguably much more limited. This will be focused on in more detail in chapter 6, in order to theorise the scope of humanity's current role in the process of negotiating responses to mass atrocity crimes.

Whilst the R2P has delivered some success in strengthening and developing consensus on the rights of states to protect their own populations from four central crimes, the progress

concerning the responsibilities of the UNSC to implement protection has been severely limited. Whilst it remains vital to recognise the R2P as a work in progress, a point that Gallagher (2015, p.268) argues must be accepted by both advocates and critics alike, there remains a surprisingly repetitive logic to the way debates about the R2P have continued over the last twelve years. As disputes concerning the identification of threats to international peace and security have demonstrated, there still exists fierce disagreement over the application of the UN Charter, by which the normative motivational force of humanity has made only limited inroads in changing. As Morris (2015, p.420) highlights, how states interpret threats to international peace and security and subsequent actions is defined not simply by narrow national interests but also from "fundamentally different interpretations of the social obligations which P5 states hold" particularly in terms of how to manage international order. Moving forward it therefore appears increasingly likely that the same debates will continue to divide the UNSC on issues concerning the coercive application of the R2P.

Conclusion

UNSC practice has evolved significantly throughout the last 25 years, but what remains consistent throughout this period is that international crimes are not always necessarily considered as threats to international peace and security (Kwali, 2010, p.26). Part of this reason lies in the fact that despite the normative and conceptual expansion to the idea of what constitutes a threat to international peace and security, the Council still operates under the same rules that were symptomatic of their failure to adequately respond to the massacres in both Rwanda and Srebrenica (Fraser, 2014, pp.212-213). Whilst there has been a significant acknowledgement by the UN of the large range of interlinking factors which affect security, many of these issues only remain as traditional security threats to the extent "that they indeed have an impact on 'security', both conceptually and empirically" (Del Satro, 2006, pp.509-510). Consequently, it leads Nasu (2011) to claim that "the conception of the Security

Council's responsibility to protect is still incubating in the UN's institutional framework". Despite the claims of advocates that the R2P has confirmed the scope of expanded UN powers to support R2P coercive measures, and thus there is no need for "further clarification [as to] the Security Council's power to make such a decision" (Evans, 2009), recent UNSC practice clearly highlights a more complex picture. Throughout the last three decades the UNSC has at times chosen to expand its interpretation of threats to international peace and security, yet as this chapter has demonstrated, this practice has not been sufficiently solidified by the creation of the R2P. In this sense, states have continued to be selective as to when to expand and shrink their responsibilities of threat identification, rather than pursuing a gradual progression towards consistent expansion therefore challenging the often teleological understanding of the R2P's development.

Furthermore, notwithstanding the fears of critics that the broadening of responsibilities in the UNSC "would fundamentally alter the relationship between non-Western states and international institutions" and thus "undermine the UN" (Chandler, 2004, pp.68-73), the R2P has not forced through significant change in UNSC procedure. Nonetheless, there are also many R2P advocates who wish to introduce a new code of conduct in order to enforce further responsibilities on states, such as the RN2V initiative in mass atrocity crime situations (Blatter and Williams, 2011). The strategy can certainly be seen as part of a move to kick start the hatching process and thus begin to force changes to the UN's institutional framework, that can allow states to better protect and prevent mass atrocity crimes. So far the UNSC continues to be sceptical of any further expansion of responsibilities beyond its current role of maintaining international peace and security. In this regard, there remains a fear that the UNSC's ability to fully maintain the protection of individuals may be beyond the remit of the organisation, and by doing so would in fact risk challenging the sovereign order of states (Fraser, 2014, p.216).

Nevertheless, the R2P has been important to redefining the responsibilities states have vis-à-vis their own populations, where there has been some advancement in developing prevention initiatives alongside a continual rise in the effectiveness of Pillar I based language use in UN negotiations (Bellamy, 2014). Where the R2P remains most fundamentally contested however, is in terms of how states recognise their responsibility to others, in particular how they weigh up the hierarchy of threats to international peace and security. The chapter has therefore demonstrated how despite the general expansion of threats to international peace and security that has taken place over the last few decades, the R2P has so far been unable to reinforce state adherence to a more expansive interpretation of threats to peace and security. Instead, the chapter has drawn attention to a number of cases in which states have attempted to shrink back the responsibilities for global threat identification. Most recently, as Cater and Malone (2016, p.290) argue the passive response to the crisis in Yemen, following extensive air strikes by Saudi Arabia, demonstrating how the UNSC's "enthusiasm to discharge its responsibility to protect against the backdrop of complex local and regional dynamics can erode". Consequently, the assumption that the R2P has put an end to debates concerning the parameters of threat identification in the UNSC is so far wishful thinking on behalf of advocates.

Moving forward, the mixed performance of the UNSC in responding to mass atrocity crimes, since the adoption of the R2P, suggests that the challenge of motivating sufficient political will remains a considerable obstacle to protection, whereby states have continued to contest the moral and geographical scope of their responsibility. Consequently, whilst the concept of humanity has remained integral to the motivation behind the R2P concept and its fight to change state behaviour, it has ultimately been increasingly limited in its ability to generate political will in response to mass atrocity crimes. As the next chapter will examine, whilst appeals to common humanity are often central to helping to determine what we ought

to do in a particular situation, the concept is not always sufficient for motivating us to actually do it. Thus, whilst the potential for change rests heavily on the normative credentials of humanity, the moral progress of the R2P will be constrained, particularly in regard to building consensus for coercive measures under Pillar III. The significant implications of this conclusion will therefore form the central framing for the following chapter.

Chapter 6: Assessing the R2P's Motivational Capacity: The Role of Humanity

Introduction

In his final report on the R2P as the UN Secretary-General, Ban Ki-moon (2016a) gave explicit focus and attention to the continued challenge of mobilising collective action for protecting populations from mass atrocity crimes. Reflecting on a period of "retreating internationalism, diminishing respect of international humanitarian law and a growing defeatism about promoting ambitious agendas like protection", Ban Ki-moon (2016a, p.18) made a final plea to member states to "show greater resolve in defending and upholding the norms that safeguard humanity, on which the responsibility to protect rests". Critical to his appeal to member states therefore, was the emphasis placed on the centrality of the concept of humanity as an overriding moral imperative for motivating action under the R2P, and the cause for which states should have a moral obligation to generate consensus in mass atrocity crime situations.

What Ban Ki Moon's comments therefore draw attention to is the role of humanity as the overriding moral imperative for motivating action under the R2P, and the cause for which states have a moral obligation to generate consensus in mass atrocity crime situations. However, appeals to the moral power of the concept of humanity have long been a consistent part of attempts to motivate responses to atrocity crime situations, with vastly contradictory results (Zolo, 2002; Zehfuss, 2012). Thus, as the current global context highlights, questions remain as to the extent to which the concept of humanity can in fact function as a motivator of political will under the framework of the R2P. As a result, there is a need to better understand

the role played by the concept of humanity, empirically, within the process of generating consensus for humanitarian responses.

In response, the chapter will firstly explore the role of humanity as the central moral imperative behind the ambition of the R2P project, examining the philosophical arguments that underpin the link between humanity as a concept used to locate universal human harms and its role as a moral imperative that works to motivate the prevention of such global harms. In doing so it directly challenges the assumed existence of a default responsibility to protect and prevent atrocity crimes and argues for a closer examination of the role humanity plays as a motivational component of the R2P. Consequently, by questioning the theoretical assumptions made to the existence of a clear R2P conversion process (Thakur, 2015), the chapter argues for the need to more closely examine the role humanity is playing as a motivational component of the R2P. The second part of the chapter is then structured around three contrasting hypotheses of humanity's role during the R2P conversion process, with humanity conceptualised as either: a) functioning as a rhetorical tool with no motivational qualities; b) as a concept that works to redefine and humanise sovereignty in order to motivate support for the R2P; c) as a motivating principle that is ultimately diminished in influence as the R2P principle is diffused into action. It is subsequently argued that the concept of humanity as a motivational factor can be seen to diminish throughout the R2P conversion process, highlighting how the cause of humanity has failed to be directly internalised into state interests and identities when it comes to the question of how to respond to mass atrocity crimes. The diminished influence of humanity during such discussions can therefore be understood through examining how states often appeal to competing moral and political responsibilities when attempting to address the broader question of how to respond. What this suggests is that the concept of humanity does not therefore easily translate from framing harm, to framing a response to harm. Thus, the strength of humanity is

seen to currently exist in its ability to locate moral harm rather than its ability to motivate action in the name of humanity itself.

The relative simplicity of the moral debates surrounding the idea of an R2P conversion process have so far led to an exaggerated presumption as to the motivational qualities held by the concept of humanity. As a consequence, many advocates of the R2P continue to focus on the need to remove the last remaining barriers to consensus, and thus allow the concept of humanity to function effectively through the R2P framework. However, as the chapter will highlight, it is not simply sovereignty or veto rights alone that diminish the sense of obligation created by the R2P, it is also the lack of imperative associated with appeals to humanity. Thus, if the R2P continues to be predominantly understood as a moral norm, which is heavily reliant on the motivational capacity of humanity, its ability to fully transform how the international community responds to mass atrocity crimes will remain severely limited. To conclude, the chapter argues that in order to move forward discussions regarding the limits of the R2P as a mobilising principle for action there must be space for a more critical approach to conceptualising the constraining realities of international decision-making and a recognition of humanity as an increasingly contested source of moral responsibility.

Motivating Humanity

As this thesis has so far argued, it is most often the case that humanity's normative status and value has been one left assumed and/or unexplored by the R2P literature. As a consequence of this oversight, those attempting to explain the process through which the R2P is able to motivate state response to mass atrocity crimes have continued to fall back on the concept of humanity as the underlying moral imperative, without sufficiently theorising its motivational capacity and impact. As R2P advocate Ramesh Thakur (2015, p.23) argues, the concept of humanity functions as the source of the R2P's international responsibility, which he believes

"demands an acceptance of a duty of care by all of us who live in zones of safety towards all those who are trapped in zones of danger". It is this idea of an interconnected global population, with obligations owed to one another other accordingly, that is presented as so integral to the ambitions of the R2P project. Subsequently, the R2P is conceptualised as "the normative instrument of choice for converting a shocked international conscience into decisive collective action – for channelling individual moral indignation into collective policy remedies – to prevent and stop atrocities" (Thakur, 2015, p.23). In this sense, the R2P functions as a tool of conversion, helping the UN to better harness the collective will of member states in order to transfer moral outrage into timely and decisive action, whenever mass atrocity crimes are committed. One can subsequently flesh out this idea of an R2P conversion process proposed by Thakur, whereby the focus is directly on how the emotional and moral concern created by the outbreak/ potential outbreak of mass atrocity crimes can function as a catalyst for motivating collective action by UN member states. In this sense, the process of conversion is seen to take place when the moral indignation felt by diplomats and states is able to effectively transfer to agreement, in order to take appropriate action in defence of specific moral goals. In this regard, the R2P is argued to make this process of conversion both simpler and more efficient through removing previous barriers to the process of generating state agreement (Thakur, 2015).

This idea of the R2P as a moral norm used to build support for protection practices at the international level has long been assumed as the concept's central goal (Evans, 2008a). Thus, as Jennifer Welsh (2016a, p.985) argues, the R2P was built on the principle that "by building and invoking a sense of common responsibility – shared by states and other international actors – more concerted efforts to prevent and respond to atrocity would be undertaken". Integral to this process of converting moral sentiment into collective action, is also the idea of the R2P having been constructed to address and clarify previous barriers to

generating international consensus on responding to mass atrocity crimes, as Chapter 1 examined in detail (Bellamy, 2010). In this sense, the R2P is seen to provide a framework through which the moral cause of humanity can now be fully utilised to mobilise and galvanise the international community (Evans, 2008, p.65). However, this relatively simplistic normative framing, of a distinct R2P conversion process, arguably overstates the existence of a clear moral lineage from the conscience shocking nature of crimes, to the implementation of action, to avert global and universal threats. As a result, there is still a distinct lack of engagement as to the critical dual function of humanity as a normative concept that can supposedly help to both locate moral harm and subsequently provide a motivational cause that can drive protection practices. Furthermore, advocates have continued to overplay the extent to which previous barriers to intervention and protection practices have been fully resolved by agreement to the R2P principle, thus there is a need to focus more attention on the complex interaction between morality, politics and law at the international level.

In response to this lacuna, it is argued that the relative simplicity of the moral debates surrounding the idea of an R2P conversion process has ultimately led to an exaggerated presumption regarding the motivational qualities held by the concept of humanity. This is significant, as it brings into question the coherence of claims in support of the R2P's status as a distinct moral duty (Luck, 2010; Orford, 2013; Erskine, 2016), therefore generating the need to re-evaluate the connection between political will and the existence of shared moral duties to a common humanity. In this sense, there is a need to challenge the uncritical assumptions made regarding the motivational capacity of humanity, in order to raise significant questions in relation to the processes through which debates about motivating state actors, confronted by mass atrocities, take place. Subsequently, it is argued that only through beginning to develop an approach that is more sensitive to the complex interaction between morality, law, and politics, will it be possible to begin addressing the current R2P implementation gap and the

tensions that are implicit in the process of generating collective responses to the threat of mass atrocity crimes.

Protecting the Imperative of Humanity

The ability to begin assessing the motivational qualities of the concept of humanity firstly requires engagement with the significant link that is often made between the moral obligation for states to address and respond to mass atrocity crimes and the role of humanity as the imperative that supposedly underpins this responsibility. From a cosmopolitan standpoint, it is argued that the acknowledgement of a common humanity translates "ethically into an idea of shared or common moral duties toward others by virtue of this humanity" (Lu, 2000, p.245). The idea of each person having an equal moral status is thus seen to ground appeals to humanity and the justification for its protection. However, as the thesis has so far examined, appeals to humanity are most often invoked without outlining what elements of humanity are worthy of protecting and furthermore, how the concept of humanity can generate specific responsibilities in order to convince actors to undertake this protection.

In regard to the R2P literature, the codification of the principle into the 2005 World Summit Outcome Document (WSOD) has often been viewed as a key milestone in the on-going process of "widening the scope of emotional identification between different people as well as the development of moral concerns for the future of humanity" (Linklater, 2016, p.457). The moral obligations outlined by the R2P are thus considered to broaden the scope of responsibility for all international actors, through recognising the global need to protect populations from the four major crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. Bellamy (2015d p.162) therefore argues, that at its core the R2P should be understood as relating to two sets of internal claims, one around the responsibilities of states to protect their own populations, and another regarding the roles and responsibilities of the international

community to assist and respond. However, as Welsh (2014, p.127) has noted the "source of the international responsibility was not clearly defined. Did it derive from law, or from broader precepts of morality"? Consequently, due to the lack of a legal obligation expressed by the ICISS report, Welsh (2013, p.127) has suggested that the R2P is predominantly a moral imperative, deriving from our "common humanity", and thus it is humanity that underpins the essential moral obligation of the international community to provide sufficient protection to those threatened by mass atrocity crimes.

In unpacking this relationship one must start by recognising that central to the motivation for creating the R2P, is a sense that in spite of all the other major failures in international relations, "the world could no longer afford to mishandle its collective responsibility to genocide and other mass atrocity crimes" (Evans, 2015 p. 16). The R2P is therefore framed as more than an initiative simply focused on the need to better recognise the "intimate connections between systematic and widespread violations of the rights of civilians and the breakdown in international order" (Annan, 1999c). It is ultimately a moral imperative built upon the premise that there is something fundamentally significant about mass atrocity crimes which create the need for us to appeal to a higher moral obligation whilst acknowledging that atrocity crimes cannot be simply contained and managed.

As Welsh (2012 p.105) explains, with the source of R2P's moral responsibility found in the commissioner's appeal to "common humanity"; to commit genocide or engage in ethnic cleansing is thus to fail to treat people as humans, thereby threatening all of humanity's values and interests. This is what arguably generates the moral responsibility for members of the international community to act and find a remedy. Humanity is thus used to ground the concept of a wider international community, one that is able to recognise the idea "that community is equally relevant internationally as it is domestically" (Bulley, 2010 p.7). In this regard, the continuation of the outbreak of mass atrocity crimes is presented as a reality that is

165

fundamentally damaging to a collective value of humanity (Ki-moon 2015). The act of intervention can therefore be understood as an attempt by the interveners to "secure the boundaries of humanity and to affirm its dominant place in the universe" (Mitchell, 2014 p.2).

Subsequently, as Chapter 4 explored, it is not simply individual lives that are threatened by atrocity crimes but a collective universal value that is attached to the concept of humanity (Arendt, 1963). There is therefore a sense in which mass atrocity crimes challenge something much deeper and more valuable than traditional security threats, whereby our response to averting them must reflect this axiom. Thus, for Simon (2016 p.3) "international crimes do more than transcend national boundaries", and go beyond the categorisation of "crimes against the peace and security of mankind - international crimes undermine global morality". As Mitchell (2014, p.5) subsequently argues, this belief in the threat of mass atrocity crimes to a shared global morality can be seen to stem from an assumption that "human life is the highest form of being" whereby it is human beings alone who are responsible for humanity's survival. In this sense, the crimes of R2P are seen to threaten "the systematic destruction of a human society, and thus its ability to live and flourish" (Mitchell, 2014, p.53). Hence, it is the concept of humanity that remains central to the foundation of arguments in support of states having a moral responsibility to act in certain humanitarian cases.

