



**Maria Isabela Rodrigues Plá**

**The Responsibility to Protect and its Humanities:  
A critical analysis of ostensibly universal discourses**

**Dissertação de Mestrado**

Dissertation presented to the Programa de Pós-Graduação em Relações Internacionais of PUC-Rio in partial fulfillment of the requirements for the degree of Mestre em Relações Internacionais.

Advisor: Prof. Kai Michael Kenkel

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## Abstract

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This dissertation offers a critical analysis of the discourse of the Responsibility to Protect (R2P). For this, I follow the poststructuralist understanding of language as performativity, i.e., I understand that language in use (discourse) has a role in the process of construction of subjectivities. I adopt Richard Ashley's structure of analysis of double reading to problematize the discourse of R2P. In the first reading, I read the traditional discourse of R2P, starting from some of its foundations in international law and in debates about intervention, sovereignty, and human security, following to the discussions that helped to constitute and delineate the scope of this concept. This discourse, we see, was proposed *as if* it were for the protection of a universal (the humanity). Accordingly, in the second reading I propose a reversal in the hierarchical structures upon which this discourse has been erected. Starting with a critique of the structure of modernity, I argue that the R2P discourse, as part of this structure, reproduces its logic of differentiations and exclusionist practices. By bringing the body of those who suffer from the humanitarian violence, I question *what* would happen *if* R2P were in fact for a universal. My argument is that, by claiming for a universal while it differentiates between those that provide protection, those that are protected, those that could be protected but suffered the collateral damages of the humanitarian violence, and those that cannot be protected, the discourse of R2P performs in the constitution of these distinct subjectivities.

## Keywords

Responsibility to Protect; R2P; Humanitarian Intervention; Sovereignty; Poststructuralism; Linguistic Turn; Performativity

## Resumo

Plá, Maria Isabela Rodrigues; Kenkel, Kai Michael (Orientador). **A Responsabilidade de Proteger e suas Humanidades: uma análise crítica de discursos ostensivamente universais.** Rio de Janeiro, 2017. 144p. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

Esta dissertação oferece uma análise crítica do discurso da Responsabilidade de Proteger (R2P). Para isso, eu sigo o entendimento pós-estruturalista da língua como performatividade, isto é, eu entendo que língua em uso (discurso) tem um papel no processo de construção de subjetividades. Eu adoto a estrutura de análise de dupla leitura de Richard Ashley para problematizar o discurso da R2P. Na primeira leitura, eu leio o discurso tradicional da R2P, começando por algumas de suas fundações no direito internacional e em debates sobre intervenção, soberania e segurança humana, seguindo para as discussões que ajudaram a constituir e delinear o escopo desse conceito. Esse discurso, como podemos ver, foi proposto *como se* fosse para a proteção de um universal (a humanidade). Dessa forma, na segunda leitura eu proponho uma reversão nas estruturas hierárquicas sobre as quais esse discurso foi erguido. Começando com uma crítica à estrutura da modernidade, eu argumento que o discurso da R2P, como parte dessa estrutura, reproduz suas lógicas de diferenciação e práticas de exclusão. Ao trazer o corpo daqueles que sofrem com a violência humanitária, eu questiono *o que* aconteceria *se* a R2P fosse de fato universal. Meu argumento é que, ao reivindicar um universal enquanto diferencia entre aqueles que promovem a proteção, aqueles que são protegidos, aqueles que poderiam ser protegidos mas sofreram os danos colaterais da violência humanitária, e aqueles que não podem ser protegidos, o discurso da R2P performa na constituição dessas distintas subjetividades.

## Palavras-chave

Responsabilidade de Proteger; R2P; Intervenção Humanitária; Soberania; Pós-estruturalismo; Virada Linguística; Performatividade

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# 1 Introduction

## 1.1 The object of analysis

During the meetings of the Commission on Intervention and State Sovereignty, in 2001, the concept of the Responsibility to Protect (R2P) was proposed as a norm to govern decisions regarding humanitarian intervention. The proponents of this new concept based their discussions on Francis Deng and his co-authors' writings on sovereignty as responsibility. According to these authors,

the sovereign state's responsibility and accountability to both domestic and external constituencies must be affirmed as interconnected principles of the national and international order. Such a normative code is anchored in the assumption that in order to be legitimate, sovereignty must demonstrate responsibility (Deng et al., 1996, p. xvii).

Assuming the conception of sovereignty related to the Peace of Westphalia (Osiander, 2001), defined by the combination of territory, authority, population and independence, sovereignty now was emphasized to be conditioned to the respect and protection of human rights (Cunliffe, 2007).

According to the report in which this new concept of R2P was proposed (ICISS, 2001), the latter is based on two basic principles. The first one defines that state sovereignty means the primary responsibility of states to protect their own population against threats to their human rights; the second principle says that in cases where a population is suffering and the state in question is not able or willing to protect, the international community has the responsibility to provide protection. Later, in 2005, the scope of this responsibility was limited to the protection from crimes of "genocide, war crimes, ethnic cleansing and crimes against humanity" (UN, 2005, §138), what envisages the possibility of activating the Chapter VII of the United Nations Charter when necessary.

Humanitarian intervention, it should be highlighted, "is only one part of the responsibility to protect" (Pattison, 2010 apud Weiss, 2011, p. 7): prevention and reconstruction are also part of its scope. The analysis I propose here, however, will be focused on the reaction scope of R2P. I highlight three main reasons that encouraged me to keep with this selection. First, I understand that this has been the

most troublesome aspect of this concept, since it involves a very critical aspect within international law: the possibility of the use of force within a state, without the consent of the local government. Second, because we can see that even the United Nations Security Council (UNSC) Resolutions that have made some kind of reference to R2P have given a greater emphasis to this point of the concept. And, third, because – following critical thinkers’ arguments about the similarity of this concept with previous ones (Orford, 2011) – I argue that, even though R2P offers a new narrative for debates about humanitarian intervention (that may propose other arguments or highlight other actors involved in this discourse), the structures upon which it has been constructed are the same ones found in the previous debates concerning humanitarian intervention and the possibility of the use of force. My understanding, then, follows Robert Murray’s argument about the primacy of intervention within the concept of R2P:

R2P is inherently a doctrine of intervention, despite what some of its cleverest advocates say about prevention or normative development. There is a reason it was named the Responsibility to Protect, and not the Responsibility to Prevent or the Responsibility to Love. Protection, according to the tenets of the ICISS report, involves action and action is defined by intervention when it comes to the worst cases of humanitarian crisis. (...) The R2P is a call for states to act when confronted with instances of atrocity, and if a crisis is occurring, clearly it is too late for the prevention argument (Murray, 2013, p. 228).

This thesis, in this sense, engages with the R2P concept starting from the discourse which, I argue, has emerged concerning this new idea. In this analysis, I map this discourse from its beginnings in the conception of “sovereignty as responsibility” (Deng et al., 1996) until its practical application in the humanitarian intervention that took place in Libya. According to Deng et al., “the notion of sovereignty must be put to work and reaffirmed to meet the challenges of the times in accordance with accepted standards of human dignity” (Deng et al., 1996, p. xi). Thereby, they identify a “normative code” that should be guiding international action, which must oversee and ensure “the rights of *all human beings*” (Idem, p. xiii, emphasis added). From this normative code, the R2P concept emerged, being “embodied in the Universal Declaration of Human Rights (...), and a wide array of other human rights instruments” (Ibidem). Here I highlight the fundamental place that the figure of the human being, in conjunction with the regimes of human rights and humanitarianism, assumed for the establishment of the scenario in which the R2P discourse would be placed.

## 1.2 Theoretical options

For my analysis, I adopted a critical approach to analyze these R2P's structures, and how and upon which basis they have been constructed. I propose an analysis based on a strategy

to deconstruct or denaturalize through detailed interpretation [of] the inherited language, concepts, and texts that have constituted privileged discourses in international relations. (...) The method is to disturb habitual ways of thinking and acting in international relations; the goal is to provide new intelligibilities and alternative possibilities for the field (Der Derian, 1989, p. 4).

Deconstruction, then, is the strategy that will help me to problematize these fixed structures, in search of their inconsistencies and limitations. Accordingly, my proposal is to start from there in order to look for other possibilities, arguments and realities that are not envisioned by this R2P discourse.

My argument is that, when we focus on human rights and humanitarian regimes to analyze R2P, we perceive that its discourse is constructed upon universalizing terms: for example, when making reference to the image of a *human being* who has to be protected. The strategy here is to employ a deconstructive analysis through a double-reading (Ashley, 1988), in order to compare the arguments used by the discourse to introduce a narrative *as if* the reality proposed were the representative of the truth, and a second reading in which other meanings are proposed, so as to question *what* would happen *if* these other realities were similarly considered within discourse. The aim, therefore, is to see what can happen to this very discourse when these meanings are challenged. In this sense,

by means of this double play, marked in certain decisive places by an erasure which allows what it obliterates to be read, violently inscribing within the text that which attempted to govern it from without, I try to respect as rigorously as possible the internal, regulated play of philosophemes of epistemes by making them slide – without mistreating them – to the point of their nonpertinence, their exhaustion, their closure (Derrida, 1981, p. 6).

This strategy of double reading will be adopted by taking the assumptions of the linguistic turn as its starting point. In this analysis, I consider that no language is free from history. As an attempt to analyze the domain of language and how its

content is structured, I quote Foucault in his concluding statements in *Archaeology of Knowledge*:

If I spoke of discourse, it was not to show that the mechanisms or processes of language (*langue*) were entirely preserved in it; but rather to reveal, in the density of verbal performances, the diversity of the possible levels of analysis; to show that in addition to methods of linguistic structuration (or interpretation), one could draw up a specific description of statements, of their formation, and of the regularities proper to discourse. (...) my aim was to show what the differences consisted of how it was possible for men, within the same discursive practice, to speak of different objects, to have contrary opinions, and to make contradictory choices; my aim was also to show in what way discursive practices were distinguished from one another; in short, I wanted not to exclude the problem of the subject, but to define the positions and functions that the subject could occupy in the diversity of discourse. (...) I rejected a uniform model of temporalization, in order to describe, for each discursive practice, its rules of accumulation, exclusion, reactivation, its own forms of derivation, and its specific modes of connexion (*sic*) over various successions (Foucault, 1972, p. 200).

I try to show in this analysis “how it was possible for men, within the same discursive practice, to speak of different objects” (Idem) by starting from the assumption that conceptual categories do not have a fixed content, but only assume a meaning when contextualized and brought into history. In this sense, when the R2P discourse is introduced in a second reading, I propose a problematization of its established foundations. The idea is to highlight the concept of the human, but not from a perspective of the one who is at the center of the discourse, but from the margins. My purpose, with this strategy, is to show that *it could have been in a different way* (Derrida, 2002), that the reality that is constructed through this discourse could have been formulated in a different way.

According to a Derridean notion of *différance* (Derrida, 1978a, 1978b, 1985, 2002), what is at stake is not only the established and concretized difference between *this* and *that*, but mainly the difference that is played between *this* and *that* (Vaughan-Williams, 2005), i.e., the contingent and circumstantial game of meanings, that deals with the constant relocation of borders and differences. The discourse on R2P, here, more than introducing a claimed universality, plays with what this universal is and with whom is part of it through practices of inclusion and exclusion – here drawn by the violence that is practiced against others’ bodies.

The *what if* strategy, thus, opposed to the pretension that Derrida identifies in language to singularity (Derrida, 1985), is introduced in the analysis in order to bring into light the founding violence (Derrida, 2002), the exclusions that were

taken to enable universalizing discourses to take place. The focus, I propose, will be relocated to those that have been excluded. What would happen if they were brought inside? Starting from the bodies of those that suffer the violence of humanitarianism – that violence that is “necessary” in order to protect those that are kept inside the “universalizing humanity” – I propose a *rereading* of the R2P discourse, in order to ask the question that cannot be asked: Is humanity really invoked on behalf of the entirety of human beings? Can R2P discourse ever be universal, in the sense of being on behalf of the Whole of human beings?

### 1.3 The argument

The discourse that is presented is employed as a power resource to fix understandings (Weber, 1995; Krishna, 2009), and thereby it creates truths tied to this intimate relation between power and knowledge (Krishna, 2009). In the R2P discourse, knowledge becomes a political act as long as it produces and *reproduces* realities. As Anne Orford argues, this is exactly what the R2P concept tries to do: “to transform practices into promises, or deeds into words” (Orford, 2011, p. 2). In this context, “while the narrative of humanitarian intervention attempts to secure the boundaries between the international community and its others, the figure of the human rights victim works to unsettle that imaginative geography” (Orford, 2003, p. 187). I argue that, in a reality in which R2P is evoked, borders are established and constantly altered and redrawn, according to contexts, interests, intentions, understandings and power relations – and their resistance.

The Responsibility to Protect, then, structured through interventionist incursions which have available violent means to protect *human values*, resorts to war to achieve its objectives. Unavoidably, then, violations of humanitarian and human rights law are part of this logic of protection. Who are those that will have their rights infringed, then, is the crucial point for this discourse, where its borders and the limits for argumentation are drawn. According to Vivienne Jabri, “violations of humanitarian and human rights law are not the side effect of war but the central methodology of new wars” (Jabri, 2007, p. 46). It is through these

violations, through the violence that is deployed to achieve protection, that the structures of this discourse are framed, and social formations and relations are established, identities are defined and meanings are represented through discursive articulations.

The point that I intend to problematize here, then, is not the discourse of doing or not doing something (Orford, 2003) when facing shocking crimes within national borders, the extremist dilemma that tends to be posed between inaction and imperialist interference. My argument is that R2P is simply an expression of something broader, of a structure that perpetuates its dynamic of relations through these same practices that I highlight here. I adopted R2P and its discourse here, then, as an analytical tool to demonstrate how these structures within which they are located have been constructed. I propose, then, the problematization of these same structures and processes of exclusion, differentiation and hierarchization that lie behind the discourse of R2P, from which its arguments are constructed.

As Vivienne Jabri argues, “the conditions that enable the emergence of such subjectivisation are in themselves taken for granted and therefore placed beyond judgement, namely the *global neoliberal order that underpins global governance and the global market place*” (Jabri, 2007, p. 102, emphasis added). Therefore, my intention is not to automatically discard the R2P project and its foundations rooted in the discourse of liberal peace – and neither to discuss if this is a good or bad strategy –, but to indicate how violence is intrinsically part of this project through distinct expressions, such as exclusions, inequality and differentiations, without forgetting, also, the materiality of violence *per se*, that inscribes into different corporealities the distinct meanings attached to this discourse. My purpose here, hence, is to bring into light that R2P is not only about responsibilities attached to states and international community, but also that this very discourse implies a fundamental responsibility towards those that it claims that need to be protected and – even more importantly – to those that do not *succeed* in being protected.

## 1.4 The structure of the Chapters

This analysis will be divided in four subsequent Chapters. **Chapter 2** will present the theoretical background in which my analysis will be inserted. In this Chapter, I discuss the notion of linguistic reflectivity proposed within the social sciences and its incorporation in the discipline of International Relations. For this end, I bring both contributions of Nicholas Onuf's (1989) constructivist analysis, and Michael Shapiro and James Der Derian's (1989) poststructuralist debates, in order to propose a reflexivity about the role of language in the construction of reality and the relations between meanings and oppositions. Last, I bring Richard Ashley's (1988) strategy of double reading, which I adopt in the next two Chapters to construct my argument.