Nonetheless, what the R2P and those who promote and study its influence have so often failed to examine is the extent to which these claims to the importance of protecting the moral category of humanity can provide not just a way to reflect on the harm caused by atrocity crimes (Macleod, 2012), but a sufficient motivation in order for states to seek to convert moral outrage into appropriate action. As Tan (2006 p.88) has argued, the R2P seems to take for granted the existence of a default responsibility to protect, with the only obstacle to this responsibility being the principle of non-intervention. However, one must instead recognise that the permissibility of intervention alone does not therefore generate an obligation (Tan,

2006, p.88). In taking for granted this default responsibility, advocates appear to have overlooked the complexity of the moral debates that are integral to conceptualising the R2P conversion process. In this sense, the concept of humanity is seen to play a critical role as a moral frame, allowing states to reflect on the collective harm of mass atrocity crimes whilst at the same time acknowledging a motivational force that demands action.

However, as Lu (2006, p.191) has previously argued, part of the controversy around the previous norm of humanitarian intervention as a practice resulted from "disputes about the claims of common humanity itself". In this sense, whilst in the R2P literature there still remains a general presumption to the "widespread acceptance of the moral community of humankind"[10] along with appeals to the moral universalism of rights (Coates, 2006, p.75), contestation concerning how the motivational power of humanity interacts and functions in relation to international law, has long been a particular point of contention. This was highlighted most notably by debates surrounding the 1999 Kosovo intervention by NATO forces, in which the idea of a "higher law articulated by our conscience" was seen to identify justice with moral standards (Bain, 2010, p.35). However, despite the development of the R2P concept, one can still highlight debates over the extent to which the higher moral power of humanity should on occasion trump the specific obligations of the UN Charter, most recently in UNSC discussions over Syria.[11] Consequently, what the current R2P landscape reflects is the continuation of a clear disconnect between the moral sentiment expressed by states when mass atrocity crimes occur and the motivation for supporting collective action in defence of such crimes. Thus one is left to still question if the idea of a common humanity can be a "practical motivating force

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[10] See also Scheid, D.E. (2014) *The Ethics of Armed Humanitarian Intervention.* Cambridge: Cambridge University Press.

[11] See UN (2014) S/PV.7180; Statement by Rwanda on Syrian Veto: "all of us must commit ourselves to putting action for humanity above inaction for interests"; Luxembourg also stated their deep regret that "our shared humanity and values have not prevailed today".

in a divided world" (Lu, 2006, p.91) Consequently, if we are to fully understand the barriers that remain to building consensus on converting international moral indignation into more effective responses to atrocity crimes, we must better understand humanity's role in this process and the extent to which the R2P interacts with, and is constrained by, humanity's overall motivational capacity. The chapter will now turn to the debates concerning how we can best conceptualise the empirical role humanity has in this conversion process and the impact it has on the ability of the R2P to respond to its stated aims.

Clarifying the Implementation Gap

Before moving on to outline three hypotheses for conceptualising the motivational role of humanity, it is critical to briefly clarify the theoretical role of humanity in relation to normative debates concerning the R2P's current implementation gap. As Chapter 2 of the thesis explored, whilst there has been growing consensus regarding the further institutionalisation of the R2P into the UN framework, demonstrated by increasing mentions in UNSC resolutions and the appointment of a UN Special Advisor on the R2P, it is still the case that "international actors have continued to debate what situations are relevant for the application of the norm and what precise actions are entailed by the responsibility to protect" (Welsh, 2014b, p.133). However, in responding to this perceived implementation gap, R2P scholarship has predominantly focused on the need to simply continue reforming institutional arrangements within the UN in order to bypass the barriers that are deemed to hold back the motivational power of the international community's collective conscience. Yet this emphasis on the impact of institutional arrangements on state decision-making has arguably sidelined the importance of moral and ethical debates to the challenge of addressing the R2P's current implementation gap. In response, what this chapter provides is clearer empirical engagement with the role that moral debates play in further explaining the R2P implementation gap and furthermore the importance of expanding constructivist norm scholarship in order to better reflect the complex ways in

which moral appeals interact with competing political and legal pressures at the international level.

Debating The Motivational Aspects of Humanity

There are three broad ways in which one can hypothesise the motivational aspect/capacity of humanity and its relation to the R2P: a) as a rhetorical tool with no motivational qualities; b) as a concept that works to redefine and humanise sovereignty in order to motivate support for the R2P, or; c) a concept that is important to framing the impact of mass atrocity crimes, but whose role is diminished as the R2P principle is diffused into action. Through engaging with these contrasting hypothesises for humanity's motivational role, it will ultimately be argued that whilst humanity remains an integral moral concept for framing the harm of mass atrocity crimes, its motivational capacity can be best conceptualised as a diminished force, whereby its ability to provide the source of a clear moral obligation is undermined as it moves along the process of generating consensus for action.

Humanity as Rhetorical

There have long been claims against the moral consistency of appeals to humanity, from Schmidt's (2007 p. 54) famous critique that "whoever invokes humanity wants to cheat", to more contemporary challenges that suggest appeals to humanity are used in ways that "obscures that lives are valued differently" (Butler, 2009 p.50). Consequently, this has often reinforced a base assumption by intervention sceptics that references to common humanity by member states and diplomats function as nothing more than rhetorical flourishes, whereby the concept is seen to not only lack any sort of real motivational power but also does not reflect the way individual actors interpret and internalise the impact of mass atrocity crimes on the international system as a whole. This apparent disconnect between rhetoric and reality has thus become a common theme of R2P analysis, as scholars attempt to explain the often conflicting

universal support for the R2P through language and rhetoric, and the widely inconsistent application of its stated aims by member states (Hehir, 2012; Welsh, 2016b).

One potential explanation for this reality is to simply conclude that the concept of humanity does not generate strong motivational drivers for R2P type responses. As Gallagher (2016 p. 349) explains, "states are made up of human beings and political elites may even invoke concepts such as humanity when constructing international agreements but this does not mean that common humanity exists". In this sense, by rejecting the idea of any deeper human connection generating solidarity between humankind, one is left to question the fundamental premise of the R2P conversion process, and the very idea that shared moral outrage can drive collective action in order to protect. In response, a rejection of humanity ultimately places greater emphasis on the need to isolate the R2P outside of moral and normative debates, in order to fully assess the current contradictions that exist between state rhetoric and action, and focus on the underlying political factors driving state policy. This realist focused approach to understanding the relationship between humanity and the R2P will now be examined in more detail before being partially refuted.

The starting point for theorising such an approach is the acknowledgement of the "power politics at play beneath the slogans" (Gallagher, 2016 p.351) and furthermore a recognition of the argument that "the idealistic tone in some normative advocacy of R2P is mainly political: a discourse to shape political decision-making" (Harrison, 2016). In this sense, the ability of the R2P to successfully build agreement for action in mass atrocity crime situations is one that must be understood exclusively in the realm of the political, by which the normative concept of humanity functions solely to legitimate political motivation, rather than grounding a moral goal to be put into practice. The motivation for carrying out action is thus fundamentally understood through the interests of powerful states "who are themselves not subject to the 'universal' ethic of responsibility" (Moses, 2013 p.133). Moreover, the idea of

the R2P as a neutral or anti-political concept (Brown, 2013) is rejected alongside claims that state decision-making can be significantly "controlled by vague notions of an 'international community' directed by 'the conscience of humanity' (Moses, 2013, pp.132-133). Consequently, a belief in the underlying dominance of power politics in relation to the R2P has continued to be a point of controversy with questions over the extent to which it has allowed states to dress up the language of protection and humanity in order to implement strategies in support of their own interests (Hurd, 2012b).

Furthermore, as Hobson (2016 p.438) has highlighted, the revival of classical realist thinkers, Morgenthau, Hobbes, and Schmitt, have influenced new approaches to the R2P that firmly reject the concept's ability to supposedly "transcend politics". Political realists such as Sleat (2016a) have thus called for a greater focus on the way "practices of politics work" in relation to the R2P, in order to acknowledge that "almost any political decision will generate unintended consequences" and thus "acting with the best intentions of preventing evil in mind is no guarantee that we will not end up doing more harm than good". In response to this political reality, Sleat (2016b p.78) has argued that the R2P should not be understood as an attempt "to put a universally justified or justifiable moral programme into effect, but as the attempt to create very localised centres of legitimate stability and order in complex conditions of chaos, violence and disorder".

However, in reducing the R2P to a purely political transaction involving the transformation of violent chaos into order and stability, this approach arguably overlooks the way in which the concept of humanity is central to grounding the four major crimes of the R2P and our understanding of why certain acts are universally understood to constitute the most shocking of 'international crimes'. In other words, without an acknowledgment of the moral concept of humanity it is not possible to fully conceptualise the full harm of mass atrocity crimes, particularly in regard to those who are forced to experience and live with the

consequences of such acts. Thus, as Papamichail and Partis-Jennings (2016 p.87) have argued, there is a need to recognise that mass atrocity crimes have "a symbolic dimension as well as a practical one", therefore a normative understanding of humanity is key to any aspiration to "transcend the radically divisive and dehumanising aspirations of genocidal action". This ultimately requires recognition of the need to separate out the meanings we place on the concept of humanity, as not simply an appeal to the imposition of universal actions of protection at the expense of the underlying political dynamics, but functioning as an essential moral force for collective harm recognition during discussions of implementation.

In this regard, humanity's relation to the politics of intervention practices is one that will often be defined by a diversity of legitimate but potentially conflicting ethical considerations (Lu, 2007 p.945); but that does not equate to the idea that humanity should simply be thought of as devoid of value or merit. State decision makers will often be forced to choose between competing moral duties to a range of international norms, which can result in "countervailing moral claims" overriding appeals to protection (Vik, 2015 p.22). However, whether or not we have a shared ideal of unconditional common humanity or agree on the actions performed in its name, the fact that we continue to ask the question of 'should we act' in the threat of mass atrocity crimes in the first place, assumes that we do have some moral ideals and principles, by which we choose to recognise and condemn certain acts as inhuman (Luban, 2002 p. 99; Souter 2009 p.46). In this sense, the recognition of a shared moral concept remains integral as without which the question of should we act in the face of mass atrocity crimes simply would not arise. Thus, "manifestations of self-interest and inconsistency do not necessarily detract from underlying common moral sentiment precisely because they are exposed as self-interested and inconsistent" (Papamichail and Partis-Jennings, 2016 p.94). It can therefore be argued that attempts to reduce the concept of humanity to a rhetorical cover for political self-interest significantly underplays the importance of humanity's role in

reinforcing the assumed moral wrong found within the actions of the perpetrators of atrocities, and in generating a harm that can be seen to transcend traditional sovereign borders. However, the extent to which the concept can provide more than a reflective point of reference for locating universal harm remains much more fundamentally contested.

Humanising Sovereignty

The creation of the R2P is often argued to have redefined state understanding of sovereignty, through connecting it to an idea of compliance to specific universal duties, thus demanding that states extend their responsibilities to others in order to create a more "inclusive community of humankind" (Linklater, 2016 p.392). As a consequence, the construction of the R2P is framed as a direct solution to the previous barriers in forging consensus for protection practices, through acknowledging that responsibility can transfer from the state to the international level based on "the severity of the atrocity" (Welsh, 2012 p.106). This enables states to now "claim a higher authority than the merely selfish claim to a 'right of intervention', and thus reinforces the idea of humanitarian protection as a higher normative goal of the international community" (Cunliffe, 2010 p.81). In this sense, the international community must now be "answerable to a higher authority, that of morality", in order to reject the absolutism of traditional sovereignty (Hopgood, 2014 p.190). According to Mitchell (2014 p.40), in order to challenge sovereignty there is a need to "tap into a profound source of collective belief about the capabilities and duties of humans". What this suggests is that humanity is a concept that is in need of protection, whereby the threats made against it create a state of exception that requires human agents to challenge such violence. In this regard, it is argued that the concept of humanity must be central to driving the desire to address the real or potential threat of mass atrocity crimes, through which it will then be possible to overcome the central tension that exists between "sovereignty and the protection of human lives" (Mitchell, 2014 p.43). This theoretical position has therefore led R2P advocates such as Peters (2009a) to argue that:

Conflicts between state sovereignty and human rights should not be approached in a balancing process in which the former is played off against the latter on an equal footing, but should be tackled on the basis of a presumption in favour of humanity (p.513).

It is my claim that sovereignty has already been relegated to the status of a second-order norm which is derived from and geared towards the protection of basic human rights, needs, interests, and security (p.544).

In reference to the R2P, Peters (2009b p.155) highlights this re-characterisation of sovereignty as implying a now inherent responsibility to protect and thus further emphasises the role of humanity as the ultimate normative source of international law. What this argument suggests is that humanity has fundamentally re-defined the normative construction of state obligations under international law, making sovereignty now work in favour of protection. Peters (2009a p.513) has thus referred to this process as the "humanization of sovereignty", arguing that sovereignty should now be seen to "exist only in function of humanity".

However, as the thesis has highlighted, the 2005 WSOD, enshrining the scope of the R2P, was specifically constructed to "fortify existing legal commitments, as opposed to an attempt to transform international law or create new legal obligations" (Tacheva & Brown 2016 p.442). Consequently, it is vital to acknowledge that the R2P also directly aims to strengthen traditional state sovereignty through working to create a better balance between competing moral claims and motivations for states to protect and prevent mass atrocity crimes. As has previously been noted by Bellamy (2015d p.162), the complex nature of the R2P's normative construction means that analysis of its implementation requires a recognition of the multiple responsibilities it attempts to enforce, concerning both the responsibility of states to their own populations and the responsibilities of the international community to assist and respond.

The introduction of the R2P thus sought to provide a bridge between the dividing principles of humanitarian intervention and state sovereignty, in order to reject the idea that both principles are forced to be in constant confrontation or that one simply trumps the other (Glanville, 2013 p.191). In this sense, the R2P can be categorised as an attempt to provide a more flexible negotiation between the demands of sovereignty and the protection of humanity, both of which have moral and legal justifications. As Ban Ki-moon (2008) has argued, the R2P must be understood as an "an ally of sovereignty, not an adversary" and thus seeks to "strengthen sovereignty, not weaken it". This point has been further emphasised through the increased link between the R2P and state capacity building, which is used to reinforce the sovereign power of the state and its ability to provide protection to its citizens (Roach, 2016 p.408). The concept of humanity therefore has a much more complex relationship with the R2P than has previously been highlighted, whereby it can also be the case that more traditional appeals to maintaining international peace and security through the reinforcement of state sovereignty can be powerful motivators for the goals of prevention. Humanity in this sense is not always the central normative component in the motivational process of implementing R2P responses, even if it may be essential as a reflective guide to locating universal moral harms in the first place. The concept of humanity therefore has a much more complex relationship with the R2P than has previously been highlighted, whereby it can often be the case that more traditional appeals to maintaining international peace and security through the reinforcement of state sovereignty are much more powerful motivators for the goals of protection and prevention. Humanity in this sense is not always the central normative component in the motivational process of implementing R2P responses, even if it may be essential as a reflective guide to locating universal moral harms in the first place.

However, there is a need to also challenge the perceived dichotomy between sovereignty and the protection of humanity, whereby from the early stages of the R2P's

normative construction, it was sovereignty that was understood to constitute the key barrier to intervention. This subsequently led to claims that "states are resisting the implementation of the R2P on the same basis that they have baulked at previous intervention theories: that it presents a challenge to sovereignty" (Martin, 2011, p.156). However, as the thesis has noted so far, the conditionality of sovereignty existed long before the creation of the R2P, and thus in many ways the explicit focus on sovereignty has often led to an over exaggeration of its impact on hampering intervention practices. Moreover, as Glanville (2013) has also highlighted, sovereignty was never meant to encompass absolute freedom of the state and has always been understood to entail legal and moral obligations (Glanville, 2013). In this regard, Finnemore (2008, p.207) reminds us that "sovereignty has hardly proved an insurmountable barrier to intervention and, in fact, has always been malleable and conditional in a host of ways". Consequently, despite the decision to place the R2P under the collective security framework of the United Nations, and the authority of the UNSC (Stuenkel and Tourinho 2014, p.385), the continued contestation in regard to Pillar III practice suggests that sovereignty has never been the central barrier to the acceptance of the R2P principle, as is often assumed. This is perhaps best highlighted by the varied voting record of the BRICS on endorsing the UNSC to authorise the use of force in containing the atrocities in Côte d'Ivoire, Libya and Mali (Lee and Chan, 2016, p.185). Thus, whilst states may rely on sovereignty to rebut the application of the R2P in certain circumstances, its use as a rhetorical strategy is not necessarily because states believe it to be absolute principle that cannot be challenged, but more so because it has been legitimised as a concept that can be used to stand in for other interests – e.g. maintaining balance of power interests, concerns over failed states and terrorism. As Bentley (2017, p.568) acknowledges, sovereignty is mostly appealed to by state actors as it "provides the best way of achieving their aims as opposed to normative adherence in the conventional sense".

As a consequence, there has continued to be a strong focus on the maintenance of sovereign authority, demonstrated by the growing consensus around the first and second Pillars of the R2P (Stuenkel, 2014). What this may ultimately signify is that there are still often circumstances when "order takes precedence over justice within the international system, thereby privileging national interest and independence over the rights of individuals" (Garwood-Gowers, 2015 p.316). In this regard, due to the continued suspicion of the R2P's Pillar III, in the most part relating to fears surrounding "attempts to impose a certain conception of justice on states", a more pluralist conception of international order has continued to also hold traction, therefore directly challenging the idea of humanity's protection as the now overriding normative responsibility (Garwood-Gowers, 2015 p.316). Thus, rather than the R2P being part of a distinct process of humanising sovereignty it is in fact working to both reinforce sovereignty in certain cases and challenge traditional interpretations of sovereignty in others.