**Chapter 3** brings the “first reading”, in which the “monologue” reality is introduced. For this, the *traditional* discourse of R2P is introduced, in which the human being – such as it is constructed – is argued to be the central grounding. My proposal here is to highlight some of the roots that founded the basis for this discourse. I start by presenting the norms of intervention that I understand to ground this speech, the liberal tradition in which the discourse is inserted, and the debates about humanitarian intervention and their onsets, such as the advent of the concepts of human security and right to intervene. Moreover, I bring a contextualization of the scenario that encouraged this concept, i.e., the events in the 1990s and some of the interventions (or the absence of them) that took place along the decade. Thereafter, I introduce the debates about R2P, the Commission which proposed this concept, the arguments that I understand to ground the R2P's discourse, and some of its unleashing. In this Chapter, still, I start to identify some of the limitations of this discourse and some inconsistencies within its narrative.

In **Chapter 4**, I propose a “second reading” for this discourse, i.e., my arguments *per se*. For such, I introduce the structure within which modernity has been erected, as well as its expressions in time and space. I propose a dual critique of this structure, by introducing R.B.J. Walker's critique of the international and Vivienne Jabri's understanding of a late-modern temporality. In this Chapter, I construct and present my critique of universals, conceptual categories introduced by universalist discourses that should be taken with suspicion due to their violent strategy of narrating truths. To conclude this Chapter, I propose a problematization

of the conceptual category of humanity and human rights, through the argumentation about the violence imputed against the bodies of those who may be killed in order to protect humanity. In this sense, this Chapter proposes a *rereading* of R2P's discourse by asking *what if* R2P's grounding human being is treated just as a conceptual category whose content can be reinterpreted according to context, power struggles and intentions. In both Chapters 3 and 4, an illustration of the arguments will be proposed by bringing into the discussion the Libyan case, where an intervention took place from the international community – or parts of it – adopting humanitarian and human rights terms.

Last, **Chapter 5** brings a critique of discourses that introduce themselves *as if* they were universal. By articulating poststructuralist writings, I argue that universalist discourses do not reach universality, and, indeed, they do not aim to do so. My proposal in this Chapter is to bring a reflection about what would happen if distinct realities were considered for these universalist discourses, such as R2P. Instead of accepting discourses that claim to talk on behalf of everyone and, as such, risk silencing distinct expressions of subjectivities, I propose an affirmation of difference in order to enable plurality.

## 2 Theoretical Framework

### 2.1 Introduction

Theories can be understood as tools that are constructed to help us to see the “outer world” (Smith, 1996). In this sense, depending on the adopted theoretical lenses, the way *how* we see the world, *how* we collect information about it and *how* we analyze facts can be altered and lead, at the end, to different conclusions. Distinct interpretations about what the world *is* may arise according to the different mechanisms apprehended. According to Steve Smith, “the real world is constituted by the dominant answers to these and other theoretical questions” (Idem, p. 1). In this sense, it can be affirmed that the outline the “real world” may assume will depend on disputes around what knowledge constitutes.

If we question knowledge (and the discourses through which it is presented to us) and its foundations, we will see that traditional positions tend to structure their arguments on how much it draws near reality and reflects its truths. In this present analysis, my intention is to question the way knowledge is constructed and introduced by discourse and which realities are circumscribed as the true versions of a fact. The theoretical considerations I bring in this first Chapter will help me, then, to read with suspicion definite arguments brought by the traditional discourse of the concept called Responsibility to Protect and subsequently to question and problematize the chosen foundations, so to propose alternative meanings for its concepts.

As I will demonstrate in Chapter 4, language and its understanding and use, according to the theoretical choices previously made, are fundamental for the kinds of relation that the conceptions about theory/reality, discourse/practice will assume within speech. Even though much importance tends to be given to the language that is used for knowledge to approach reality, until around the 1970s-1980s very little was discussed about the way these arguments were constructed in order to legitimize a narrative about the existence of this to-be-approached reality and the truths that would be brought into light. Just like Nicholas Onuf points it,

Social scientists freely assume that they build on firm ground and strong foundations because these are deeded to them by their disciplines. Social theory, which I take to be that loose array of codificatory paradigms sprouting in the debris

of failed proto-theories and decrepit disciplines, necessarily challenges these assumptions. Consequently social theorists cannot avoid the question of where one begins (Onuf, 1989, p. 36).

When more than the causes of a fact are questioned, when the “rubble of construction” (Onuf, 1989, p. 35), i.e., the foundations that enabled arguments about the existence of knowledge, is highlighted, the orientation that is given to presuppositions of reality is shaken. In this analysis, I propose a sort of *shaking of reality*, as conceived of by Onuf. For this, introducing the theoretical choices I have made to orient my analysis is fundamental. From these choices, I intend to propose more than just a reflection, but one with critical perceptions, so to problematize a discourse that I argue to be constructed *as if*<sup>1</sup> it represented a universal.

In the social sciences, the reorientation that culminated with a replacement of “the distinction between subjective and objective realms of experience with the social nature of language” (Fierke et al., 2001, p. 4) is called “Linguistic Turn”. The emphasis this movement dedicates to language and language constructions is based on its authors’ arguments that “no one ‘world’ is more real than others” (Bruner, 1989 apud Onuf, 1989, p. 37), that reality is constituted at the same time that is constructed by people and their interactions and understanding about the real world. I present below some of the authors that inspired me to follow the critical paths I propose in this analysis, and some of their theories, the ones oriented to the deconstructive understanding of a linguistic performativity in discourses.

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<sup>1</sup> Throughout this thesis, the critique intrinsic to the term *as if* will be of great value for my purposes. I inspire the critique I bring here in Derrida’s understanding of the tension that exists in the great tradition of the *logos*, which aims the *unique*, the *Uno*. In Derrida’s reflections about the Tours de Babel (1985), the argument about the first name, which initially would refer to a singular being, is contraposed to the multiplicity of existences within the languages, which cannot be reduced to a singular one. This means that it is *as if* by its nature, language is contrary to that which itself aims (the singularity). This illustrates the confusion attached to the concept Babel, i.e., the first name *Babel* is usually translated in other languages as confusion, since the term *babel*, in French, means confusion. In my arguments, I intend to demonstrate that, when a discourse argues about a universal, it should come with the reservation about the contingencies of its singularity. Therefore, in Chapter 4, I transpose *as if* with the argument about the *what if*, which questions the discourse of a universal universality at the same time that it demonstrates the limitations of this kind of narrative. The discourse of the universal, I continue, performs, aiming to be something of a universal.

## 2.2 The Linguistic Turns

In this presentation about the theoretical choices I have made here, the movement called ‘the philosophical turn’, which gave birth to the so-called Philosophy of Language approach, helps us to understand how the *aporias*<sup>2</sup> intrinsic to discourses of truth emerge when these very discourses are deconstructed. For my intentions here, a good example of a discourse of truth is the one introduced exhausting universal existences, such as the ones in the name of humanity. As we will see later in this Chapter, this kind of discourse constructs its narrative *as if* the beings within it were limitless or *as if* its arguments represented the totality of existences.

This approach understands that language assumes a place in the process of the constitution of subjectivity, indicating that “performativity means that discourses constitute the objects of which they speak” (Campbell, 2013, p. 235). In this sense, it distances from the arguments about an *out there* free from interpretation: according to one of its thinkers,

human experience is apprehended on the basis of categories that have meaning in the historical context of persons analyzed *and* in the cultural context of the analyst/observer. Experience is thus always contingent on the normative standards that are presupposed in the selection and constitution of ‘facts’ (Shapiro, 1992, p. 11-12).