As a result of its current formulation, it is most often the case that UN resolutions referencing the R2P have focused exclusively on Pillar I of the doctrine, in order to highlight the primary responsibility of Member States to protect their populations from mass atrocity crimes, further emphasising the centrality of sovereign power to address such crimes. However, as Pattison (2015 p.193) has argued, it is the creation of an "international responsibility to protect" that must be understood as the "most important and value added element of the responsibility to protect doctrine". Hence, the R2P can be seen to have also generated significant discussion around the responsibilities states should share as defenders of both international peace and security and the protection of 'our common humanity'. The concept of humanity is therefore still integral to reinforcing this added moral claim that the international community also has a responsibility to protect those threatened by mass atrocity crimes and not just their own populations, along with the idea that certain circumstances require international sovereignty to be challenged and overruled. As Bain (2010 p.26) highlights, "a

theory of obligation is required to connect sovereign as responsibility with the international responsibility to protect". Appeals to such an obligation have thus taken root in a belief in the higher authority of humanity, demanding certain actions irrespective of shifting state interests (Bain, 2010 p.41).

Consequently, whilst the R2P seeks to find a balance between both supporting and reframing state understanding of sovereignty, at its core the R2P also refers to "global responsibilities that can only be met by sacrificing national interests" (Ralph, 2017a). This idea of sacrifice can therefore be seen to stem from the moral arguments enforced by the concept of humanity, suggesting the need to "protect a vision of common humanity and an associated baseline of solidarity in response to cruelty and human suffering" (Radice, 2016 p.103). As a result, the motivational capacity of humanity remains significantly intertwined with the internalisation of humanitarian concerns within states "interests and identities" and the ability of the R2P norm to reinforce these beliefs in order to "encompass a concern for the victims of crimes against humanity" (Brown, 2013 p.442). In this sense, whilst the R2P is constructed at one level to help strengthen state sovereignty, its ability to fundamentally change state identity and decision-making towards a universal responsibility to protect is supported by the motivational force of humanity.

However, as Marlier and Crawford (2013 p. 398) highlight, whilst the R2P has clearly attempted to expand the UNSC's "circle of empathy" through broadening its focus towards the protection of individuals and beyond the state, it also remains the case that this belief has not been deeply institutionalised, especially on the national level, and thus "many of us still don't see a moral relationship to a distant other" (Marlier and Crawford, 2013 p.413). Yet, for the R2P to fundamentally address occasions when host states remain indifferent or complicit in mass atrocity crimes, it is essential that states can be motivated to bypass their immediate state interests and claims of traditional sovereign autonomy. Again this dilemma has thus played out

to devastating effect in the case of Syria "as national interest continues to trump humanitarian need" leading many to question the limits of moral advocacy for generating change in state behaviour (Hehir, 2016 p. 166). What this ultimately suggests is that humanity has not so far been deeply internalised into state understanding of responsibility.

As this section has outlined, the relationship between humanity and sovereignty in supporting the R2P concept remains distinctly fluid, whereby the R2P has not simply redefined sovereignty through greater appeal to specific obligations generated by the concept of humanity. In this sense, rather than see the R2P as igniting a debate that plays off claims in support of humanity's protection against those of state sovereignty, it is much more the case that the complex layers of responsibility that are contained in the R2P principle reinforce distinctly separate normative claims in different situations. Furthermore, as Labonte (2016, p.142) argues, it has never really been the case that "sovereignty and non-interference" pose the "predominant obstacle to saving strangers - political will has". Thus, it remains critical to highlight that whilst a strong commitment to principles of human protection are in theory not incompatible with territorial sovereignty (Linklater, 2016 p.422), the ability to motivate states in response to atrocity crimes beyond their borders still requires a clear acceptance of moral sacrifice that has continued to be hard to generate. In this sense, the R2P has so far struggled to fully internalise the principle of humanity as a consistent motivational component reshaping state decision-making at the international level.

The Diminished Impact of Humanity

One of the most important ways in which the motivational force of humanity is seen to function is in regard to its role in helping to secure a so-called "moral bite". The idea of "a moral biting point" was something that was referred to in the 2001 International Commission on Intervention and State Sovereignty (ICISS) report, in which it was argued that "getting a moral

motive to bite means, however, being able to convey a sense of urgency and reality about the threat to human life in a particular situation" (ICISS p. 71). In other words, what the conceptualisation of a moral biting point assumes is that there is a direct and consistent relationship between shock and the motivation to respond, in which a certain threshold can be reached in order for the R2P to overcome competing state obligations and reinforce such a responsibility. This is reflected in the appeal made by Roth (2016, p.160), in which he suggests that for the R2P moving forward, improving the odds that moral motives will bite, "depends significantly on respecting and heeding the conscience shocking calls for action". However, as Bain (2010 p.45) has argued, the problem "is not found in the challenge of connecting the urgency and reality of particular situations with an appropriate (moral) motive" but in "an over-emphasis on 'responsibility' which, for all its attractiveness, cannot bear the weight placed on it".

Subsequently, when one examines the later stages of the process through which states go about generating the required consensus to take action, it is most often a complex web of empirical and structural concerns rather than a singular overriding moral threshold that begins to dictate such decision-making (Hehir, 2016). As the UN (2014) deadlock in addressing the Syria crisis exemplifies, despite a number of initial statements that called for a need to "put action for humanity above inaction for interests", appeals towards the higher moral goal of protecting humanity were increasingly muted, as the complexities of dealing with the situation on the ground and geopolitical realities took hold (Ralph and Gifkins, 2016). What this example suggests is not simply that the concept of humanity plays no role in framing the motivation for such discussions, but instead that its influence on proceedings is limited by a range of competing constraints on state interests and behaviour. As a result, the moral bite of humanity is one that arguably does not hold for particularly long and as such is loosened by many other factors.

This oversight can be best reflected on through analysing the metaphors we use to conceptualise the moral decision-making process for generating consensus in mass atrocity crime situations. As Lucas (2014 p.42) highlights, the metaphor most commonly used to explain the moral motivation for protection usually takes the form of a "Good Samaritan" scenario in which a victim in dire need is brought to our attention, "promoting a felt need to render aid as the only moral decent response". However, Lucas (2014 p.42) goes on to argue that such metaphors fail to capture the moral "complexity of the most pressing cases of massive killing associated with genocide", which can be better theorised in relation to domestic analogues of witnessing a neighbour's suffering of spousal or child abuse. In this case there is a clear feeling of discomfort and outrage generating a felt need to override the "sovereignty of the home and family in the interests of justice" (Lucas, 2014 p.42). Yet in spite of this clear moral obligation to take appropriate action we are often forced to wrestle with questions such as, how should the domestic intervention be effectively carried out and should one avoid taking sides? We may thus let competing considerations override our belief in the clear moral wrong of the original actions we have witnessed, due in part to the complexity of dealing with the situation effectively and the potential for such structural issues to make us wary of doing further harm. Furthermore, Lucas (2014 p.42) points to the longer term issue of whether those intervening "derive either the right or the requisite expertise to restructure the neighbour's family in order to prevent future violence". What this metaphor therefore exemplifies is the way in which our felt humanity for those suffering the most horrific of crimes is not alone a motivational force that instantly overrides other pressing concerns throughout the process of deliberation.

Consequently, despite the reformulation of language and the normative focus brought about through the introduction of the R2P, the barriers that still exist to motivating consensus for action remain constrained by the same limits that have so often thwarted humanitarian

181

causes in the past. In this sense, the underlying political dynamics that condition when and where states may choose to respond to atrocity crimes mean that humanitarian norms are "still generally honoured more in their breach" (Labonte, 2013, p.157). Thus, as Linklater (2016 p.403) argues "emotional responses to inactivity in the face of distant suffering remain weak", whereby the link made between moral indignation and practical implementation is still fundamentally contested. As a result of this oversight, the demands we place on the concept of humanity as an overriding motivational force can at times lead us to simplify the complexity of moral decision-making. This is perhaps best encapsulated by Barnett's (2002) comments reflecting on the UN's failure to avert the Rwandan genocide, in which he states:

Because the UN and other bodies cannot aid everyone, they must develop rules that tell them who they should care about and when they should care. They have to be selective Samaritans. Yet, all such rules are supposed to vanish in the face of crimes against humanity and genocide, at such instance moral distance should be horizonless (p. 18-19)

What Barnett captures here is the clash between our highest moral aspirations and the limitations of the concepts and institutions that we build to try and reach the lofty ambitions of 'never again'. In this regard, the very premise of the R2P conversion process, in which the moral threat posed to a common humanity is transformed into collective action, needs to be understood in the context of the moral limits of political life itself. As Finnemore (2008 p.218) argues, interventions are not just "difficult technically or logistically" they are also difficult normatively, whereby apparent normative progress "does not make dilemmas go away" (p.223). The R2P has thus been presented as a doctrine that appears to present a formula for responding to all cases of mass atrocity around the globe in which the only barrier now faced is the reach of our collective humanity.

However, in practice it is the very belief in the power of humanity to override other interests and structures that continues to disappoint and thus undermine the R2P, as belief in a supposedly uncontested moral principle, leads only to dramatically polarising results. It is vital then to reflect on the way that "universal ethical constraints are not merely moral", they remain deeply political and "dependant on the political will of states to ensure their effective implementation" (Boucher, 2011 p.358). Consequently, as Hobson (2016 p.454) responds, "there is value in seriously reflecting on the way vulnerability and violence operate in world politics and coming to grips with our limited capacity to understand and respond to it". In this sense, by rejecting the R2P as a potential "expression of humanity" (Newman, 2016 p.32) and embodiment of linear moral progress, one can begin to disentangle the complex nature of humanity's role in underpinning the central normative content of the R2P, whilst at the same time recognising the limitations of humanity's motivational influence on the process of state decision-making.

Whilst the R2P may have been built on the premise of a "common responsibility" to generate "more concerted efforts to prevent and respond to atrocity" (Welsh, 2016a p.985), just over ten years after the concept's adoption, UN Secretary- General Ban Ki-moon (2016a p.8) has been forced to admit that, "although Member States have repeatedly emphasized their support for the prevention of atrocity crimes, this has not been sufficiently translated into concrete support for preventive strategies". Whilst we can often get bogged down in smaller debates concerning how states interpret specific elements of the UN Charter or the ineffectiveness of the current international legal architecture, the ability to address the deeper issue of political will has much more to do with the strength of the moral principles in which we place so much imperative. Thus, the fact that genocide and crimes against humanity trigger "our moral attention" and are seen to offend our sense of responsibility (Barnett, 2002 p.19), yet at the same time such beliefs so often fail to translate into effective and timely response,

cannot be understood as a failure of political institutions alone. Instead it suggests a limit to the moral persuasion of the idea that the feeling of moral outrage caused by mass atrocities can fully motivate us to negate other pressing moral responsibilities in order to respond. As Vik (2015 p.142) explains, "despite the universal agreement that 'something must be done', we continue to accept excuses based on a pluralist limited understanding of moral responsibility to stand idly by while genocide unfolds". Subsequently, it leads one to reflect on the limits of the moral concepts we place our faith in and the complexities of attempts to realise such goals in the world of international politics.

Conclusion

For many critics, the R2P is often seen to have failed because it is either too expansive and thus too much of a challenge to sovereign integrity, or because it is too minimalist and thus reinforces the status quo (Welsh, 2016a p.985). Debates subsequently continue along such themes, in which scholars contest whether the R2P has failed to be fully institutionalised following its adoption by the UN (Roff, 2013 p.200) or if in fact the way the R2P has been institutionalised imposes the greatest limits on its potential influence (Ercan, 2016 p.146). However, such analysis of the R2P's limitations arguably overlooks the bigger picture. What has always been the underlying dilemma facing those trying to generate consensus for protection, is providing an answer to the question of why states should respond to mass atrocity crimes? The concept of humanity has been central to underpinning the normative and moral responses to this question for centuries, yet a belief in the moral righteousness of the concept alone does not effortlessly translate into the motivation to enforce protection or prevention practices. In light of a recent emphasis on the importance of mobilisation, it is important for this chapter to challenge the key assumptions surrounding this motivational process for building consensus for action under the R2P framework.

This is significant, as the assumptions made to the motivational qualities of humanity do not just impact on abstract theoretical debates, they also work to frame and support practical claims in response to mass atrocity crimes. In this sense, if the concept of humanity is to remain an essential part of the language used by both diplomats and academics in order to support and justify specific decisions, then it is crucial that the salience of these claims are sufficiently interrogated. Consequently, what is required moving forward is a more reflexive approach to understanding the motivational role of humanity, one that takes greater account of how moral claims translate into everyday political decision-making.

What this chapter has therefore brought to attention is a divide between the moral aspirations supposedly embedded in the concept of humanity and the extent to which humanity can function as a motivational rather than just reflective concept. Through rejecting claims that humanity is simply a rhetorical concept of no specific value, along with the assumption that humanity's motivational influence has fundamentally redefined the role of sovereignty in relation to the R2P principle, it has been argued that humanity can be best understood as a relatively diminished factor in the motivational process, whereby both competing moral and structural factors undermine the apparent higher and singular goal of humanity's protection. What this ultimately suggests is a disconnect between the moral aspirations and obligations we assume are embedded in the idea of humanity and our belief that through constructing concepts that attempt to limit the influence of sovereign self-interest, the international community will become more effective in their response to averting and responding to mass atrocity crimes. Consequently, it is argued that there are clear limits to the moral imperative of humanity's power that go beyond competing claims of sovereign rights. As a result, the ability to address the issue of R2P mobilisation requires us to move beyond the assumed dichotomy between sovereignty and humanity and thus re-examine further the central tensions that exist in the process of motivating humanitarian action. This chapter has thus sought to reignite such critical

reflection on the concept of humanity, in order to better inform understanding of the complex interaction between morality, law, and politics and their impact on state adherence to the principles of the R2P. Moving forward this conclusion also raises a number of pressing concerns as to the future trajectory of the R2P project. Perhaps most significantly it brings up the question as to how we can now best conceptualise the R2P's core function and purpose. If the R2P is fundamentally limited in its ability to function effectively as a motivating principle to galvanise action during the outbreak of mass atrocity crimes, then what role can the R2P play in terms of influencing how states respond to mass atrocity crimes? This will be the focus of the next chapter.

Chapter 7: Contesting the R2P's Key Added Value: Negative Accountability and the Role of Reform

Introduction

If the R2P is clearly limited in its ability to function as a motivating principle that can galvanise action in response to mass atrocity crimes, then what role or *added value* can the R2P provide in relation to the overall challenge of protecting and preventing mass atrocity crimes? Furthermore, what might this conclusion mean for how we understand ongoing debates over R2P reform initiatives moving forward? In response to these questions this chapter will put forward a new theoretical conceptualisation of the R2P's key added value whilst also challenging the current focus of reform initiatives. In doing so the chapter therefore reaffirms the case for a renewed focus on the role of political will and its interaction with moral and ethical concerns at the international level.

Central to this chapter's core argument, is the claim that appropriate mechanisms through which to address mass atrocity crimes are available to UN member states, yet as will be examined, their application has been inconsistent, as well as at times contradictory. What this suggests is the ability of the international community to respond effectively to mass atrocity crimes is most often connected to a lack of an overriding consensus for generating sufficient moral sacrifice,[12] rather than direct procedural concerns creating a divide between how states wish to respond and the realities of upholding the UN's institutional framework.

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[12] The term "moral sacrifice" is used here to encapsulate the idea that global protection practices force states to make moral decisions about the value of both their own material capabilities and the value of soldiers' lives in relation to those they are protecting.

Moreover, whilst security concerns remain a critical component to influencing how states choose to respond, these concerns alone cannot provide the overriding motivation for states to directly address and prevent mass atrocity crimes. What the chapter therefore highlights, is that despite the current limitations of humanity as a motivational force that can convince states to further address mass atrocity crimes, moral values such as humanity must still be seen to play a critical role in the process of framing collective harms, and thus opening up the scope of who is considered worthy of protection. Consequently, the concept of humanity remains absolutely crucial to attempts to foster new approaches and behaviours to addressing mass atrocity crimes, as this chapter will outline further.

The argument is structured into four key sections. The first part of this chapter will examine a range of competing approaches from the current literature that seek to locate the key added value created by the development of the R2P concept. Debates concerning the added value of the R2P have predominantly been framed around how the principle is seen to change specific aspects of state behaviour over time, whether as a distinct rallying cry or as an evolving policy agenda focused on prevention. In challenging these two broad approaches, the section will highlight the need to recognise the limits of a developing international collective will, and the continued complexity of constructing new prevention based initiatives. In order to move beyond this impasse, the second part of the chapter will put forward a new theoretical conceptualisation of the R2P's key added value, with the concept understood as predominantly a "negative accountability claim". It will be argued that the R2P provides a moral framework through which states can now more easily trigger debates concerning the question of "why aren't we protecting". Underpinning this new theoretical conceptualisation of the R2P's added value is thus an assertion to the critical importance of humanity as a benchmark for universal claims to protection, reflected in the language and tactics used from which to challenge the failure to respond. As this section will explore in more detail, despite the R2P's function as a

trigger for discussion, it has at times been clearly side-lined as an approach through which action is taken following the outbreak of atrocity crimes. As a result, it is argued that the R2P is predominantly working as an increased moral and political pressure on state actors to consider a response to mass atrocity crimes, therefore reinforcing limited accountability claims on other states to at least try and do something in reply. Consequently, the R2P has struggled to generate further compliance pull on state actors, leaving a significant gap between rhetoric and action. In light of this assessment, the third section of the chapter will assess the implications this has for R2P reform initiatives. In doing so the section first outlines responses to the question of reform from both R2P advocates and critics in order to outline how much of the focus from both sides has been on the decision-making procedures of the UNSC and the challenge of addressing the binary play-off between humanitarian objectives and the role of state sovereignty. In rejecting this highly institutionalist focus, the section uses the case of Rwanda to specifically demonstrate the limitations of the R2P's focus on the constraining power of state sovereignty and the challenges of the outdated decision-making structures at the UN. In contrast, the example can be seen to exemplify the centrality of better understanding how moral imperatives interact with political and legal pressures in order influence the overall motivational consensus for generating sufficient political response. In this sense, the current limitations of the motivational pull of humanity can therefore be seen to have significant implications for those trying to explain the current R2P implementation gap, whereby the R2P must be seen to only be as strong as the universal moral imperative that underpins its motivational content.

The final section of the chapter then focuses on the need to re-think the idea of political will and its relationship to state mobilisation. In doing so the section argues that we must take a broader view of political will that is more conscious of how a variety of humanitarian protection norms interact and compete with one another and the impact this has, not just on the

R2P concept understood in narrow terms, but the goal of protection and prevention of atrocity crimes more expansively. Thus to conclude, the chapter argues that there is a need to develop a more cohesive approach to the challenge of mobilisation, one that is able to move beyond the sovereignty vs humanity debate, in order to more closely reflect on the way humanity, law and politics interact at the global level, therefore influencing state decision-making on implementing protection practices. How we can begin to better conceptualise this interaction will therefore be the focus of the final chapter.

Debating the R2P's "*Added Value*"

As the last chapter highlighted, a key perceived strength of the R2P is often thought to exist in its ability to help "trigger international action" (Thakur, 2011b), a process that is defined by the R2P's ability to convert moral shock into policy action. This is a line of argument that has continued to be strongly supported by one of the R2P's original founders, Gareth Evans (2008b), who claims that the R2P "was devised as a new rallying cry", by which the language of responsibility would help to generate more effective, consensual responses to extreme, conscience-shocking cases. In this sense, the R2P must be utilised in order to "elevate a particular crisis above the crowd of normal international political issues and demand some form of response" (Bellamy, 2014, p.68). It is thus argued that through this process of threat elevation, convergence can then be built between competing advocacy groups, in order to support and mobilise decisive action (Lanz, 2011, p.241). For Evans (2015, p.16), the R2P was therefore set up to try and "energise effective collective action by generating a new consensus reflex among international policymakers". This conceptualisation of the R2P as a catalyst for action is thus framed in opposition to previous incidents of state inaction in the face of mass atrocity crimes, whereby the potential future success of the norm must now be measured by the decisiveness of the global response to the "next conscience-shocking case of large scale killing" (Evans, 2008a, p.53). As a result, what this interpretation also suggests is that the R2P

will work best as a bespoke answer to motivating global protection practices, in which the threat of mass atrocity crimes must be elevated above the noise of everyday politics, creating an environment in which the politics of exception can be allowed to drive action and response to the most conscience shocking crimes. In this sense, mass atrocity crimes must be seen as not part and parcel of international life but an exception that requires a different type of response accordingly.

However, this idea of the R2P as a signifier of political exception has proven in reality to be a relatively ineffective tool of motivation. Through challenging the moral consistency of the R2P's claim to convert shock and outrage into collective humanitarian action, this thesis has directly challenged the arguments made by both Evans and Thakur particularly, concerning the central purpose of the R2P. In this regard, through focusing explicitly on the relationship between humanity and the R2P it has been possible to demonstrate how the link between the ability to locate universal human harms does not directly reinforce and reify the motivational capacity to take action on behalf of our common humanity. As the last chapter concluded, this divide in our understanding of humanity and its relation to the R2P requires us to re-think how to conceptualise the purpose of the R2P moving forward, in light of this conclusion. In doing so it is therefore vital to also address the range of approaches put forward by other prominent R2P scholars who do not fully subscribe to Evans and Thakur's "rallying cry" theory.

The R2P as a Policy Framework for Prevention

In rejecting the rallying cry thesis put forward by Thakur and Evans, Bellamy (2009, p.4) has strongly argued that the R2P can have the most impact as a broad policy agenda, increasingly focused in the area of atrocity prevention. In this sense, Bellamy (2013, p.346) argues that the R2P is a habit former, whereby the rise of the R2P has been able to contribute to "changes in the interests and identities of states", as they begin to internalise the goals of the R2P with their

own domestic and international views. It is therefore through this long process of internalisation of community standards that states will eventually take it for granted that the protection of populations from mass atrocity crimes ought to be a matter of global concern, thus helping to reshape international affairs (Bellamy, 2014, p.72). Consequently, it is important to recognise that Bellamy's interpretation of the R2P as a distinct policy agenda is directly at odds with attempts to categorise the R2P as a catalyst for action. He therefore argues that the R2P has "little utility in terms of generating additional international political will" and thus the R2P must be employed as "a diplomatic tool, or prism, to guide efforts to stem the tide of mass atrocities" (Bellamy, 2010, p.166). Based upon this argument, the primary goal for the R2P must therefore be the prevention of mass atrocity crimes occurring in the first place whereby the key long term test is "whether there are fewer cases of mass killing to respond to" (Bellamy, 2010, p.162). In this regard, the R2P is being asked to do more than simply galvanise political will during the outbreak of atrocity crimes, by instead aiming to fundamentally shift how states conceptualise the impact of such crimes on their own values and conceptions of human security.

Part of the reason that Bellamy believes the R2P has so far had little impact as a catalyst for action is due to the specific political and contextual issues that surround decision-making when it comes to the outbreak of mass atrocity crimes. It is argued that despite the plausibility of the arguments put forward and subsequent appeals to shared normative obligations, it is most likely that "contextual variables" will exert greater effect on whether or not consensus to intervention will be agreed (Bellamy, 2013, p.342). The suggestion therefore is that the internalisation of the R2P by states will eventually lead to a world where the need to drum up motivation in light of a crisis will become a consistently less frequent occurrence. This for Bellamy is the best way in which to avoid having to rely upon the complexities of multiple state obligations and interests that have to be managed in crisis situations – the impact of such

can severely limit the ability of the international community to generate consensus for appropriate action.

Yet perhaps what Bellamy significantly overestimates is the complexity of prevention itself and the idea of it being much less controversial than other humanitarian responses of protection. In this sense, it has often been argued that due to the major difficulties of attempts to generate responses to atrocity crimes as they occur, a focus on prevention will help to bypass the significant challenges of competing interests and contestation over authorising protection practices. However, as Welsh (2016b, p.216) has rightly emphasised, "prevention is in fact a controversial practice" in spite of the "universal rhetorical commitment to its prioritisation". One can highlight the political contestation surrounding such practice in reference to the most recent case of violent outbreaks in South Sudan, whereby Western states demonstrated a significant unwillingness to directly confront "local actors over escalating inter-communal hostility and serious human rights violations" (Welsh, 2016b, p.225). Moreover, even so called R2P "success" cases such as Kenya were never discussed formally on the agenda of the UNSC, demonstrating how atrocity situations are still often presented as "an internal matter for that state, and not a legitimate concern of the international community" (Welsh, 2016b, p.225). Furthermore, as Labonte (2016, pp.144-145) argues, a shift in focus towards "prevention and capacity building, early warning, and international assistance may well obscure rather than strengthen the regulative effect of the R2P". In this regard, there is often an assumption that "norms of prevention and response are mutually exclusive" and thus both can be seen to "exude strong compliance pull among state and non-state actors" (Labonte, 2016, p.145). However, doing so effectively underestimates the challenges prevention creates in terms of the inherently intrusive character of certain preventive strategies that can often exacerbate domestic tensions through increased international involvement, as well as the difficulties of trying to determine "causal patterns when it comes to identifying specific danger signs" (Sharma and Welsh, 2015,

pp.2-3). Thus as Hehir (2015a, p.86) has suggested, simply highlighting that potential triggers exist in a society "does not in itself catalyse action". Consequently, it can be argued that Bellamy's approach is still very much reliant on the role of "contextual variables", despite such factors being integral to his original concerns regarding Evans' rallying cry thesis.

Overall, both Evans and Bellamy can be seen to underplay the challenge of motivation and the extent to which the R2P has struggled to bypass many of the previous obstacles to prevention and protection. For Evans (2008b), the decision to embrace the new language of the R2P was argued to be all it should take to start generating effective consensual responses in a way that the previous language of "right to intervene" was not able to. Yet, taking stock of the analysis carried out in the previous chapter, and the thesis more broadly, it is clear that the shift in language has not created a pathway through which states can now avoid the constraining impact of long term debates over the how, when, and why of intervention practice. Likewise, for Bellamy, the move to reinforce a need for greater involvement in prevention has not been a silver bullet for success, as Ban Ki Moon (2016a, p.8) reminded states in his final R2P report,

> Although Member States have repeatedly emphasized their support for the prevention of atrocity crimes, this has not been sufficiently translated into concrete support for preventive strategies — even when there have been credible assessments of imminent threats to populations.

What remains at the crux of the problem is the difficulty in motivating change in state behaviour and an inability to successfully conceptualise how the R2P can supposedly function as a motivator for this change. As Bellamy (2014, p.51) has thus been forced to recognise, states have remained reluctant to "spend precious tax income and risk soldiers' lives in order to save foreigners from mass atrocities in faraway places". What is required to try and address

this reality is a more macro understanding of the R2P's critical added value, which can also provide a more nuanced understanding of the concept's current limitations and weaknesses.

The R2P as Constraining and Constituting Interests

In response to Bellamy's strict focus on the role of prevention and Evans' sole reliance on the R2P as a rallying cry, a number of R2P advocates have sought to conceptualise the role of the R2P in much broader terms. Most prominently, former R2P Special Advisor, Edward Luck (2010, p.351) who has acknowledged that when prevention does fail the R2P must also be successful in "generating the will and capacity to respond effectively to the failure to prevent". Luck (2010, p.357) therefore claims that both functions need not be incompatible with one another, and as such the R2P should be able to function as both a rallying cry for action during the immediate outbreak of atrocities as well as a policy agenda that can help reinforce state prevention practices. Yet by simply highlighting the need for the R2P to be both reactive and preventive, Luck ultimately fails to move much beyond the positions so far highlighted by Evans and Bellamy and therefore doesn't provide much further advancement to the debate.

More recently however, Welsh has taken issue with Bellamy's strict prevention focus, in regard to conceptualising R2P's key added value. For Welsh (2014, p.136) one of the R2P's core functions is to "emphasize what is appropriate and to shine a spotlight on what is deemed inappropriate". Based upon this theoretical framing it is argued that Bellamy takes an "overly minimalist view of the norms function" by defining R2P as a policy agenda rather than a rallying cry for action (Welsh, 2014b, p.136). Welsh (2014, p.136) therefore goes on to argue that the strength of the norm must also be measured "by the degree to which notions of protection are invoked by international actors during real or imminent crisis", in this sense, R2P must also be able to function as a "catalyst for debate". What type of action then follows from such debate will always be contested, but what Welsh (2014, p.136) emphasises is a duty

for states to identify and consider how the R2P framework might apply to such situations. What Welsh is able to capture here then, is an area in which the R2P has been able to have some impact, with even the staunchest of critics suggesting that it has become somewhat harder for states to justify inaction (Hehir, 2013).

This is something also picked up on by Glanville (2016a, p.185) who has strongly argued that the R2P "has a very real and readily observable impact on the behaviour of states". This impact, Glanville (2016a, p.187) argues, is most observable in the way in which states are now forced to make "tactical concessions and adapt their arguments to alleviate pressures to comply" thus demonstrating that the "norm has some validity"; along with states now beginning to view R2P issues "as a matter of routine". Glanville (2016a, p.187) has argued that the current focus of debates, concerning whether the R2P is best framed as a rallying cry to action" or whether it is working to reshape "the identities and interest of actors", is ultimately misplaced. In response, he argues that the R2P is in fact working in both these ways at the same time and thus "constraining the interests of some actors and constituting the interests of others" (Glanville, 2016a, p.187). Glanville's (2016a, p.193) evidence for this claim is mainly supported by the Libyan example, in which he argues that the decision by states to adopt and not block the resolution can in a large part be explained by the ideals the R2P reinforces, the idea that "the international community should do what it can to protect populations from mass atrocities". In this way, the R2P is seen to have forced states to reconsider how they frame arguments relating to atrocity crimes and the process through which they go about challenging or supporting R2P related proposals in the UN.

Yet what both Welsh and Glanville assume to different degrees, and thus fail to engage with further, is the role of moral imperatives, such as humanity, in providing the normative component underpinning the R2P "norm". In particular, the extent to which an understanding of this crucial relationship between humanity and the R2P allows us to better explain the

process of change brought about by the R2P so far, and the continuation of constraints regarding how the R2P can effectively mobilise responses to atrocity crimes. For Glanville (2016a, pp.193-194), it is argued that the decisions by states to "not block" or "adopt" a resolution connected to an R2P situation can be understood through the "power of the idea that the international community should do what it can to protect populations from mass atrocities". The motivation behind this apparent international collective will is ultimately left untheorised by Glanville, and thus one is left to question if it is possible to fully understand how the R2P is impacting on state behaviour without also conceptualising the role of the underlying normative ideals that are supposedly driving such change in the first place. In this regard, the power of R2P for Glanville comes from a universal feeling of collective responsibility that he believes states share, yet to what extent can we consider the international community as sharing such beliefs and more importantly, how do moral ideals influence how we should conceptualise the R2P's key added value? Furthermore, whilst Welsh (2015) is correct in highlighting that the R2P must work alongside a range of competing considerations, that are "both normative and non-normative", the challenge of better understanding this complex and interconnected web of competing obligations is left significantly underdeveloped without further engagement with the concept of humanity, and the extent to which it functions as an overriding moral imperative for the R2P.

As Burke-White therefore argues (2011, p.35), the strength of any norm or rule of international law can be measured by its ability to "alter the cost-benefit calculations, preference sets, or value choices of actors in the international system"; subsequently, part of the challenge for R2P advocates has been to try and locate the core function of the norm in order to address how the R2P can work to best influence state decision-making. Disagreements over the R2P's core function, whether best understood as a policy agenda, rallying cry or a combination of the two, has at times clouded discussions concerning the depth of the R2P's

influence on international policy making and the potential effectiveness of the norm itself. Perhaps most significantly, there has been a tendency in R2P scholarship to overlook questions concerning "why states should save strangers" and subsequently the extent to which the R2P, as a distinct moral imperative, can influence how states, and the international community, approach discussions and practices of intervention. In this sense, there is a clear disconnect between debates around how the R2P changes international practice and why the R2P should place pressure on states to change their foreign policy calculus in mass atrocity crime situations.

The R2P as a Negative Accountability Claim

In response to the limitations of the current debates so far highlighted, I want to introduce the idea of "negative accountability claims". This new normative concept can be used to better conceptualise the important added value of the R2P and further locate its potential to influence specific forms of state behaviour, in response to mass atrocity crimes. Through re-conceptualising the R2P in relation to the moral concept of humanity, it will be possible to reinforce the importance of ethical terms to the way in which states communicate their actions and intentions to others (Frost, 2009, p.19). In this regard, rather than simply accepting a shared universal feeling of collective responsibility being held by all states, one must examine how states are making use of universal moral language, for what purpose and to what ends? It is through this analysis that it will be possible to re-define our understanding of the R2P's key added value in terms of its role as a "negative accountability claim".

This approach builds on the claims put forward by Welsh and Glanville above, recognising the importance of the R2P as a concept that can place political pressures on states to, at a minimum, discuss the outbreak of specific mass atrocity crimes, but at the same time also locates the R2P within the limitations of moral and normative arguments, rejecting claims

that the R2P has so far had a significant impact on changing how states respond to mass atrocity crimes more broadly. Furthermore, whilst Bellamy (2014, p.72) has also previously recognised the role the R2P has had in setting community standards and holding out the threat of criticism or exclusion, this approach will also focus on the central normative force that underpins the power of such criticism, namely the concept of humanity. It is this concept that actors claim states are accountable to and thus there is a need for articulation of how it interacts with the R2P principle. As the chapter will go on to explain, this theoretical reconceptualisation will allow for a more balanced assessment of the R2P's value to current debates, emphasising its strengths as a framework for generating routine discussion and consideration of protection practices, as well as its limitations as a motivational driving force for implementation of such policies. This analysis will thus build on calls for greater expectations management (Gallagher, 2015), regarding assessments of the R2P's impact on state behaviour and its future salience in a rapidly changing global order (Cunliffe and Kenkel 2016).