This understanding is crucial for my critique, once it discards arguments about language *just being* language, i.e., the impartiality of discourses and their contents in the process of constitution of reality. As we can see in Shapiro’s argument, the very practice of telling a story or narrating a discourse is already inserted into the political process of selection.

The scenario in place by the time of the proposal of the linguistic turn, simply put, was constituted by social scientists that intended to understand language through a positivist perspective. Language, for these authors, was important only for the considerations about the scientific method. In this sense, it was up to the

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<sup>2</sup> Aporias, in Derrida, arise from the unreachability of final foundations, just like a road that does not allow passage (Derrida, 2002), a moment of impossible. It is, then, a quasi-moment (Marchart, 2007), when the being confronts its own foundations. Aporias can be seen as an undecidable moment, when the being confronts it non-being. It is a phantasmagoric moment (Derrida, 2002), a moment that is and is not, a moment in when the being has to make a decision in front of the undecidable, a moment of complete freedom, of conscience, when justice in fact is possible.

researcher to adopt the most coherent language and vocabularies, the ones that would enable logic inferences about the object under analysis. According to Michael Shapiro, “positivists have tended to promote a correspondence conception of truth, that is, a statement is empirically true if it corresponds or accords with observed experience” (Shapiro, 1992, p. 11). Meaning, thus, appeared in positivism only as a matter of epistemology: “a matter of what its proper evidence base would be” (Lycan, 2000, p. 100). Knowledge, in this scenario, would be acquired through relations that are established between language and the fact. Language, thus, is associated with research in order to make reference to the empirical evidence – *the given* (Devitt et al., 1999).

According to Fierke and Jorgensen, “the linguistic turn signaled the transition from a positivist view of language as mirroring an objective reality, to language as constitutive of a social world” (Fierke et al., 2001, p. 7). This movement proposed a replacement of the conception of language as a mirror, one that distinguished two different orders of representation (an objective and a subjective realms), to an understanding of language as contextually dependent and socially constructed. In this sense, “the meaning of a term consisted no longer in its exact correspondence to an object in the “outer world” but in its use in speech” (Kratochwil, 2001, p. 20).

The linguistic turn in social sciences tends to be associated with the works of Ludwig Wittgenstein. His discussions can be divided into two different phases (or *turns*): the one introduced by his *Tractatus Logico-Philosophicus* (1922), and the second one related with his latter works, specially his *Philosophical Investigations* (1953). As Kratochwil points it, with this latter work

the problem of meaning found a new solution. The meaning of a term consisted no longer in its exact correspondence to an object in the “outer world” but in its use in speech. (...) Concepts meant something not because they captured the ontological essence of “things” (...) but because they were used in a certain way among speakers who thereby communicated with one another (Kratochwil, 2001, p. 20).

In *Tractatus*, Wittgenstein is dealing with language as a “‘picture’ of the logic of reality” (Fierke, 2003, p. 73). Language, in this *first turn*, was too “messy” (Idem) to deal with the purity of logic and its relation with the world. Philosophy, then, should deal with language in order to provide clarification for knowledge and elimination of ambiguities. For this, concepts should be clearly defined and fixed

inside these definitions so to enable tests and provide standards for knowledge<sup>3</sup>. The subject, in this understanding, “stands outside the world and applies labels to discrete objects within it” (Fierke, 2003, p. 78). The subject may even be made invisible, once its participation is merely instrumental, just as a tool that brings object and knowledge together. It is noteworthy at this point that along my presentation I will demonstrate how the traditional discourse of R2P – the one I deconstruct in this analysis – can be inserted into this line of understanding, by following a structure of argumentation that takes the realities it brings into consideration as fixed (once it represents the Whole/as if it were the Whole) and does not open possibilities for other existences (since there can be no being out of the universal/as if it were the universal).

In his later work, Wittgenstein assumes a more critical position about the relationship between the word and the world. In his *Philosophical Investigations*, he proposed that humans may use language in many different ways. Wittgenstein introduced the metaphor of *language games* to make sense about the way people may engage with language. Games involve rules that must be followed in order to enable people to play together. Each game, however, may have rules that are distinct from the ones in other games. In this sense, in this *second turn*, according to the language game that each one is playing at each moment, she will follow exact rules and will be engaged with language in specific and distinct ways. There are multiple possible games, and each will lead its players to different realities. In this metaphor, thus, we can see that “the game is one of change and possibility, not only within a given game, but also between them” (Fierke, 2003, p. 77). In this second phase, we can see that the reality in place (or the game being played) is limited by the rules that circumscribe it, that dictate the possibilities and the limits for its articulations, while it is recognized the possibility of articulating other realities and so on.

Language, in this second linguistic turn, therefore, is taken as made by rules. In this sense, it is a construction, and as such it can be changed. The subject, in this language game metaphor, more than playing the game and following the rules, is able to change these very rules. The individual is no longer an observer of the

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<sup>3</sup> This work came to influence the logical positivism of the Vienna Circle, which believed that facts should be collected from nature, and, thus, knowledge should be constructed upon the regularities that could be found in it.

“world out there” but part of the social context. In this sense, more than analyzing what the subject says (the knowledge she introduces), it is important here to question the way through which the subject presents this knowledge, the rules this subject is following, and the game under analysis. In Chapter 4, we will see that by deconstructing the discourse of R2P and giving the possibility for the subject narrated to be part on the construction of her subjectivity, the limits and aporias of this discourse come into light.

In this second turn, there is not only one possible method to reach reality and competitive theories that argue to get closer to the truth. More than an argument about countless possible methods, here I argue that, within discourse, what reality is and what truth is will depend on the language that is used, on the rules in place, on the game being played and even on the subject that plays it. The content of someone’s speech may be true for a game and false for many others. More than that, I argue that the narrative of truth that is proposed by a subject in a specific game may come as false to someone else in a same game moments later. Just as Fierke proposes, “the question of language is not only about analysis, but also about how human beings use language” (Fierke, 2003, p. 81).

## 2.3 The linguistic turn in IR

The (second) linguistic turn “signaled the transition from a positivist view of language as mirroring an objective reality to language as constitutive of a social world” (Fierke et al., 2001, p. 7). Language assumed as a mirror is related to the argument that defends its ability to *apprehend* and *represent* the world. On the other hand, this new philosophical trend was concerned about what came to be known as the *how questions*, i.e., the authors associated to this tradition wanted to know “how one acquires knowledge in IR, how one processes knowledge, and how one uses it” (Debrix, 2003, p. 4) – instead of only questioning the methods of collecting information. Language, here, was seen as resultant from people’s interactions with the world and as shaping these very interactions.

In order to break narratives about the place of language inside the discipline of International Relations, Karin Fierke questioned what an approach to language might mean. Her argument is that “all analytical approaches in IR rely on implicit or explicit assumptions about language (even the analytical approaches that claim to be hostile to language)” (Fierke, 2003, p. 67-68). Her position is attached to the confusion that might come up from these distinct moments of the so-called linguistic turn. According to Fierke, no International Relations analyst can run away from falling back upon language resources. The point here is that “the language of this new inner core ironically continues to exclude questions of language from the insiders’ circle. Consequently, the language of the insiders still produces silences” (Fierke, 2003, p. 69). The linguistic turn came into IR to problematize these silences that were so-far produced within the discipline among its theorists, but also from their theories to the possibilities considered of telling the stories about the states relations.

Accordingly, the proposal was to understand knowledge production as depending on language, interpretation and representation. The former constructs the real world at the same time that it is shaped by this same reality. Inside the discipline of International Relations, the so-called “linguistic turn” tends to be associated with discussions that involved the third great disciplinary debate (Lapid, 1989), which brought light into two emerging approaches: constructivism and post-structuralism. Even though each has its specificities, they are usually equally associated with a concern with the role of language on the process of constitution of meaning.