First of all, it is vital to substantiate what we can define as a "negative accountability claim". The term can be understood in relation to the idea of 'accountability for failure', in this sense when a negative result occurs who is to be held to account and why? The politics of constructing a negative accountability claim against certain state actors have therefore been dramatically reinforced by the creation of the R2P, whereby states have most often appealed to its content in the breach (Doyle, 2015, p.11). In this sense, the R2P as a negative accountability claim must be conceptualised in regard to the idea of "account giving", whereby actors must increasingly explain themselves or their actions to other actors, in response to the failure of inaction (Busses, 2014, pp.39-40). Conceptualising the R2P as a negative accountability claim therefore makes it possible to more accurately pinpoint the impact the concept is having on international debates surrounding protection and prevention. This can be seen through examining the way in which states are using normative appeals to humanity as

part of ethical debates, in order to challenge and frame their response to mass atrocity crimes, most often following the failure of the UN to respond. As Linklater argues (2016, p.419) "demands for accountability can be issued directly, often more or less immediately, and those who are adversely affected by the actions of others may be able to mobilize public opinion by appealing to shared understandings of what is irresponsible or reprehensible conduct". Accordingly, what the R2P can therefore be seen to provide is a moral framework through which states can now more easily trigger debates concerning the question of '"why aren't we protecting"?

As the thesis has previously acknowledged, the concept of failure remains integral to the underlying normative power of the R2P. Critics such as Lucas (2014, p.37) have therefore sought to conceptualise the R2P as "essentially a narrative of guilt on the part of dissident former UN diplomats", which is utilised in order to help "operationalize moral determinism more effectively". Subsequently, it is this failure to act and the supposed moral inadequacy of states, as well as their complicity, that has been consistently questioned by UN leaders, such as former UN Secretary-General Ban Ki-moon, who continually challenged the international community to live up to their responsibilities and obligations as part of the R2P agreement. Understanding the R2P as a 'negative accountability claim' begins then with the recognition that "there is an international conversation happening on R2P, one that engages academics and policy-makers alike and reminds us of our global interconnectedness" (Falk and Skinner 2016, p.504). In this sense, the R2P is fundamentally a "political attempt to challenge global cultures of impunity" and the clear lack of genuine accountability in regard to mass atrocity crimes, and thus provides a moral challenge to member states and the international community (Durham and Massingham, 2015, pp.277-278).

Yet by recognising the R2P as a negative accountability claim one must also accept the fact that the R2P has often been a far more useful moral frame after atrocities have occurred,

by which states have sought to question the failures of the international community. For example, whilst UN resolutions referencing the R2P have almost always focused on Pillar I of the doctrine in order to highlight "the primary responsibility of Member States to protect their populations from genocide, ethnic cleansing, crimes against humanity and war crimes", such claims cannot be seen to represent a substantial added value in regard to the development of greater global accountability for mass atrocity crimes. Consequently, as Pattison (2015, p.193) has argued, it is the creation of an "international responsibility to protect" that must be understood as the "most important and added value element of the responsibility to protect doctrine"; in contrast to the responsibilities attached to Pillar I of the R2P, which can be traced back to already embedded international law (Glanville, 2012, p.3). In this case, the R2P can be seen to have generated the most important discussion around the responsibilities states should share as defenders of both international peace and security and the protection of our common humanity.

The concept of humanity is therefore integral to reinforcing this added moral claim that the international community has a responsibility to protect those threatened by mass atrocity crimes and not just their own populations. As a central component to the R2P's function as a negative accountability claim, humanity can be seen to provide a yardstick, or behavioural foundation, by which the international community has often attempted to rhetorically hold states morally accountable to. Thus, whether states accept or contest the notion of humanity, they are forced to grapple with it (Weinert, 2015, p.2). This can be highlighted by a number of UNSC meeting records on the situation in Syria, most significantly the double vetoes by Russia and China in 2012 and 2014. In response to the vetoing of the February 2012 resolution (S/2012/77), calling for an immediate ceasefire in the Syria conflict, many states fiercely challenged the idea that the international community had nothing to do with the atrocities taking place in Syria and the positions taken by both Russia and China on the issue; in response

the representative for Pakistan argued that humanity was unfortunately still suffering from this outdated viewpoint (UN, 2012b). Furthermore, following the Russian and Chinese vetoes over the referral of atrocities in Syria to the ICC, the concept of humanity was referred to on numerous occasion in the aftermath of the vote, most notably by Lithuania who sought to shame those who stood against the referral, stating that "today's veto is a stand on the wrong side of justice and accountability — a stand on the wrong side of humanity" (UN, 2014d). More recently, the decision by China to abstain and not to stand with Russia in vetoing a draft resolution condemning chemical weapons use in Syria (UN, 2017), demonstrates a change in Chinese strategy that is in part connected to the increasing rhetorical pressure on the UNSC to not block potential action in response to the Syria conflict. During discussions France in particular was quick to attack the Syrian regime, claiming that such acts broke "the most basic standards and elementary principles of humanity", and thus reinforced appeals to the initiative to limit the use of the veto in the case of mass atrocities (UN, 2017, p.4).

In this regard, the concept of humanity has continued to be integral to the way in which states justify both why the international community should recognise shared obligations and values, as well as the moral imperative through which states chose to challenge the actions and decisions of others. This is certainly reflective of what Frost (2009, pp.92-93) has termed as "ethical contestation", in which a "central component of international interaction is a struggle for the ethical upper hand". The R2P and the moral imperative of humanity that underpins it, have therefore become critical in raising awareness of humanitarian crises around the globe, as well as further forcing states to acknowledge the impact of inaction and the need to do more when it comes to implementing protection practices.

As a result, the R2P functioning as a negative accountability claim, can be seen to have had a significant impact on the way in which states now discuss the failure of the international community to respond to mass atrocity crimes, whereby its influence has arguably been most

notable in examples of violation (Glanville, 2016a, p.185). As Bellamy (2014) has argued, the R2P has made it more likely that the UNSC will engage in discussion following the outbreak of humanitarian crises than it was during the Cold War. This in turn has created new normative expectations and pressure on states, which has also led to greater use of naming and shaming tactics against state actors who are seen to have violated the principles of the R2P.

However, the creation of further dialogue and discussion between member states has not directly addressed the gap that remains between commitment and action, demonstrating the limitations of ethical contestation in support of the R2P concept. As Pattison (2015, p.196) argues, due to the generality and unspecified nature of the international responsibility to protect which state actors share, it is extremely difficult for any actor to hold others to account, particularly if they claim they have done what they can in such circumstances. Without more specific requirements, it is argued that the international responsibility to protect will "not exert sufficient compliance pull on states and other actors" (Pattison, 2015, p.196). Thus, despite the international responsibility element of the R2P being arguably the most radical and significant added value, it is appeals to this responsibility that have featured the least in R2P resolutions, in part due to lack of clarity concerning the scope of expectations for state actors to respond and the challenge of generating consensus. The enforcement of the international responsibility to protect is one that is still reliant on the moral imperative of humanity rather than a fixed legal obligation (Tacheva & Brown 2016). Subsequently, as the previous chapter argued in detail, the concept of humanity remains a fundamentally limited motivational force in international politics, whereby its influence is increasingly diminished as the R2P is diffused into action.

In order to further demonstrate the limitations of the R2P as a motivational force, one must also examine how the R2P interacts with other humanitarian norms and the extent to which such interactions help reinforce an understanding of the R2P as a negative accountability claim. For Mills (2015, p.223), the R2P can be seen to interact with two contrasting state

responsibilities in mass atrocity crime situations, the responsibility to palliate (provide humanitarian aid and assistance), and the responsibility to prosecute (international criminal justice). Through acknowledging these distinct categorisations, Mills goes on to argue that the R2P functions most effectively as a marker of global concern, "which may then activate other responsibilities" (Mills, 2015, p.224). Consequently, "the responsibility to palliate and prosecute may sometimes only be activated if the R2P is invoked" and may even then be used as substitutes for the R2P (Mills, 2015, p.224). What Mills highlights in this case is the strength of the R2P as a trigger for discussion yet at the same time recognising that the R2P is not necessarily the prism through which action will be taken. In the case of Syria, the failure to generate political will in support of a coercive R2P response to the atrocities taking place in the country, and the vetoing of attempts to refer the situation to the ICC, meant that humanitarian assistance proved to be the only strategy enforceable. Over three years after the conflict in Syria began the UNSC was eventually able to adopt Resolution 2165 (UN, 2014e), securing access for humanitarian assistance, without the consent of the Syrian authorities. Yet whist the UNSC did consider the 'deteriorating humanitarian situation' to constitute a threat to peace and security, it did not choose to invoke Chapter VII (Rodley, 2016, p.200). The Syrian example therefore highlights how the R2P has been most impactful in generating moral concern, yet attempts to diffuse the R2P concept into action through the use of coercive enforcement measures have remained extremely hard to implement, even in the face of atrocity crimes.

Subsequently, this leads to an important question posed by Labonte (2013, p.3) in which she asks, *"Why are humanitarian assistance and humanitarian diplomacy so often used as substitutes for political will, especially in direct cases where stronger measures appear to be both legitimate, responsible and practical to halt mass atrocity crimes"?* In light of continued

diplomatic responses to the current cases of both Syria and South Sudan,[13] this question remains as relevant to today's discussion of the R2P's motivational capacity as it was five years ago. Moving forward, the future salience of the R2P as a force for political change therefore requires greater reflection on the role of reform as a process for readdressing this gap between rhetorical commitment and action. Moreover, it will also be vital to further unpack the complex interaction between competing humanitarian pressures and their impact on the goal of protection and prevention of atrocity crimes.

Through redefining the R2P as a negative accountability claim, this section has put forward a new theoretical position for locating the R2P's key added value, as well as assessing its current limitations as a motivational force for action. In doing so it has been possible to move beyond previous debates concerning the R2P as a rallying cry, policy agenda or combination of the two, in order to instead pinpoint how ethical debates concerning the scope of humanity's influence as a motivator, impact on the R2P's ability to mobilise action on its behalf. Consequently, it is important to note that we cannot simply claim that concepts such as the R2P generate policy outcomes "simply because their presence can be traced across the policy making process", therefore one must recognise that "different ideas and norms have different effects at different stages of the policy making process" (Labonte, 2013, p.46). By combining the analysis put forward by this thesis so far, it is clear that the concept of humanity does not have a universally consistent impact on the strength of the R2P concept as a motivating force throughout the process of negotiating action and response to humanitarian crises. In relation to understanding the R2P as a negative accountability claim, it is ultimately the case that the R2P's policy effectiveness is diminished in the short term, as it works predominantly towards reinforcing the accountability of other states to do something. This conclusion

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[13] See Human Rights Watch (2016) South Sudan: Arms Embargo, Sanctions Fail At UN Security Council. Available at: https://www.hrw.org/news/2016/12/23/south-sudan-arms-embargo-sanctions-fail-un-security-council (Accessed 22nd January 2016).

therefore leads to a number of pertinent questions that must be addressed, specifically in regard to the challenge of R2P reform. Central to the issue of reform has long been the question of whether the lack of R2P effectiveness is ultimately a problem of general political will or whether there are more fundamental conceptual and structural issues at play. Addressing this question will be integral to redefining the focus of the reform agenda in the coming years and will be the focus of the next section of this chapter.

Contesting the Reform Agenda: The Future of the R2P

The question of reform has been a central point of discussion within the R2P literature for over a decade now and has come to define the positions of various R2P advocates and critics. Through exploring the range of recent initiatives and proposals around the issue of international reform, this section will question the scope of such approaches in order to reinforce the limitations of current institutionalisation based responses to the obstacles limiting both protection and prevention of atrocity crimes. Taking into account the challenges facing the R2P that have been outlined in this chapter so far, it will be argued that a deeper focus on the question of what is behind the lack of 'political will' can help to provide a more nuanced conception of both the constraints of decision-making procedures and the under theorised role of moral appeals connected to claims of a developing 'cosmopolitan consciousness'. It is through this broader focus on the challenge of motivation and its impact on the reform agenda that one can begin to unpack the factors that have been most detrimental to consensus building in response to atrocity crime prevention and protection.

R2P Advocates: Doubling Down on the Status Quo or a Move Towards Incremental Change?

For R2P advocates such as Bellamy the continuing focus on reform, whether in regard to changes to the UN Charter or the move to introduce a UN based rapid reaction force can be seen to represent idealistic thinking that is both unlikely to ever be achieved and most

importantly, not necessary to the continuing goal of decreasing the outbreak of atrocity crimes around the globe. In this regard, Bellamy (2014, p.15) has been clear in claiming that "the world already has sufficient law and institutional coverage to make it less tolerant of atrocity crimes and more protective of its victims possible". Underpinning his approach is a belief in the idea that "we must not let the perfect become the enemy of the good" and thus a key strength of the R2P remains the decision to not change "the basic international rules governing the use of force" (Bellamy, 2014, pp.11-12). Instead, Bellamy (2014, p.12) views the R2P as providing a way in which to persuade states to "act on their existing responsibilities". Bellamy's scepticism of reform initiatives can be seen to be grounded on the assumption that the current structural decision-making procedures of the UNSC do not have to provide an overpowering impediment to protection and prevention, whereby the gradual acceptance of R2P principles will begin to fundamentally redefine how sates approach the threat of atrocity crimes and their response to them. However, as this chapter has so far examined in detail, the challenge of persuading states to reorientate their interests in light of the R2P's focus on both reaction and prevention of mass atrocity crimes has been extremely challenging, with a considerable gap between rhetoric and action remaining. Appeals in support of the status quo can therefore appear self-defeating, particularly in light of Amnesty International's (2017) recent annual report, which highlighted that war crimes had been committed in at least 23 countries in 2016, with international indifference to war crimes "becoming an entrenched normality as the UNSC remains paralyzed by rivalries between permanent member states".

Moreover, in relation to the on-going case of Syria, there has been an assumption in certain circles of the R2P literature that any intervention in Syria would have likely done "more harm than good" (Glanville, 2016a, p.185). Such claims can also be seen to reinforce the current status quo and the claim that the concept is still functioning effectively. Consequently, debate over the failures of the UNSC to fully respond to the crisis in Syria have at times

conveniently been blamed on the geopolitical realities on the ground. However, this has at the same time led to much less discussion of the R2P's potentially more serious long term problems, relating to a declining moral motivation to address mass atrocity crimes across the region. As a consequence, there are still many advocates and critics who have found it hard to accept that the current status quo in terms of collective decision-making may be as good as we can get when it comes to preventing and responding to such crimes. This has ultimately led a number of R2P advocates to place much greater focus on the importance of developing incremental changes to the decision-making processes of the UN in order to disturb and challenge the current global status quo.

Many of the most recent R2P reform initiatives put forward by advocates are premised on the idea that small changes to the underlying structure of decision-making at the international level can have a large impact, due in part to the belief that humanitarian impulses are being constrained by the current structures of the UN, and thus it is simply a case of refining these structures to allow humanitarian sentiment to flourish. Such claims stem from the idea that the R2P is a neutral and agency free concept that ultimately remains enthralled to the whims of the UNSC. This is the viewed take by Simon Adams (2015b, p.3) the Executive Director of the Global Centre for the Responsibility to Protect, who argues:

 The Responsibility to Protect is an international norm, but it does not possess independent agency. The failure to end atrocities and protect civilians in Syria is not a failure of R2P, but of the imperfect actors and institutions charged with its implementation.

This argument against the imperfect institutional structures of the UN can be seen to be the central imperative behind initiatives such as the "Responsibility Not to Veto (RN2V)", which asks states to not veto draft resolutions which have the explicit goal of halting potential

mass atrocity crimes, whilst at the same time recognising that the P5 may still use the veto in situations where critical national interests are at stake. Perhaps most significantly this agreement would not require an amendment of the UN Charter and would be a voluntary commitment of the P5. The initiative itself has been heavily promoted by France along with the "small five" group of states (Costa Rica, Jordan, Singapore, Liechtenstein, Singapore and Switzerland) and the Accountability, Coherence and Transparency group (ACT). Both the French initiative and the ACT code of conduct have gained the support of over 90 UN member states as of August 2017. Despite the general support for veto restraint, the assumption that the veto remains the biggest problem to both preventing and responding to mass atrocity crimes is arguably misplaced. As Morris (2015, p.416) has argued, even if there was to be consensus on the practice of RN2V, it would most likely have little impact, due to it excluding cases where vital state interests are at stake, and furthermore, the initiative only coming into play once the threshold of human suffering, outlined by the crimes of the R2P, has been reached. There is therefore a need to further challenge the underlying logic of the R2P, in this sense its moral construction, and how it interacts with state behaviour and interests, rather than viewing the R2P as fundamentally separate from the agents and actors involved in its operationalisation. Consequently, it appears unlikely that such a voluntary agreement would be able to sufficiently address the more fundamental problem of "moral under-reach" (Gallagher, 2013 p.166), in which states have been reluctant to adopt a genuine commitment to align national interest with humanitarian cause. This is in spite of increasing accountability claims being made against those states who have remained indifferent to the growing threat of atrocity crimes across many regions of the globe. As a result, the clear limitations of incremental change at the UN level forces us to also consider what further measures could be developed in order to take a much broader view of the R2P reform agenda.