This reflexive moment (Lapid, 1989) in International Relations can be related to two key theoretical works on language: Michael Shapiro and James Der Derian’s *International/Intertextual Relations* (1989); and Nicholas Onuf’s *World of Our Making* (1989). Both oeuvres have in common their interest in relation to the role of language for the definition of the reality under analysis. Their main proposal was to reconsider the role of language inside speech: instead of assuming a “world out there”, which allowed arguments about the distinction between subjective and objective knowledges, these authors proposed questions concerning the *how* of knowledge, i.e., how its truths and meanings are constituted. In this sense, instead of accepting arguments about a reality that exists and that contains all the truths of one single world, these authors wanted to understand how narratives of truth were

created and on which basis they sustained their arguments. In order to undermine regimes of truths and the so-called objectivity of scientific knowledge, these authors aimed to *denaturalize* arguments, structures and debates. As I have already anticipated, I follow these authors' paths for my investigation here, in which I propose an accordingly denaturalization of arguments of humanity and human rights, in order to bring into light and to problematize the practices that enabled these universalist arguments.

Both constructivist and poststructuralist perspectives understood that knowledge is a construct, rather than a reflection of reality. According to their understanding, "the world does not depend on secure philosophical foundations but, instead, on language as a common feature of human experience" (Debrix, 2003, p. 3). Knowledge, in this sense, is not resultant from facts collected from the world, but depends on the rules of socialization and communication, on the way subjects interact, and of how they assume and interpret their practices in the world.

Differences among these two perspectives start to show up when we focus on what they meant about there is no *out there*. Even though both perspectives understand reality as an abstraction dependent on how knowledge is constructed, they differ on the way to deal with language and on how to use it for knowledge construction. Fraçois Debrix gives a useful distinction about both strategies:

While a constructivist insists on the *normative* aspects of language, a poststructuralist cannot go beyond the recognition that language is generally *performative*. While it is true that constructivists who take language seriously also speak of performativity, they do not mean the same thing when using the term. By referring to performativity, constructivists assume that the speaker of the world is the performer, and language remains this performer's tool. By contrast, when poststructuralists claim that language is performative, they signify that language itself *is* the performance, independent of the agent's intentions (Debrix, 2003, p. 6-7, emphasis added).

This means that even though constructivists bring a flexibility into the way they assume language inside the discourse, they still have attached to their analysis an evaluating conception of language. For them, even though individuals and their social interactions influence how narratives will be taken to shape the world in which they are situated, the language one encounters has roots that can be relocated according to her understandings and experiences, but not replaced.

On the other side, for poststructuralists, there is no such thing as *a* language until the moment it is placed inside discourse. Language and reality produce each other at the same time that they are produced. If we can bring distinct signs to talk about language on the one hand and reality on the other, in practice they are nothing but the same. This is the performative role which Debrix talks about and that will be developed below.

Put it simply, constructivist scholars tend to see reality as dependent on the relations between individuals and their role in society. In this sense, the meaning of *the international*<sup>4</sup> (as something essentialized) is dependent on how individuals understand and interpret their relations and shared experiences, and on how they produce discourses about themselves and the world around them. Nevertheless, when we evoke constructivism in IR, it is important to pay attention to which line of constructivist argument we are dealing with. Even though it can be argued that its two main lines were built from discussions on the linguistic turn, each represents one of these two *turns*<sup>5</sup>. Here, however, the emphasis will be on the work developed by Nicholas Onuf, which discusses rules and foundations according to the second linguistic turn.

On the other side, it can be argued that poststructuralism goes (at least) a step further on abstraction (or deconstruction). For these scholars, inspired by “semiological modes of interpretation and techniques of literary criticism” (Debrix, 2003, p. xiii), the world can be seen as a text. More on this argument will be developed below, but it is important to emphasize now that this textual metaphor does not mean a complete negation of the materiality of the world, but only a critical

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<sup>4</sup> This concept of *the international* will be further explored in Chapter 4. For now, it should be just emphasized the distinct ways of conceiving it, depending on the theoretical choices taken from this moment on.

<sup>5</sup> Constructivism in IR can be associated with writers that argue that social reality is dependent on how individuals interact with each other and with society. The first “line” of constructivism in the discipline tends to be associated with the works of Alexander Wendt. Wendt’s constructivism can be summarized as an attempt to resolve the demand for a social theory consideration into both structuration theory and scientific realism. In this sense, his constructivism can be associated with the first linguistic turn, just as defined above, which proposed an understanding of language just as a matter of clarifying the relation between the real world and logic. Therefore, even though Wendt considered a space for human constructs inside his theory, he circumscribed this agentic role into the structures of the social reality under analysis. The main representative of the second “line” is Nicholas Onuf. His work will be further explored in this analysis. By now, it suffices to say that his analysis brings much more emphasis on language and on the role of speech for the construction of reality. Thus, his approach is more concerned with “an adequate investigation of the intersubjective dimension” (Zehfuss, 2001, p. 73).

positioning on the relation between meaning and the foundations that support and structure its claims.

### 2.3.1 Constructivism and rules

Constructivists propose an understanding of language as a synthesis of the dialectics traditionally posed between phenomena and the questioning of the foundations of knowledge. For these writers, the practical use of language should be considered in order to apprehend the role that the world and agents inside it assume in this scenario. Therefore, “constructivist scholars, for instance, repeatedly claim that international social practices are the result of the way agents narrate history and produce discourses about themselves and the world” (Debrix, 2003, p. xii).

An important writer from this perspective, Nicholas Onuf, proposes a constructivist line that “does find socially made content dominant in and for the individual without denying the independent, “natural” reality of individuals as materially situated biological beings” (Onuf, 1989, p. 40). This means that constructivism does consider a starting point, with defined foundations, for its reflections. This starting place, however, will not limit knowledge: the point of departure is one that considers that people and society are constructed one by the other in a movement that would make history, in Onuf’s terms (Onuf, 1989, p. 42). Therefore, this point of departure would just be a “false beginning” (Onuf, 1989, p. 46), in a sense of giving place for the precariousness of the human mind and the contingency of history, assumed as an effect of social interactions.

An interesting starting point to address the writings of Nicholas Onuf is his interpretation of Jean-Paul Sarte’s quoting “the deed precedes the world”. From here, it becomes evident that for Onuf language is not taken as the founding moment. In fact, the problematization of an essential moment of foundation is common for both constructivism and poststructuralism<sup>6</sup>. However, Onuf does not

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<sup>6</sup> For both approaches, the foundation through which claims of truth are sustained and from which knowledge is constructed are important sources to understand what lies behind this knowledge and its claims. Every analysis, independently of its analytical field, has to start with some assumptions,

highlight language as the key aspect for the construction of meaning and understanding. Language, for him, is just an instrument available for individuals to establish their relations with each other and with the world. The relations that are established among individuals and between individuals and society, and the resultant of these relations is what matters the most for constructivism. The construction of meaning, in this sense, will come from the way these relations will be established and differently interpreted.

Social construction is assumed as the foundational moment in this constructivism. According to Onuf, “we are always within our construction, even as we choose to stand apart from them, condemn them, reconstruct them” (Onuf, 1989, p. 43). As the “deed” – that results from interactions – is taken as the starting point, we can see it is a social construction. However, for Onuf, it is also a natural event, one “produced by mind yet phenomenal in its own right” (Onuf, 1989, p. 43). In this sense, assuming the deed as the founding moment, no priority is given to the word or the world, since the former is conceived as a conjunction between both spheres.

The importance of language in constructivism is focused on the way subjects make use of it. Language, here, is not sufficient by itself, but it is neither completely dependent on the different articulations by agents. Language supports the prevailing worldview. The linguistic turn, thus, is enabled here, since it opens space for a reconsideration of what language is. Language, in this approach, is dependent on its use by people, in their different social interactions. Depending on how and with whom people interact, their world will assume different shapes.