The R2P Critics: Reimagining Global Institutions

In light of such circumstances, many critics of the R2P have focused attention on the need to put forward more radical reforms to the governance of the international system, in order to change how states respond to atrocity crimes. For critics such as Hehir (2015b, p.676), part of the problem is that "the R2P industry champions moral advocacy rather than legal reform", with the focus being on "lobbying states to change their behaviour, rather than challenging the state-based international system per se". Thus Hehir (2017, p.335) has remained sceptical of the exaggerated importance advocates have placed on the institutionalisation of the R2P, and argues that "its frequent invocation is not a consequence of R2P having changed the behaviour of states" (p.343). What is seen to be required moving forward then, is a more radical adaption to the UN's current organizing structure in order to compel greater change. Consequently, the underlying sentiment of much of the critical reform literature on R2P is perhaps best encapsulated by a statement posed by Kassner (2013, p.209) in which he suggests that "if the system no longer serves humanity, then we ought not to hesitate to change it so that it does". Central to such claims is therefore a questioning of the decision to leave "intact much of the normative framework that resulted in the disasters of the 1990's" (Kassner, 2013, p.152), whereby the R2P is forced to function through the same decision-making processes. For Ercan (2016, p.107) the inconsistency of implementation can be seen to stem from "the nature of the institution tasked with implementing R2P" the UN and the Security Council. It is argued that as long as the R2P "remains dependent on the usual practices of the Security Council" then the R2P will not be able to achieve its stated goals (Ercan, 2016, p.124). Thus, the failure to advocate for greater change has left the R2P solely reliant on interpretations of Article 39 and Article 42 of the UN Charter, with the deliberation process ultimately left to the voluntary will of the international community (Kassner, 2013, p.165).

In response, there has been a number of reform approaches put forward by R2P scholars including Ayoob (2010); Roff (2013); Hehir, (2012) and Ercan (2016), which have all focused

to some extent on the need to construct either new independent decision-making organisations, or to simply limit the role of the UNSC decision-making power through the emboldening of the General Assembly. Whilst there is not scope to address each reform approach individually as part of this thesis, it is vital to acknowledge at this point the wealth of scholarship that has arisen around the issue of extensive UNSC reform. Central to the motivation behind much of the R2P literature on this type of reform is therefore the problem of inconsistency, which in light of the UNSC deadlock over Syria and previous consensus and response to the Libya crisis, has led to an assumption that current decision-making structures are not fit for purpose. Consequently, a move to introduce some form of independent body to oversee decision-making, and the creation of a rapid reaction force to implement protection, is often presented as the most effective way in which to overcome the current selection bias of the UNSC. However, as the chapter has previously acknowledged attempts to simply sign up UN member states to a voluntary agreement on veto use has proven extremely taxing, demonstrating the staunch reservations of key UNSC powers to any form of change in their decision-making rational. Reforms such as the ones suggested above represent a significant and highly controversial reworking of the current global order, which bring into question the viability of such initiatives in the current global climate. As Gallagher (2015, p.271) has argued, such reforms raise the question of whether those sceptical of the R2P in its current institutional form actually "create overly high expectations of what is achievable" and therefore a focus on extensive reform can at times be counterproductive. This is a claim picked up on by Ralph (2017b), whose pragmatic approach to understanding the role of the R2P leads him to be dismissive of potential legal fixes that are often detached from political reality, and thus can be seen to potentially do more harm by further enforcing scepticism over the norm's ability to address atrocity crimes effectively.

In response, it is therefore useful to reflect further on the limitations of the institutional focus that has run throughout much of the R2P reform literature, and which is often built upon the assumption that attempts to constrain and redefine decision-making power within the UNSC can be a silver bullet to the R2P's implementation problem. Such critiques of institutional arrangements have a clear knock on effect, whereby current multilateral procedures are at times seen to "bear heavy responsibility for morally problematic "humanitarian under-intervention" (Recchia, 2016, p.20). In response, unilateral action has continued to be seen as an option that must always be on the table, in order to bypass the restraints of a UNSC that is argued to lack "just procedures", and thus cannot be relied upon to make decisions "in a morally responsible way" (Pattison, 2010, p.188).

However, as Reicchia (2016) has argued, a strict focus on the problem of generating multilateral responses arguably misdiagnoses the problem, whereby the lack of intervention in a particular situation is most often "because no major power is making a determined push for intervention (and for multilateral approval) to begin with". In this sense, any attempt to bring about extensive reform, or even to generate action in regard to carrying out prevention initiatives, ultimately requires a heavy dosage of political will, which is not only constrained by the current decision-making processes at the international level. In order to explore and expand on such claims in more detail, it is vital to therefore return to an assessment of the previous failures surrounding the concept of humanitarian intervention. Whilst the case of Rwanda has been touched upon at points earlier in the thesis as a key spark plug for the R2P and debates about intervention, it will be used here to specifically demonstrate the limitations of the R2P's focus on sovereignty and the structures of UNSC decision-making procedures. Through such analysis it will be possible to then reconsider the challenges facing the R2P's motivational capacity and the role of future reform initiatives.

Lessons from the Case of Rwanda for the R2P Reform Agenda

As both the 1999 Independent Inquiry into the UN response to the Rwanda Genocide, and scholars such as Chesterman (2001) and Wheeler (2005) have argued, the lack of sufficient political will was evidently the defining factor behind the failure to protect. Yet despite this conclusion, the decision by the international community not to act, has continued to be used as an example that suggests the failure of the international community was not one of "morality per se" but the prevailing view that the "principles and institutions governing the practical deliberations of states precluded states from considering moral reasons for action, that would require interference in the internal affairs of another sovereign state" (Kassner, 2013, p.89). However, when one draws on the actions of states in bypassing sovereignty laws when confronted by terrorism or broader security threats, states have never been shy in contradicting their own rhetoric in regard to sovereignty. What this highlights then, is the limitations of understanding the R2P, or humanitarian intervention more generally, as a binary playoff between humanitarian objectives and the role of sovereign rights. Consequently, there is a need to broaden out such debates in order to reflect on the variety of constraints states place upon their own responses to mass atrocity crimes.

As Muller and Wolff (2014, p.285) highlight, the creation of the ICISS document recognised an explicit goal of "no more Rwandas" and thus sought to "redefine the principles of sovereignty and non-intervention" in order to fully respond to the failure of preventing genocide. Nevertheless, as the authors go on to argue, the claim that the case of Rwanda demonstrated the problem of "outdated international law", and thus hindered the possibility of a humanitarian intervention can be argued to "sit uneasily with the scholarly record" (Muller and Wolff, 2014, p.285). As Finnemore (2003, p.79) has also argued, the Rwandan genocide revealed an important shift in the post-cold war era in regard to the "normative terrain" of intervention debates. By which the case highlighted how states were no longer claiming that intervention for humanitarian purposes would be "illegitimate or an illegal breach of

sovereignty" (as had been the case regarding India's intervention into East Pakistan in 1971), but were instead working to suppress information from Rwanda concerning the extent of the genocide, in order to "sidestep their obligations" (Finnemore, 2003, p.80). As Bentley (2017, p.569) highlights, whilst the US President Bill Clinton did at points make rhetorical references to sovereignty, it was arguably used as a tool in which to invalidate the humanitarian argument, and thus was seen as a decision that ultimately upheld self-interest over normative restriction. The tragedy of Rwanda is therefore best understood as a complete failure of political will rather than the product of an increasingly 'outdated' belief in the importance of traditional sovereignty claims.

This is significant as the case of Rwanda played a critical role in influencing the focus of reform during the initial development of the R2P and has continually been used to suggest that progress in responding to atrocity crimes in the future will rely on changing the decision-making processes within the UN, in order to limit the influence of traditional sovereignty claims. Thus, what we must take away first and foremost from the case of Rwanda is that regardless of what decision-making procedures were in place, they would have been of little impact in a case such as Rwanda, where moral motivation was at an all-time low (Barnett, 2002).

Furthermore, what the Rwanda case also brings to attention, specifically in regard to the challenge of mobilisation, is the limits of our exposure to extreme violence in helping to actively generate stronger pressure on states to respond. In the case of Rwanda, it became clear that the emotional component of the arguments in favour of armed intervention to halt the atrocities occurring was in fact "dulled rather than enhanced by large numbers" and thus did little to improve the salience of such arguments (Labonte, 2013, p.57). As Slim (1998, p.44) acknowledges, "knowing what is wrong is indeed distinct from knowing how to put it right", and thus moral responsibility is often diminished once the inherent wrong of the situation is

identified. In this sense, it can be argued that it is not the "magnitude of suffering and death" which changes the decision-making of the potential interveners, instead the initial shock and moral bite of the atrocities relinquishes very quickly once considerations of competing obligations and risks become evident (Menon, 2016, p.129). Thus, it quickly becomes apparent that what matters is "not how many people are being killed, but where they are being killed and by whom" (Menon, 2016, p.129). Consequently, the lack of political will for humanitarian action in the case of Rwanda demonstrated how even the weightiest of human rights norms, genocide, "may be insufficient to generate a particular policy outcome" (Labonte, 2013, p.167).

These considerations thus take us right to the heart of the R2P reform agenda and the challenges it currently faces. As the thesis has analysed throughout, the concept of humanity remains an integral moral imperative in support of the R2P, and thus requires states to subscribe to a universal responsibility of protection. As a consequence, the strength and success of the concept can only be as strong as our ability to place the needs of humanity as a universal claim above or in line with those of national self-interest. This was made abundantly clear in the original 2001 ICISS report, in which it was argued that "for all the rhetoric about the universality of human rights some human lives end up mattering a great deal less to the international community than others" (ICISS, p.1). In the 16 years since this report, states have continued to contest the scope of their zones of moral concern, in which the hierarchy of human life has remained a consistent challenge to the universal ambitions of the R2P. As a result, there is a case to suggest that a focus on attempts to simply rearrange the institutional makeup of decision-making processes has caused many scholars to overlook the moral dimensions of political will that have arguably remained so integral to any attempt to gain consensus for action. This will therefore be the focus of the final section of the chapter.

Rethinking Political Will: The Role of Humanity

It has often been assumed that the R2P has already begun to radically redefine the procedures of state decision-making around intervention practice, and can be seen to represent "a revolution in the notion of sovereignty" (Carvin, 2010, p.52). However, in direct relation to the challenge of motivating responses to tackle atrocity crimes, it is certainly unclear to what extent it has in fact removed major obstacles that previously inhibited consensus. Subsequently, as Labonte (2013, p.171) has argued, "the standing impediments to crafting effective policy responses to mass atrocities are virtually identical to those that existed before the World Summit". Consequently, it is not sovereignty and non-intervention that have been the key obstacles to "saving strangers", but political will, which remains essential to converting the apparent moral necessity for intervention into effective "compliance pull on political actors" (Labonte, 2016, p. 142). At this stage one must question what is meant by political will, and most importantly how can we try and conceptualise it. In doing so, this section will argue that the key to locating political will is to first understand what a lack of political will looks like. First of all, in reference to previous cases of UNSC inaction during humanitarian crises in both Rwanda and Darfur, it is clear that a lack of information about atrocities taking place is not a central factor in generating political will. In both examples state actors and UN agencies received clear information about the atrocities taking place but were ultimately unable to generate sufficient will for action. In this sense, when there is a lack of political will it is much more about the limitations of normative arguments to motivate state actors to take on sufficient sacrifices, alongside the competing concerns states may have about the material resources required and the risks involved in protection. The ability to generate political will in support of protection and prevention therefore requires a complex balancing act by which moral sacrifice can be justified in the context of specific strategic and material interests.

However, the narrowness of approaches to understanding political will in R2P cases has meant there has been limited analysis of the interaction between competing humanitarian

norms and the moral imperatives that underpin them. In this regard, any attempt to better understand how political will is generated in atrocity crime situations must engage with and examine further what role broader humanitarian norms play in this process, particularly in terms of why states may contest some claims to protection but not others. Ignorance of such factors will only mask the complexity of the motivational processes behind the R2P and thus allow the focus of reform to misdiagnose the cause of the concept's apparent limitations.

In response, there is a need to first view the challenge of inaction in R2P cases of both protection and prevention through the wider lens of moral motivation for broader humanitarian responses, rather than a sole focus on the problem of reforming the decision-making processes of the UNSC to avert the dominance of the P5 and the veto. This is exemplified by Ainley (2015, p.42) who highlights the lack of political will of the P3 states in contributing to the relief of human suffering in Syria through refugee protection. As a result, it can be argued that the failure to "generate an R2P response to Syria does not lie solely with Russia and China, or with the structure of R2P decision-making at the international level (Ainley, 2015, p.42). Thus, one must conclude that a change in UNSC decision-making in the case of Syria would not have fundamentally altered or solved the humanitarian crisis (Ainley, 2015, p.42). The gap between rhetoric and action in regard to the refugee crisis can therefore be seen to challenge assertions as to the existence of an international community that shares common moral values regarding humanitarian protection (Menon, 2016, p.154). Moreover, one must recall that the most frequent use of force for human protection is not in cases in which there is no consent of the state, like in Libya or Syria, but rather with the consent, as in the cases of Mali and the Central African Republic (CAR) (Tourinho, Stuenkel & Brockmeier, 2016, p.146). In these cases, finding the necessary resources was the greatest challenge for protection, and in the example of the CAR specifically, it took five months until sufficient resources were in place to start operations (Tourinho, Stuenkel & Brockmeier, 2016, p.146). Political will cannot therefore be

understood solely through the constraints of UN decision-making processes, but also requires a recognition that states must be prepared to make sacrifices in order to address atrocities and their potential outbreak.

What these two examples draw attention to is the intersection of the central moral claims that are argued to underpin the concept of R2P with the wide array of other pressing humanitarian concerns and the reality that often these appear to be out of sync. Consequently, R2P advocates such as Bellamy (2016) have been forced to accept a clear disjunction, whereby many of the states that have been some of the biggest champions of the R2P are the ones who have been the least hospitable to refugees through the winding back of protection. What this suggests is the limitations of viewing R2P reform within the bubble of the UNSC, whereby the domestic politics of protection have often taken a back seat in reform based discussions. The challenge of protection moving forward then is not one of simply resolving the tensions of R2P decision-making procedures, but instead requires a much deeper assessment of the moral worth of human life in relation to the character of state priorities, both domestically and internationally.

Conclusion

There has often been a tendency in the R2P literature to see the debates surrounding how states should respond to the outbreak of mass atrocity crimes as a straight contest between cold hard national self-interest and the strength of moral cosmopolitanism. However, this simplistic binary overshadows the complexity of decision-making, as Vik (2015, p.22) highlights, often state decision makers will be forced to choose between "a moral duty to follow an international norm and a countervailing duty to realize another equally important moral value that conflicts with the international norm". One must therefore recognise that it is not only pragmatism and self-interest driving state behaviour but also clashes between contrasting normative

considerations (Welsh, 2014b, p.137). In other words, debates around state decision-making on R2P situations cannot be condensed down to a question of simply how far we can "expand the notion of moral responsibility in international relations" relative to the powers of self-interest and domestic obligations (Vik, 2015, p.128). Instead, it is critical to begin to recognise the points of moral contradiction that are also inherent in the current state system and how these contradictions impact upon the ability of states to take decisions and actions that can successfully elevate the human suffering caused by mass atrocity crimes.

As this chapter has examined, there has continued to be a heightened emphasis on the importance of sovereignty and the structures of current UN decision-making practices when it comes to debates surrounding R2P reform initiatives. As a consequence, it has been argued that this focus has led both advocates and critics to overlook the role played by moral and normative considerations and their impact on the ability of the R2P to effectively mobilise and generate consensus in response to mass atrocity crimes. In reply, the chapter has called for a need to take a broader understanding of political will in order to outline how competing humanitarian norms interact with one another and to demonstrate how the goal of human protection requires states and civil society to re-think their approach to generating political will. Furthermore, through reconceptualising the R2P's key added value as a negative accountability claim, the chapter has also provided a more balanced assessment of the concept's key strengths and limitations. In doing so it is argued that the R2P has generated significant change in the way states now discuss and choose to consider the impact of atrocity crimes, however it also remains clear that the accountability claims made against those in violation of the norm have proven to be of limited influence, both in terms of trying to hold violators to account and attempts to close the gap between rhetoric and action. Consequently, this chapter has drawn significant attention to the way in which moral claims to the need for protection or prevention can be significantly compromised, not simply by international

sovereignty claims, but by the way in which states conceptualise the relationship between competing humanitarian norms in relation to their own circle of empathy. The challenge moving forward then requires greater reflection on how empathy can be scaled up at the global level and the extent to which states are willing to expand their conception of humanity, in terms of who is or is not recognised as requiring protection in any given circumstance. The kick-starting of such reflections must therefore begin with a process of broadening out our analysis of political will and rejecting the binary nature of recent reform initiatives. Doing so will help to provide a more nuanced picture of the complexity of motivating states to both prevent and protect those threatened by mass atrocity crimes.

Chapter 8: Conclusion

> It seems as though our feelings of humanity evaporate and weaken as they extend across the earth, as though we cannot be as sensitive to calamities in Tartary or Japan as to those that are suffered by a European people. Concern and compassion have in some way to be limited and compressed, in order that they should be active (Rousseau, 2008, p.17)

The central aim of the thesis first and foremost, has been to challenge taken for granted assumptions concerning the role of humanity as a motivating force in R2P decision-making. In breaking down the complex role humanity plays in this relationship the thesis has outlined the distinct dual function of humanity, as both a moral demand for ethical reflection understood through its *emotional pull factor*, as well as a moral imperative used to try and motivate action and response in the name of humanity, understood as its *motivational push* factor. Through applying this new theoretical understanding of humanity to key debates in the R2P literature, in particular the continued contestation surrounding the R2P implementation gap, it has thus been possible to challenge dominant assumptions concerning humanity's motivational influence on the R2P and its ability to redefine state behaviour in response to mass atrocity crimes. In doing so the thesis has argued that whilst humanity remains central to underpinning the moral foundations of the four core R2P crimes and appeals to their global impact, humanity's role as a motivational concept remains fundamentally contested. Consequently, through acknowledging humanity's diminished impact once the R2P is diffused into action, it has been possible to demonstrate clear limits to humanity's motivational power that go beyond competing claims of sovereign rights. Thus, by moving beyond concerns relating solely to the dichotomy between sovereignty and humanity, the thesis has sought to re-examine the central

normative tensions that exist in the process of motivating humanitarian action. Critical to future R2P research on addressing the current implementation gap will therefore be the need to develop approaches that are more reflective of the way humanity interacts with competing moral, legal and political pressures at the global level.

Key Conclusions

The starting point for this analysis was to first outline the genesis of the R2P principle in order to more fully understand how the R2P principle had been specifically developed and refined in order to address key obstacles deemed to represent the greatest impediments to previous attempts to prevent mass atrocity crimes. In doing so, Chapter 2 emphasised how specific interpretations of past intervention failures were highly influential in guiding the development of the R2P principle and thus further examined how this had impacted on the current R2P implementation gap. In reflecting on the inconsistent application of the R2P principle by states, the thesis made the case for developing a stronger understanding of humanity's role as a central moral foundation for the creation of the R2P. Critical to this aim was to first conceptualise what we refer to when we appeal to humanity, analysing the philosophical roots of the concept and its relation to the very crimes in which the R2P is focused. In response, Chapter 3 put forward a *dual conception* of humanity, in order to recognise the critical interaction between the complementary elements of both *humanness* and *humankind* to humanity's makeup.

This analysis formed the basis from which one could then begin to scrutinise the connection between the concept of humanity and our understanding of the specific global harms generated by mass atrocity crimes, as explored in Chapter 4. It was therefore argued that a theoretical understanding of humanity must be seen as essential to the ability to ground mass atrocity crimes as universal harms and thus locate a moral argument for why states must respond to such crimes. Building upon this theoretical analysis, Chapter 5 then focused on the

extent to which the concept of humanity has influenced state behaviour at the UN level, through examining the historical trajectory of threat expansion leading up to the creation of the R2P and the actions of states in the 12 years following the 2005 WSOD agreement. What this historical trajectory highlighted was both the uneven nature of change at the international level, in relation to how states respond to mass atrocity crimes, as well as the contested nature of this change, even following the adoption of the R2P principle. Consequently, Chapter 5 specifically challenged the liberal teleological assumptions often made in regard to the R2P's normative progress in order to highlight how states continue to contest their responsibilities to others, even in relation to the most serious of human wrongs. In order to better explain this reality, Chapter 6 focused on the central role humanity plays in helping to determine what we ought to do in a particular situation whilst at the same time arguing that the concept is not always sufficient for motivating us to actually do it. Thus, Chapter 6 contended that whilst the potential for change is seen to rest heavily on the motivational credentials of humanity as a rallying cry, the moral progress of the R2P will be significantly constrained. However, As Chapter 7 acknowledged, this does not simply suggest that the R2P has had no impact on state behaviour and interests, but instead that its influence can be categorised more by its ability to generate "negative accountability claims" rather than its ability to radically change the motivational process behind attempts to generate consensus for state responses to mass atrocity crimes. Furthermore, by contesting the focus of the current reform agenda, the chapter placed a renewed emphasis on the role of political will and the significance of its interaction with moral and ethical concerns at the international level. In doing so, Chapter 7 reinforced the central role the moral value of humanity has, in being at times both a powerful identifier for rhetorical consensus, as well as functioning as a constraining force on intervention practice. As a result, it was argued that critical to addressing the current R2P implementation gap is the need to move beyond the assumed binary between humanitarian objectives and the role of state sovereignty,

in order to begin to develop a more cohesive approach to the challenge of mobilisation, which is also more reflective of the way humanity, law and politics interact at the global level.

In regard to the constructivist perspective underpinning this thesis, the case has been made for further developing a more consistent application of ethical reasoning to our understanding of the R2P and international politics more broadly. In response, the first half of the thesis engaged specifically with the praxeological question of "how we should act" (Reus-Smit, 2008, p.53). In doing so, it was possible to provide a more theoretically grounded approach to conceptualising the clear human wrongs generated by mass atrocity crimes, thus reinforcing the case for why states should seek to address such crimes wherever they occur. Through this greater focus on combining the approaches of international relations and political theory, the thesis has thus been able to explore the interaction between the morality of particular acts and their impact on the wider "social structure of world politics" (Price, 2008, p.25). Underpinning this approach has thus been the concept of humanity, which has been essential to grounding the overall normative approach of the thesis.

Moreover, in reply to Welsh's (2013) call for constructivists to "adopt methodologies that can fully account for the inter-subjective nature of norms and on-going contestation", this thesis has utilised a historicising method in order to better trace how the R2P has been conceptualised in response to specific interpretations of historical inaction, in the face of mass atrocity crimes. In this sense, the R2P has predominantly been framed in contrast to previous legal and political barriers, deemed to have blocked potential UN protection and prevention practices. However, as the thesis has highlighted, the institutionalisation of the R2P norm into the UN framework has not ended such debates concerning how moral, political and legal pressures influence state decision-making. Through greater exploration of the normative positions that underpin current opposition to the implementation of the R2P, it has been possible to demonstrate how states continue to contest both when mass atrocity crimes can be

considered to constitute a threat to international peace and security and furthermore, the extent to which such crimes generate the need for states to make specific moral sacrifices.

Consequently, the thesis has also sought to reaffirm the call made by Niemann and Schillinger (2017) for constructivists to focus on a more expansive idea of normative contestation. In doing so it has been demonstrated how contestation should not simply be defined as an anomaly or as a distinct phase in the cycle of a norm, which can one day be overcome but must instead be recognised as an inevitable and reoccurring part of state interaction with international norms. As the thesis has established, the R2P's initial focus on removing the perceived barriers to previous mass atrocity crime responses has not dampened contestation over the implementation of the norm, but has instead refocused contestation in relation to the scope of a state's moral concern and the challenge of balancing competing political and legal pressures in complex humanitarian situations. It is through this approach that one can also challenge the linear focus of previous R2P and norm literature, which has often reinforced a specific liberal and teleological view of normative progress. In contrast, this thesis has sought to challenge assumptions relating to the inevitable progress of normative change towards the greater acceptance of humanitarian norms.

Overall the thesis can therefore be seen to contribute a number of important conclusions that will have significant implications for the future trajectory of R2P scholarship and international relations theory more broadly. Firstly, as touched upon above, the thesis has challenged the perceived dominance of the central dichotomy at the heart of the R2P literature, the clash between humanity and sovereignty. As Chapters 6 and 7 examined, the focus on this specific dichotomy has at times led to a misdiagnosis of the key barriers blocking greater state response to mass atrocity crimes. Consequently, it has been argued that sovereignty as a principle of international relations has rarely been the defining obstacle to intervention or prevention of atrocity crimes, even if rhetorically it has continued to be referred to as such in

the UNSC. Instead, it has most often been the challenge of generating sufficient political will and appropriate moral sacrifice that has proven to have been the greatest challenge to addressing the outbreak of mass atrocity crimes on a more consistent basis. Sovereignty has therefore rarely been understood as an absolute concept, whereby states have for decades recognised its conditionality in certain situations (Glanville, 2014). Whilst the R2P has become increasingly tied to the need to support state sovereignty, through a greater focus on Pillar I and Pillar II, this reality can be best understood in relation to the breakdown of political will required to enforce necessary measures under Pillar III, rather than a sustained belief in the absolute nature of sovereignty. Consequently, this thesis has demonstrated a clear disconnect between the moral aspirations and obligations we assume are embedded in the idea of humanity and the belief that through constructing concepts that attempt to limit the influence of sovereign self-interest, the international community will become more effective in their response to averting and addressing mass atrocity crimes. What this suggests is the need to move beyond the sovereignty vs humanity dichotomy in order to improve analysis and explanation of the current R2P implementation gap.

In doing so, the thesis has also challenged claims that suggest it is the scale of human suffering that has the largest impact on when consensus for humanitarian action is deemed to be required and thus defines when states choose to take action in response to mass atrocity crimes. As the thesis has demonstrated, despite the creation of the R2P, the question of when states decide on protection practices has much more to do with where people are suffering not necessarily how many. As the Rwandan case examined in Chapter 7 exemplified, along with the more recent example of UNSC inaction in Darfur,[14] the increasing numbers of people being killed every day did very little to increase the urgency for the UNSC to respond. What the

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[14] See Williams, P.D. and Bellamy, A. (2005) The Responsibility to Protect and the Crisis in Darfur. Security Dialogue. (36)1: 27–47.

thesis therefore emphasises, is the deeply political calculations that occur when questions of moral sacrifice come into play. The limits of collective empathy and the motivational power of humanity are perhaps most easily observed in such situations, as states attempt to try and hide their motivations for such difficult decisions, most often behind the rhetorical mask of sovereignty and security policy (Bentley, 2017).

In response, the thesis has argued that the ability to thoroughly address the implementation gap between rhetoric and action can only start from a recognition of the complex interaction between moral, legal and political pressures at the international level. As Binder (2017, p.34) rightly emphasises, "intervention decisions in the Security Council are complex choices that are not determined by a single cause, but involve various motives and drivers". Thus, whilst the thesis has acknowledged the role of moral pressures as often being essential to generating the initial trigger for UNSC response, underpinned in R2P cases by the value of humanity, it has also demonstrated the diminished role moral claims to humanity have in the later stages of decision-making. What this suggests for the R2P moving forward is the continuation of the principle's inconsistent application. Hence, as Cater and Malone (2016, p.280) suggest, the R2P is "likely to continue featuring in international decision-making in the future, but not as the sole relevant driver, rather one fated always to be in competition with other legal, political, and moral considerations". This appears to be a reality that looks set to continue long into the future and thus leaves one to question, what next for the R2P principle and the fight to tackle mass atrocity crimes across the globe?

Implications for Future Research

As the thesis has explored, the R2P principle has long been connected to the idea of a growing cosmopolitan "we-feeling", yet as Linklater (2016, p.470) rightly acknowledges, it is still the case that "narrower and wider conceptions of 'we' come into conflict" and thus, as the quote

by Rousseau at the start of the chapter captures, there has continued to be a deep scepticism around the idea of a shared feeling of humanity that is able to stretch its way right across the globe. Part of the challenge identified in the previous chapter, regarding the current R2P implementation gap, therefore concerned the need to try and scale up empathy to the global level. However, as Chapter 7 argued, both advocates and critics have to some extent overlooked the complex role played by moral and normative considerations and the scope of their impact on the ability of the R2P to effectively mobilise and generate consensus in response to mass atrocity crimes. In order to address this, it will be vital to therefore reinforce the need for a broader analysis of the interaction between political, legal and moral pressures on state decision-making. This will be essential to further reinforce the limitations of humanity as a motivating force as well as emphasise the essential regulative role the concept still plays in helping to locate distinctly global harms.

The starting point for analysis will be the need for a closer examination of the role empathy plays in discussions surrounding R2P mobilisation, in order to demonstrate its interconnection with appeals to the idea of a shared sense of humanness. Through locating the limits of empathy as a compliment to broader appeals in motivating humanity, it can be argued that in a world that is increasingly hostile to the goals of humanitarianism, including both refugee protection and atrocity prevention, it is critical that we further reflect on how to locate moral appeals in relation to competing political and legal pressures. Building upon this analysis, the following sections will focus specifically on the need to construct a new approach to theorising the complex interaction between the range of competing pressures involved in motivating states to try and prevent and protect those threatened by mass atrocity crimes. In response, it will be argued that the foundations for this approach must look to pay sufficient attention to the critical interaction between morality, politics and law. Consequently, it is only through continuing to challenge often taken for granted assumptions regarding the interactions

between these three concepts that it will be possible to better explain the current inconsistent responses of states to addressing mass atrocity crimes, in spite of the further institutional entrenchment of the R2P at the UN level.

Empathy and the Challenge of Fostering a Cosmopolitan Consciousness

Before turning to the need to construct a broader understanding of the complex interactions involved in the process of R2P mobilisation, it is vital to first reflect on the importance of empathy and emotions in international politics, and in particular their relation to motivating responses to preventing mass atrocity crimes. As Chapter 7 concluded, through examining how states respond to a variety of humanitarian pressures, such as refugee protection, one can begin to highlight the conflicting nature of a state's own circle of empathy, whereby support for the R2P principle does not instantly correlate with a willingness to accept responsibilities for protection in a national context. What this suggests is an increasingly weak relationship between empathy and moral sacrifice. The ability to begin addressing this weak relationship therefore requires greater reflection on how empathy can be scaled up at the global level, and the extent to which states are willing to expand their conception of humanity, in terms of who is or is not recognised as requiring protection in any given circumstance.

As de Waal (2008) has argued, "without the emotional engagement brought about by empathy, it is unclear what could motivate the extremely costly helping behaviour occasionally observed in social animals". Furthermore, as Finnemore (2003, p.154) highlights, "without emotion and effect, we have only information about the world and no particular reason to care about one outcome versus another". Thus, in regard to protection practices, one can argue that there is a need for "imaginative identification with others in their lives" in order to fully recognise their plight, "especially when intervention is not obviously a matter of national interest" (Sherman, 1998, p.109). Yet whilst the motivation to protect those threatened by

atrocity crimes can often begin with an appeal to empathy or emotion it certainly does not end there. In this sense, it is the limits of an individual state's scope of moral concern, in terms of who is and isn't included in a conception of humanity, that most often dictates how empathy is translated into motivation to respond. This has played out to a devastating effect in terms of the ongoing refugee crisis across Europe in which those fleeing from mass atrocity crimes taking place in Iraq and Syria have been subject to varying degrees of hostility, as states contest moral responsibility through a lens of security claims and nationalist sentiment (Bauböck, 2017; Nail, 2016).

In specific regard to the R2P, the development of a supposedly cosmopolitan consciousness thus requires the scaling up of responsibility to a global and universal level. For Marlier and Crawford (2013) the R2P's "prioritization of a concern for protecting civilians rather than states marks the expansion of the United Nations Security Council's circle of empathy" (p.398). However, as they go on to highlight, the R2P at this point is not deeply institutionalised or deeply encultured, especially on the national level, and thus "many of us still don't see a moral relationship to a distant other" (Marlier and Crawford, 2013, p.413). This is reinforced by Linklater (2016, p.454) who also suggests that ethical concerns about distant suffering "do not automatically translate into strong public support for global assistance programmes". Subsequently, whilst empathy and emotions remain central to influencing why certain humanitarian situations may garner our concern, the motivation to persuade state actors to respond has often required a clear connection to self-interest also. This is perhaps best encapsulated by former US President Barack Obama in his remarks to the UN General Assembly in 2015 in which he stated that our concern must be:

> driven not just by conscience, but should also be driven by self-interest. For helping people who have been pushed to the margins of our world is not mere charity, it is a matter of collective security. (Obama, 2015)

Nevertheless, as Glanville (2016b, p.337) rightly points out, a form of "enlightened self-interest" is however often not strong enough to promote specific action, particularly in cases "where the suffering of others is more distant and less strategically important" and thus the longer term security threats associated with atrocity crimes are not recognised as sufficiently threatening to wider state interest. Consequently, the idea of "enlightened self-interest" encapsulated by President's Obama comments, clearly represents an imperfect solution to the challenge of mobilisation. However, what this example does point to is the need for states to continue widening the scope of security concerns in order to draw closer attention to the impact atrocity crime clearly pose to global security. As a 2015 UNA-UK report reaffirmed, atrocity crimes create "serious consequences for global security and prosperity", destabilising regions and generating further violence and refugee flows across borders.

Moving forward then, it is vital to begin reconsidering how the goals of protection and prevention, originally founded on a belief in the universal category of humanity, can be reconciled with a world that has become increasingly hostile to the goals of humanitarianism, including both refugee protection and atrocity prevention. In this sense, one must recognise that a global climate of increasing isolationism and the strengthening of border security, is one in which the moral traction of appeals to a universal humanity as a purely motivating tool may prove increasingly limiting. Consequently, as the thesis has argued throughout, the R2P has often been too reliant on the power of humanity and empathy to drive change through simply reforming institutional arrangements.

In response to the challenges of addressing the R2P's motivational capacity and the reform agenda at large, there is an increasing need to reflect on how this current political climate requires new tactics and initiatives in response. One way this can start to be addressed is through what Bellamy (2016) has described as a global campaign, in which to reaffirm faith in the fundamental principles of humanity, international humanitarian law and international

human rights. What this requires is not simply a claim to the moral righteousness of protection and the need for states to now supposedly care more about human suffering, but instead a more concerted effort to link the protection and empowerment of people to a human security agenda, grounded in international law, that is more sensitive to the way in which the current international system dehumanises those outside of its scope of moral concern (Weinert, 2015, p.204). As Boucher (2009, p.354) highlights, empathetic understanding requires us to "extend the range of who counts morally", which demands more than simply restating a shared moral commitment to humanity rhetorically (Boucher, 2009, p.354). In this sense, humanity as a motivating principle must be seen to represent more than "a disposition of empathy" and instead start to become "an active indignation" that is more closely connected to the challenge of motivating political will in order to help alleviate human suffering (Wilson, 2010, p.28). Ultimately, this must also mean expanding thinking beyond a traditional R2P focused lens, when it comes to the challenges of protection and prevention, and thus requires greater recognition of how a broad array of humanitarian norms interact in order to dictate who is or is not considered worthy of human protection at any one point.