The linguistic turn in Onuf’s constructivism, in this sense, is instructed by its understanding of *language in use*, i.e., by assuming language as a matter of social use, it opens place for the consideration of rules firstly in language but more specifically in society. Rules here are conceived as the instructions that govern and

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i.e., it has to have an ontological arena to pose its object of analysis and to start asking it questions. However, if for traditional approaches the foundation of knowledge is argued to be the very reality from which facts had been collected, for constructivism and poststructuralism, the final foundation, from which all beings and worlds build up, in fact does not exist. This argument is proposed through an understanding of unreachability and *aporias* that will be deeper explored below.

guide<sup>7</sup> people to play the game. For Onuf, thus, rules are essential for both the constitution of humans' intentions and their consideration of how to carry on. However, just as any other human creation, they are not an end on themselves, i.e., "they do not tell us everything we would like to know as we carry on" (Onuf, 1989, p. 51).

Rules, therefore, are both about restricting the game and orienting the best way to play it, or, better saying, they are both about constituting language and regulating its use. And this logic takes place in a scenario of a game to be played, i.e., "they always do so at the level of "practical consciousness"" (Onuf, 1989, p. 52). Rules are brought into consideration in a context of practice, when human beings exercise their self-conscious reflection in order to take into account the existing rules.

Turning to Anthony Giddens and his theory on "language use", Onuf starts constructing his own understandings of language and its structure. Giddens introduces the concept of *knowledgeability*, in the sense of "the agent's ability to understand his/her social encounters" (Debrix, 2003, p. 8). From this ability and through the understanding that is established, knowledge and its meaning are constituted. However, understanding is only possible if encounters are established. The agent's social capacity to interact and, therefore, to reflect on this, however, is highly dependent on her use of language to communicate with the world.

Language, thus, can be said to be merely a method for establishing relations. Just as Debrix summarizes it,

For Giddens what matters about the world is how it communicates and, by so doing, formalizes rules that allow agents to interpret the deeds of others. (...) From this moment on, the rule-content of language is given priority over the performative utterance of the sound or sign (Debrix, 2003, p. 9).

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<sup>7</sup> If we take into consideration the distinction proposed by Peter Winch (1958) and long discussed by Onuf between constitutive rules and regulative rules, we have to discern the former as an orientation to govern games being played by individuals when using language, and without which games risk to be altered and thus different games may be produced; and the latter as a guide on how to best play the games, but which are not necessary for its playability. Nevertheless, this distinction is not essential for Onuf, who argues for its untenability due to the co-constitution that occurs between people and society (Onuf, 1989, p. 51).

From Giddens' definition of his "theory of structuration", Onuf proposes his own. In this sense, it is worth quoting the former's entire definition for then to reflect about it:

The basic domain of study of the social sciences, according to the theory of structuration, is neither the experience of the individual actor, nor the existence of any form of social totality, but social practices ordered across space and time. Human social activities, like some reproducing items in nature, are recreated by them via the very means whereby they express themselves *as* actors. In and through their activities agents reproduce the conditions that make these activities possible (Giddens, 1984 apud Onuf, 1989, p. 58).

In this sense, Onuf's theory of social construction follows Giddens' propositions on co-constitution. Onuf, reflecting about Giddens' theory, takes into account both effects that rules have into humans and that humans have into rules. Onuf, thus, attempts to bring into existence a bridge between both epistemological (objectivist and subjectivist) and ontological (individualist and collectivist) polarities<sup>8</sup> of social sciences. Rules facilitate humans' participation into social life once they enable knowledgeability; human beings, on the other side, also have an agentic characteristic that enables them to choose following or not these rules; more than that, humans are the authors of these rules, which are developed according to the presumed advantages they might generate to each agent; and humans' rational behavior is the responsible for the reproduction of these rules.

Another important point for Onuf concerns the importance of material conditions for his theory. Even though usually relegated to a non-verbalized assumption, material conditions are what enable the bridge between both interpretations of rules to be brought into nature and history (Onuf, 1989, p. 60). Rules, therefore, enable the identification of material conditions for social purposes, and, on the other side, they need these material conditions so to organize human endeavor.

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<sup>8</sup> Both polarities are identified by Onuf in theories of IR. Even though Giddens has only expressly highlighted the ontological perspective that divide the social whole from individualist ones, Onuf argues for a second distinction. On his understanding, this latter tends to be neglected because the objectivist polarity of this dichotomy, the one related to traditional rationalist perspectives and present on functionalist and structuralist theories, is much more emphasized than the reflexive one, that emphasizes culture and historicity. This bridge that is proposed by Onuf between both polarities is important in order to avoid essentialization of any of the two, just as it usually occurs in social sciences theories (Onuf, 1989). The purpose, thus, is to show up that both are equally important and have their role in human practice.

In Onuf's writings, to the deed is given priority as the moment from which the entire chain of signification will be constituted. The object of his analysis is, therefore, the deed but as a matter of source for the construction of signification. Language, rules and relations come into his analysis as instruments to condition the possibilities for meaning. As he writes, "people use words to *represent* deeds and they can use words, and words alone, to *perform* deeds" (Onuf, 1989, p. 82, emphasis added). Language is essential and *irreplaceable* for the existence of the deed in practice and in speech. I complement by arguing that language is still instrumental in Onuf's theory. On the one hand, at the same time that the deed exists in practice, i.e. it is lived by agents and once experienced it comes into existence, on the other hand, though, the deed needs to be *represented* through speech to become *real*.

### 2.3.2 Poststructuralism and the world as a text

Post-structuralism may be understood as "a critical attitude, approach, or ethos that calls attention to the importance of representation, the relationship of power and knowledge, and the politics of identity in an understanding of global affairs" (Campbell, 2013, p. 225). The issues poststructuralism problematizes, as a critical approach inside the discipline of International Relations, are those naturalized assumptions and perspectives, which it makes strange – it deconstructs them – so they can be questioned as forms of interpretation and representation of the world. Writers from this perspective understand that this kind of discourses is just constructed narratives of truth, which are not free from interferences of power relations.

In this sense, discourse, for a poststructuralist approach, is not just a narrative, but a practice which at the very moment that is evoked creates meaning. Language, therefore, "*does not mirror action ... it is action*" (Kratochwil, 1993 apud Epstein, 2013, p. 506, emphasis in the original). Just as Michael Shapiro elaborates, poststructuralists prioritize the analysis of discourses because "the concept of discourse implies a concern with the meaning- and value-producing practices in language rather than simply the relationship between utterances and their referents"

(Shapiro, 1989, p. 13). I follow this poststructuralists' understanding of discourses in this present analysis, since – as I will propose in Chapter 4 – the very act of invoking a discourse is not a naïve process of truth telling, but it is, *per se*, a practice of constitution of reality. My thesis goes on with the argument that special attention should be paid to those discourses that present themselves as representing universal existences, since, by the very act of saying of what this universal is consisted (or of what it is not consisted), it contributes on processes of subjectivation and exclusions.

More than the linguistic practices that characterize the distinct phenomena (and through which knowledge in these specific fields can be constructed), the linguistic turn in poststructuralism is also concerned with the language of the inquiry itself, the one that restricts the questions that analysts can pose to their objects of analysis. This is an important point that, just as stated before, distinguishes poststructuralists from constructivists in the linguistic turn. If the latter assume language in speech, their focus ends up directed to the rules that constitute and guide the linguistic constructions that are undertaken in relations between individuals. On the other side, poststructuralists are concerned with language itself, i.e., their analysis is directed to the role that language assumes when performed in speech. According to the way it is employed in discourse, the reality that is created will assume different shapes.

Language in practice, i.e., discourse, constitutes the reality that it evokes. Discourse assumes a performative role when evoked: because language is not assumed as fixed, transparent, nor detached from the world (Campbell, 2013), every time it is employed it creates meaning, it creates identities through utterance, but also through what is left out of its content, what is excluded – “identity is always given through reference to something it is not” (Hansen, 2006, p. 6). In this sense, “there is no pre-existing identity by which an act or attribute might be measured: there would be no true or false, real or distorted acts” (Butler, 2006 apud Epstein, 2013, p. 510). Following this understanding, the approach I adopt in my analysis is guided by a suspicion concerning those discourses that bring before them preconceptions of what is true or real, of what a specific category within narrative is and what its necessities are.

Exclusions and boundaries assume an important analytical role in poststructuralism. As Shapiro presents, “the language used by a society or culture contains rules which provide boundaries around phenomena and thereby produce the objects and events that are the referents of our speech” (Shapiro, 1992, p. 21). Accordingly, the world did not emerge already divided and segmented into compartmentalized spatialities. Boundaries exist for a purpose and they do have meanings: “any political subject is constituted by the marking of physical, symbolic and ideological boundaries” (Devetak, 2005, p. 175). Boundaries exist, some would say, to organize human and political life. In this view, as R.B.J. Walker posits, “the divisions and exclusions of the modern statist imagination still offer sufficient ground, literally, for thinking about our collective futures. We know what we must do because we know where we can do it” (Walker, 2006a, p. 27). Therefore, boundaries help people to know their place in the world, to make clear the place where the political life must be (Walker, 2006a). As we can see, the process of using language in practice also contributes in these exclusions and in drawing of boundaries. More than just analytical instruments, these latter constitute and define the reality that is affirmed at the very moment that the discourse presents its arguments.

Just in the same way as language and identity, boundaries and limits are also constantly reshaping and changing their place in speech. The latter are fundamental for maintaining the structures of the system, by defining the lines that separate inside from outside, and thus ensuring that the narrative that is invoked (and the realities that it affirms) is consistent with the discourse that invokes it. The role that boundaries assume in keeping identities safe from the *external threat*<sup>9</sup> is assured, therefore, due to this process of adaptation, as well as the practices of exclusion and inclusion that draw their lines. The modern world, in which order and subjectivity take a central place, always assures divisions:

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<sup>9</sup> In a process of definition of meaning, universalistic claims tend to specify what they are through defining what they *are not*. Therefore, difference and the alterity that comes with it are fundamental for both the universal's existence and the delimitation of its boundaries. In this process of negative definition of the content of universalizing discourses, what is not part of this *universal* is excluded. This Other, the one that has been excluded, at the same time that it *is not* the universal, is essential for it, it is part of it. In this sense, just as defined by Giorgio Agamben (Agamben, 1998) by the term “inclusive exclusion”, alterity is taken as a threat, which can bring into light all that is part from the inside and has been negated – but that is *still there*.

there is consequently always an assumed outside to the production of modern subjectivities capable of objectivity, an outside that must be excluded so as to permit the modern self to know itself in relation to its own understanding of what objectivity, indeed the world as such, must be (Walker, 2006a, p. 58).

Discourse relates to this process of excluding the outside by constructing its narrative of truth, which brings into speech the reality it argues to exist in a spatiality of a so-called out there. This true world is opposed to other arguments, which would be false, illusory or delusional. In the extreme, lie those discourses that argue the universal. The latter not even argue the falsity of competing discourses, but deny the very possibility of their existence, which would contradict the substance of its existence. On the other hand, however, lies Walker's argument about the necessity of an outside, which would ensure the knowability of this self.

The poststructuralist conception of *performativity* helps us to understand the strategies discourse finds to deal with this process of negation. For poststructuralism, language itself can perform and create reality. Texts (and here it is important to emphasize they are talking not only of written ones, but also of oral speeches and graphic images, for instance) are composed of words, of how language works when used in practice. In this sense, when poststructuralists bring arguments about "the world as a text", they mean that

texts are what social reality is made of. The way language is strategically organized, the way its elements are ordered to produce certain effects, and the way language may never be fully controlled explain why it can be said that language and (in) texts enact meaning (Debrix, 2003, p. 12).

Language is performative in the sense that structures, rules and intersubjectivity are always already decided through language. If in Onuf's constructivist theory the deed is taken as the foundational moment, as the moment when subjects interact with each other and construct their understandings of both truth and reality, for poststructuralism, the text *is* the deed. Language, thus, performs the deed.

Judith Butler understands performativity not as an act, but as a continuous practice through which discourse produces the effects it reiteratively names. This means that the discourse's linguistic conception is only possible due to the effects it brings into light; at the same time, these effects are materialized due to the articulations that the discursive practice provides; and, finally, both are enabled thanks to the reiterative power that unites them. This is a dynamic and continuous

process, which always renews itself, and that works in the opposite way as to the fixity that those discourses of truth sell themselves to be, but it is exactly this movement that enables both parts to stay together. Discourse and materiality enable each other while their relation is continuously reiterated. According to Butler:

The paradox of subjectivation (*assujétissement*) is precisely that the subject who would resist such norms is itself enabled, if not produced, by such norms. Although this constitutive constraint does not foreclose the possibility of agency, it does locate agency as a reiterative of rearticulatory practice, immanent to power, and not a relation of external opposition of power (Butler, 1993, p. xxiii).

The relational movement, the articulation of elements, occurs through a continuous practice *immanent* to power, i.e., in its interior, allowing its own existence. Power, that exists through the elements it articulates, is constituted exactly by this interior articulation.

Poststructuralism opposes to an assumption of a unique reality, a unique and singular narrative of truth that constitutes this so-called *outer-world*. For these authors, reality is made of what is written, said, interpreted, and discoursed about it. Therefore, when it is said that “reality is displaced by textuality” (Der Derian et al., 1989, p. x), that the performative role that language assumes reiteratively dislocates reality in relation to what it has been said to be, it does not mean they see nothing but the text, but that the text is what gives outlines for what we can understand as reality. The way that discourse is introduced to us, therefore, is fundamental for the outlines that the reality that is being narrated will assume. The point I aim to emphasize here is that discourse, no matter its content nor its context, has a strong contribution on the way that reality will be constituted before us.

When poststructuralists propose to replace reality with textuality, the idea is not to deny that something out there exists, but to replace the narrative of a unique and universal truth about something that there is with a textual understanding, one that assumes that the out there is brought into existence through discourse and that these discourses can change, on the one hand, through the ways they are structured by the issuer, and, on the other hand, they can be differently understood by the receiver. Again, I call attention to the importance of taking with suspicion these so-called fixed discourses of something of a universal existence that justify themselves on behalf of every and each being. Rather than wearing the lenses these discourses provide for us to see the reality they argue to exist, I propose the reading of this

narrative just as a text (Ashley, 1989), which, as such, could have been written in a different way and that can assume different meanings according to the languages to which it is translated (so to make a parallel with Derrida's (1984) writings).

Textuality, therefore, can be understood as a commitment to challenge previous intellectual suppositions. Language, here, assumes the role to enable knowledge, truth, and meaning to have different contours, distinct content from the ones so far enabled by rationalist and positivist traditions. The world just as it is presented to us by rationalists follows rules of representation that dictates the "style of its scripting" (Shapiro, 1989, p. 11). Representation, in this sense, assumes the role of bringing a discourse as if it were the whole, the universal and the only possible reality and truth. According to Shapiro,

given that our understanding of conflict, war, or, more generally, the space within which international politics is deployed is always mediated by modes of representation and thus by all the various mechanisms involved in text construction – grammars, rhetorics, and narrativity – we must operate with a view of politics that is sensitive to textuality (Shapiro, 1989, p. 12).