Subsequently, the ability to change political will and better mobilise states to address such issues is a challenge that therefore demands a more cohesive approach to empowering appeals to humanness, which are conscious of the major inconsistencies in how states approach competing responsibilities to mass atrocity crime prevention, peacekeeping, and refugee protection, that can often be heavily out of sync with one another. This is perhaps best encapsulated by the way in which R2P has been presented as a tool that can potentially "bolster flagging state commitment" to those victims fleeing mass atrocities (Francis, 2012, p.223). Yet at the same time, it has long been the case that the threat of refugee flows has been exploited as a way in which to mobilise political will in support of intervention in the first place, in which people are viewed first and foremost as threats to international peace and security rather than

being worthy of protection in their own right (Francis, 2012, p.224). The interaction between the R2P and refugee protection thus brings to light the complexity of conceptualising state motivation, and the need to further map out how different regimes of protection and prevention can generate moral, legal and political dilemmas for decision makers. In this sense, when we talk about motivation and political will in terms of the R2P and atrocity crimes, one cannot separate it out from broader discussions concerning how states approach the protection of human beings in a variety of contexts. The current political climate of human rights pushback must therefore be seen as significantly detrimental to any greater consensus on R2P mobilisation, and thus directly challenges us to start re-conceptualising the future strategy for R2P reform initiatives. The first step in this process must be to better conceptualise the key factors influencing state decision-making, through a more specific focus on the complex interaction between morality, law and politics at the global level.

The Path Forward: Reconfiguring the Morality, Law and Politics of the R2P

As Chapter 7 examined in detail, the focus of reform in R2P scholarship has often been extremely narrow and has predominantly emphasised the problems of institutional arrangements at the international level. In this sense, the challenge put forward to the international community is one heavily framed around the need to change decision-making structures and redefine core principles such as sovereignty. Yet as this thesis has argued, the limited scope of such discussions has often clouded judgements regarding the broader obstacles to R2P mobilisation, most notably the challenge of generating sufficient political will and moral sacrifice, as outlined in Chapter 7. Consequently, in order to move forward the focus of R2P debates, there is a need to lay the foundations for a much broader framework for conceptualising the scope and limits of the R2P principle, as well as the future outlook for the protection of human beings from mass atrocity crimes more generally. This section will thus seek to critically reflect on the starting point for such discussion.

In "Reinvigorating Human Rights for the Twenty-First Century", Hannum (2016, p.446) argues that "social progress can only be achieved by appealing to law, politics and morality", not by simply appealing to human rights as a panacea that can remedy all wrongs. In direct relation to the current R2P discourse, this argument is highly relevant. As this thesis has examined throughout, the exuberance of R2P advocates to the supposedly game changing nature of the R2P principle has at times overshadowed the complexity and intricacies of international diplomatic decision-making around intervention and prevention of mass atrocity crimes. In this regard, the moral appeal of humanity has continued to be held up by both diplomats and academics as the concept that can best connect a shared empathy over human suffering to effective international decision-making, through the power of the R2P principle (Thakur, 2015; Welsh 2014). What this thesis has argued, however, is that the motivational qualities of humanity have been largely overstated and thus the moral complexities of state practice, in regard to mass atrocity crime prevention and protection, have been somewhat oversimplified. Critical to addressing this oversimplification is therefore the need to focus more specifically on the key interaction between competing moral, legal and political pressures on state decision-making, in order to bring into question the ease by which the R2P can fundamentally shift state priorities and interests in regard to mass atrocity crimes.

Central to this analysis is the recognition that the R2P alone cannot be a panacea in the fight to eradicate mass atrocity crimes. Whilst the R2P clearly symbolises a critical step, representing a new global benchmark for state agreement on the inherent wrongs of mass atrocity crimes, it must not however be understood as the final piece of the puzzle. Doing so, this thesis argues, will simply overshadow the need for greater critical analysis and reflection on the current impediments to changing state priorities when it comes to mass atrocity crimes. Instead the R2P is best conceptualised as a potential stepping stone, one which has played a significant role in helping to further generate negative accountability claims, yet at the same

time has not laid the foundations for a more stable and consistent approach to atrocity crime prevention and protection. In this regard the R2P, as Hehir (2013a) rightly points out, should not be understood as part of a liberal teleological process of change, underpinned by a belief in the progress of humanity, but instead as a process of change that can also be reversed and must therefore not be taken for granted. This is certainly reflected in comments made by the former UN Secretary-General Ban Ki-moon, who in his 2016 R2P report suggested that the limited response of the UN in the last few years to mass atrocity crimes, threatens to "reverse years of progress" (p.3). Moreover, he drew specific attention to the fact that the frequency and scale of atrocity crimes had also increased and would likely continue to do so "unless the international community takes more determined and consistent action to fulfil its responsibility to protect" (Ki-moon, 2016a, p.3). Consequently, the current challenges the UN faces in trying to effectively address mass atrocity crimes remains complex and must be seen to demand new thinking and reflection in order to move beyond the often repetitive nature of R2P debates over the last 16 years. The starting point for this change must therefore begin with a clearer understanding and conceptualisation of the competing pressures placed on state decision-making at the international level and their impact on the motivational process behind mass atrocity crime response. Subsequently, it will be argued that only through beginning to develop an approach that is more sensitive to the complex interaction between morality, law and politics, will it be possible to sufficiently explain the current R2P implementation gap and the tensions that are implicit in the process of generating collective responses to the threat of mass atrocity crimes. The following section will therefore provide the foundations for a more comprehensive conceptualisation of the motivational factors underpinning R2P policy responses.

Morality and Politics

Firstly, it is crucial to reemphasise the complex interaction between moral claims and the political context in which they are referred to and acted upon. This has been a central focus of the thesis throughout, in which it has been argued that assumptions made to the motivational impact of appeals to humanity have clouded discussion regarding how moral claims to humanity are translated into responses by political actors. As Chapter 6 examined in detail, despite the continued emphasis on appeals to the motivational power of humanity, the complex process through which humanity as a normative claim interacts with competing decision-making pressures has remained generally overlooked. Consequently, much of the R2P literature continues to take for granted the rhetorical consensus upheld by states, as a sign of the R2P's influence on shifting the debate beyond the previous moral dilemmas created by the humanitarian intervention concept. In this regard, there has continued to be an assumption amongst R2P advocates that the principle is now in a stage of consolidation and thus it is not worth expending energy on questions which have already been decided, particularly those concerning why states may have a responsibility to protect in the first place (Diggelmann, 2014, p.408). Instead, the R2P is promoted as "the future" and thus we must now "concentrate on doctrinal questions and implementation" (Diggelmann, 2014, p.408). Consequently, as Menon (2016, p.14) highlights, much of the literature surrounding R2P debates have continued to be "suffused with moral certainty", and has thus failed to fully account for the complex interaction between specific moral claims and the political context in which they are applied. In contrast, what this thesis has been able to provide is a new theoretical understanding of how moral appeals to humanity function in international decision-making and the limitations of their application.

In order to further demonstrate this, one can highlight how the emphasis placed on the motivational power of a shared concept of humanity in helping to generate moral sacrifice has been frequently tested, perhaps most notably when states are asked to deploy ground troops in

order to "save foreigners from massacre" (Menon, 2016, p.174). The responses by intervening powers to mass atrocity crimes from Kosovo to Libya suggest that moral sacrifice has always had clear political limits, particularly when it comes to the value of national lives in the process of protecting others. Whilst this may at times be acknowledged by R2P advocates, this has often been at the expense of sufficiently recognising the limits of universal appeals to humanity and the extent to which a belief in the clear human wrongs created by mass atrocity crimes fail to eradicate the tendency of state actors to set clear parameters on which humans are worthy of protection and at what expense. As a result, it can be argued that the "willingness to put resources on the line is often a more pressing concern than respect for state sovereignty" (Massingham, 2009, p.826). This is significant, as it brings into question the R2P's heavy focus and attention on the need to redefine the role of sovereignty first and foremost. What this therefore suggests instead, is a careful calculation made by states, as to how much political sacrifice they are willing to make in order to address the potential outbreak or continuation of mass atrocity crimes and the humanitarian impact of these acts. This calculation can therefore be seen to bring into further question the claim made by advocates, who suggest that R2P debates should now just be focused on assessing the practical constraints of implementation, rather than more closely examining the specific motivations that underpin the central obligation in the first place. In this sense, by generally ignoring the influence of moral dilemmas and pressures in the later stages of decision-making, advocates have sought to downplay the complexity of the interaction between morality and politics and have thus sort to reinforce assumptions as to the ease from which moral claims should translate into sufficient political responses to mass atrocities.

Furthermore, the question continues to be posed as to whether the UN "can act as the guarantor of the protection and security of humanity while at the same time remaining aloof from the machinations of politics" (Orford, 2016, p.31). However, in presenting the current

R2P debate as simply a dichotomy between the influence of politics and the protection of humanity, it severely masks the critical interaction between the two normative pressures and thus reinforces the idea of political decision-making as an apparent restriction on the goals of humanity. In contrast, it is vital to reject this arbitrary separation and thus examine in more detail the politics of humanity itself in order to fully question the overall limits of humanity as a motivating force.

Morality and Law

Secondly, one must also re-think the interaction between morality and law at the international level. As Chapter 4 touched upon, the evolution of international law over the last 70 years has seen a significant shift in how states now perceive their responsibilities to both the global community at large and individual human beings across the globe. However, as Chapter 5 examined, despite claims to the devolvement of "humanity's law" (Teitel, 2011), the R2P itself is not a legally binding concept and thus it is crucial to recognise that the principle was constructed to "fortify existing legal commitments, as opposed to an attempt to transform international law or create new legal obligations" (Tacheva & Brown 2016 p.442). As a result, it is argued that the R2P must be understood as a moral imperative that functions within "existing customary and codified international legal channels" (Tacheva & Brown 2016, p.443). This is significant, as it means that the R2P still remains heavily tied to the motivational power of moral appeals, to concepts such as humanity, and thus there is a need to better conceptualise the interaction between humanity and international law.

Subsequently, as the thesis argued in Chapter 7, appeals to the need to reinforce or change international law cannot alone be the focus for addressing the current R2P implementation gap. Instead we must also be conscious of how moral claims to the motivational power of humanity exist beyond the influence of international law. As Boucher

(2009, p.241-242) highlights, it is crucial to note that morality itself "does not require or rest upon legal enforcement, and the discharge of one's moral duty does not depend upon legal sanction". This is important as there are elements of morality that clearly fall outside of the scope of law, such as "compassion, decency and humanness, the duties attaching to which do not depend upon enforced obedience" (Boucher, 2009, p.241-242). What Boucher draws attention to here is the critical role moral claims still play in relation to the motivational process of generating state responses to mass atrocity crimes, whereby it cannot be legal sanction alone that drives how states respond to such crises. This is also acknowledged by Fine (2007, p.95) who argues:

> The image that cosmopolitan law can substitute for cosmopolitan political argument forgets that one has to be angry about atrocities being committed somewhere else in the world to want to do something about them and to risk lives to stop them.

Consequently, when it comes to decisions over intervention to protect those threatened by mass atrocity crimes, it can't simply be the case that "a group of judges say we should" (Fine, 2007, p.95). In this sense, the ability to address the current R2P implementation gap still requires greater recognition of the need for appeals to moral sacrifice, underpinned by claims to a shared humanness or empathy, that remain essential to acknowledging the harm created by such crimes. Thus, one must work to reinforce the importance of humanity as an active indignation, which is grounded both in the complexities of political and moral sacrifices. Subsequently, the process of motivating protection and prevention policies must still be connected to the very human emotions that such crimes generate, as explored in Chapters 3 and 4, whereby it was argued that stopping mass atrocity crimes must also require greater consensus on the question of why all states should want to stop these crimes from occurring in the first place. As this thesis has examined, it is often not clear from international law alone

which situations require particular responses and thus any response must be combined with moral arguments.

However, it still also remains important to highlight how appeals by R2P advocates to the power of moral arguments have at times also created an opposition between law and morality, leading to an assumption that it is always clear what morality requires (Diggelmann, 2014 p.409). As the previous argument above touched upon, the moral certainty that is often apparent in R2P advocacy is also used to challenge the salience of international law in certain situations, in order to try and push through new measures in response to mass atrocity crimes. For example, despite the consensus created by the 2005 WSOD over the central role of the UNSC, advocates have at various points argued that the "successful implementation of the doctrine depends on moving beyond the initial agreement", requiring states to do more, even if this means bypassing the UN Charter (Bohm, 2014, p.195). Consequently, too much emphasis on the moral certainty of the theoretical ideas that underpin the R2P can also be a significant impediment to building consensus, along with more consistent responses to addressing atrocity crimes in the future. Morality and law must therefore remain interconnected in order to avoid the imposition of an apparent dichotomy between the two positions that may undermine the fragile consensus surrounding the R2P principle.

To briefly summarise, what the debates and discussions concerning both the R2P's initial creation and its recent implementation have reaffirmed, is the significant role "moral arguments now occupy in internationalist debates" (Orford, 2013, p.84). Moral appeals must therefore be seen to have a central and powerful role in the fight against mass atrocity crimes. Nonetheless, appeals to morality cannot alone provide the motivational force to drive significant change in how states respond to mass atrocity crimes occurring across the globe. Instead, what this section has highlighted is the need for a greater understanding of the complex interaction between law, morality and politics in framing state decision-making around mass

atrocity crime prevention and protection. Consequently, as Cater and Malone (2016, p.292) have argued, "admirable principles of international law and diplomacy do not always mutually reinforce each other" and thus they "often overlap uncomfortably or clash outright". In this regard, any approach to conceptualising how to address the current R2P implementation gap must be conscious of relying too heavily upon political, legal or moral arguments alone, without at the same time recognising how each works to generate constraints and opportunities in the process of addressing mass atrocity crimes. Moving forward it will be crucial for academics and practitioners working on the R2P to reject some of the more simplistic explanations put forward to justify the current R2P implementation gap, which are often heavily reliant on perceived dichotomies between concepts (such as humanity and sovereignty) at the expense of trying to further understand the complex process of generating state motivation in atrocity crime situations, which heavily relies upon the interaction between a wide range of political, moral and legal pressures. Whilst a more comprehensive examination of this complex interaction is beyond the scope of this thesis, it is argued that the analysis outlined so far provides an important initial reflection for guiding future research on the R2P implementation gap.

Concluding Remarks

As we draw closer to the end of what must be viewed as a significantly volatile decade in history, reflected in growing nationalist sentiment combined with a continuing rise in outbreaks of mass atrocity crimes, it is becoming increasingly clear that the promise of the R2P has sadly fallen significantly short of many original expectations. As a result, it may be difficult to find much hope for the future salience of the R2P principle moving forward, particularly in a world that is becoming increasingly dominated by a return to isolationism, defined most significantly

by President Trump's recent emphasis on "America First".[15] Furthermore, findings by the 2017 Aurora Humanitarian Index,[16] an annual public opinion survey of global attitudes towards humanitarian issues worldwide, found that support for humanitarian action is on a steep decline, indicating clear evidence of a growing isolationism and a general lack of confidence in world leaders to sufficiently address humanitarian issues.

However, the extent of the current challenges faced should not mean we lose sight of the long-term goal of decreasing the outbreak of mass atrocity crimes wherever they occur. In this sense, what the thesis has argued is that there can be no quick fix to addressing the horrific human harms generated by mass atrocity crimes, and thus we would be unwise to consider the creation of the R2P principle as representing a truly revolutionary shift in state priorities and behaviour. Instead, we must be prepared to view the potential for change in relation to a much longer term approach, one that is conscious of the significant backward steps that may occur on this trajectory and perhaps more controversially, the reality that the principle of R2P may eventually lose its relevance. As the former UN Special Advisor for the R2P, Jennifer Welsh (2017) recently commented, there has been a significant "dampening of the cosmopolitan aspects of the R2P" with much less talk about individuals and human security. Thus, one can assume that it will remain increasingly challenging for the UN and individual states to construct and sustain a "cosmopolitan consciousness" that remains so integral to the core ethic of protection (Raplph and Gifkins, 2016, p.632). Consequently, what is required moving forward is the growth of humanity, understood as a more regulative idea, rather than an assumed empirical fact (Devetak, 2002, p.179). Critical to this will be the need for all actors involved in decision-making to better recognise the importance of further cultivating a stronger respect for

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[15] See Economist (2017) Goodbye to values, America's Foreign Policy: Embrace Thugs, Dictators and Strongmen, June 3rd. Available at: https://www.economist.com/news/international/21722834-past-presidents-believed-american-power-should-be-used-force-good (Accessed 10 July 2017).
[16] See Aurora Humanitarian Index (2017) Available at: https://auroraprize.com/en/aurora /article/humanitarian_index/10836/aurora-humanitarian-index-2017/2017 (Accessed 19 July 2017).

global humanness, tied back to a more cosmopolitan sense of a shared collective consciousness. In this sense, humanity must be understood less as a short term motivator used to rally together states in response to mass atrocity crimes and instead a concept that's strength lies in its ability to ground appeals that seek to regulate behaviour. It can therefore only be through a process in which this regulative force is strengthened at both the domestic and international levels that appeals to humanity can be more successfully reconciled with competing and interconnected political and legal pressures, in relation to mass atrocity prevention and response. Solutions will thus not be found in simply rearranging international decision-making structures or in the rewriting of international law alone, but must instead be located in the continued fight to expand recognition to those human beings who are currently deemed to be beyond humanity's reach and concern. This will ultimately be a slow, iterative and incremental development process, yet nevertheless, it must be seen as the most positive and effective foundation from which to build towards the global challenge of bringing an end to mass atrocity crimes.

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