It is through textual practices, i.e., through the ways that discourse is constructed by language, that systems of meaning will be constructed and presented as the legitimate ones. It is not that the discourse needs to be eventually readapted to reality so to follow its changes, but this reality is in a such way constructed so to legitimate the discourses that are reiteratively introduced. This means that an approach of textuality recognizes that any considered "reality" is constructed through representational strategies and that representation is not a way of bringing into words the fact collected from out there, but it is a way of making this very fact, of defining its contours and the ways to talk about it (Shapiro, 1989).

Just as Donna Gregory points out, poststructuralism understands that "discourses harnessed to powerful social forces have, in the name of scientific objectivity, come to constitute "regime of truth"" (Gregory, 1989, p. xiv). These regimes of truth, when we move apart from them and stop automatically assimilating them, when they are made strange to us, they can be considered as texts to be read and interpreted. In this sense, they can be read in different ways – and, specially, we are then able to understand that they could have been written in a

different way<sup>10</sup>. This is the strategy that I propose in this analysis. As we will see in the following Chapters, I propose we read the R2P discourse so as it is introduced by its advocates, so we can go beyond it, in Chapter 4, finding its limits and reading it differently, allowing other meanings to its concepts and other truths to its realities.

When we understand that there is no such thing as *the* event, but different interpretations of what an event as a concept is, of which moments in history should be highlighted as such, of how to approach them, and of how to understand them, we can see that theory and practice are not two separate fields. We can see then that theory *is* practice (that the act of *doing* theory, of saying how something should be analyzed, studied and talked about circumscribe the conditions of possibility for this reality to exist) – and, more importantly, one must be responsible to the theoretical choices she makes.

Rather than deliberately adopting traditional International Relations' theories and their methods, the poststructuralist strategy proposes “a self-conscious step away from the dominant formalistic and antihistorical trend in international relations theory that “naturally select” hermetic, rational models over hermeneutic, philosophical investigations” (Der Derian, 1989, p. 7). In order to bring up the exclusionary strategy of these rationalist approaches and to overcome the boundaries imposed to knowledge, poststructuralists propose a reconsideration of what meaning and knowledge are and can be.

To open different possibilities, dominant forms of representation, dominant discourses inside the field, must be deconstructed, their structures and the ways they have been constructed must be questioned. When the assumption of knowledge comes associated with a defining structure, behind it lies the pretension of a movement whose direction is predetermined: the way through which knowledge will be sought is defined, as well as the proposed results, directing the path through

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<sup>10</sup> This approach is labelled by Jacques Derrida as deconstruction (Derrida, 1978a). It involves a strategy of moving away from a determined discourse in order to make it strange. By distancing from it, the analyst can stop automatically assimilating its content and start questioning it in search for its foundations, those practices that constituted it into exclusions and silencing to enable narratives of truth. A second moment of this deconstructive strategy – that will be further discussed later on – involves a reordering, a redefinition of hierarchies, to imagine them *as if* they were the inside, in order to bring into light those very exclusions.

which an analysis can be guided. Andrew Koch brings an interesting critique about structures that aim encapsulating knowledge:

Once posited, the structure has authority. It takes on the character of both premise and conclusion, as part of a circular logic of hypothesis building. Structure presents itself as the necessary condition for observation. In that role, it serves as the foundation for discourse itself. The truth of the structure is reinforced whenever it is used as the origin of discourse. A part of the structural premise, therefore, is contained in any conclusion of inquiry. The premises of any theory are reinforced in the process of their application (Koch, 2007, p. 2).

Structures, therefore, work as enclosing the possibilities of directions to be traversed. Just as pointed by Koch, once the structure is defined, it will be inevitably present in the obtained results of any knowledge proposed. Language, thus, is “*constitutive* of objects and experience (...) the world of “things” has no meaningful structure except in connection with the standards we employ to ascribe qualities to it” (Shapiro, 1992, p. 20). Discourse organizes human reality by producing meaning to it and by defining limits to what identity *is* and what it *is not*. In this sense, the category “we”, when evoked by the discourse, assumes a meaning – as well as everything else that is not “us”, i.e., the “other”.

## 2.4 Meanings and Oppositions

This moment of reflexivity that opens passage for this linguistic turn, also called a *postmodern moment*, is associated to a “crisis of modernity” (Der Derian et al., 1989, p. x), in which the modernity’s foundations, its unities and oppositions, are brought into question and challenged. In this movement, “objective reality is displaced by textuality” (Idem), which means that the patterns and rules imposed by this objective world seem no longer to be able to handle the plurality of realities found in the world. Pluralization is the result of language(s) and the distinct ways it is used (Derrida, 1984). On the other hand, the new shapes reality(ies) starts to assume open different possibilities for the use of language and the deployment of rules and vocabulary articulations. Circulating this entire relationship, we can find the importance of meaning stabilizing at the same time that it shakes rules, structures, practice, politics, agency.

As we saw above, language for this reflexive tradition should not be taken only as an instrument to describe the truths and meanings of the world. Rather, language became central for understanding, for knowledge construction and for the establishment of the reality upon which discourses will be introduced. This language's rules and form, thus, are dependent on how one interacts with the world and understands this interaction. The strict relation established by positivists between meaning and the object to be represented is dismantled; meaning starts to be seen as circumstantial, as dependent on the context under which it is evoked, on the linguistic articulations that are proposed, and on the performative role that language assumes in this scenario.

Linguistics in poststructuralism tends to be associated with the works of Jacques Derrida and his critique to Ferdinand de Saussure's structuralism. This latter, what Derrida calls the *logocentric procedure*, is based on structures of oppositional signification, which means that "a thing can be known only by what it is not" (Gregory, 1989, p. xv). Meaning is thus constructed through structures of paired oppositions, through which something is defined by the direct reference to what it is not. More than that, this paired opposition, Derrida pointed, tends to be constituted through hierarchical structures, in which the subordinate pair, the opposite that defines the dominant term, is taken as the Other, the outside of the boundary of what *is*. The argument I will introduce in Chapter 4 will be strongly connected with this critique of the logocentric procedure, which I argue that is adopted within the structure upon which modernity constructs its reality. Accordingly, the logic presented above, of construction of meaning through oppositions, establishing hierarchical structures and excluding the Other so to draw the boundaries that constitute the inside, is also present within the so-called structure of modernity.

What is fundamental for the poststructuralist critique of this logocentric procedure is the understanding that for the meaning of a term to come into being it needs to be attached to at least another term (its opposition). Important here is that "while meaning is utterly dependent on the presence of at least one other signifier, that second or third term by which we can know the meaning of the first is not given by nature" (Gregory, 1989, p. xvi). This logocentric relationship, which gives

meaning to philosophical and linguistic categories, instead of being established by nature, is conditioned by context and cultural contingency.

When it is understood the logocentric structure that is constituted in narratives of truth introduced by positivist and rationalist discourses, and it is made room for textuality through a deconstructive approach, we are able “to recognize that a given text contains, or catalyzes, a surfeit of meanings beyond what its author wanted to say” (Gregory, 1989, p. xviii). The control over meaning does not completely belong to the author of a text, but is also dependent on the prescribed rules of signification, the structures upon which subjects must conform the conclusions they intend to call knowledge. The *world as a text* thus means that reality can have different meanings, according to context, contingencies and subjects involved, and that narratives of truth, such as the ones on behalf of a universal, involve exclusions and can never be definitive.

In this analysis, the purpose is to question universalistic discourses, claims of universality that we can find in the system. In the modern international, for instance, there is a claim that everyone is inside, through a discourse of human rights that argues to encompass an entire humanity to be protected. The history of modernity, however, must be understood “as a process of internalization, of subjectivization, as the process of bringing the world into the world of the modern while excluding all other worlds” (Walker, 2006a, p. 66). If, through the discourse of human rights, the entire humanity is brought inside, who *the humans* are for the vocabulary this discourse evokes should be questioned. As Walker argues,

it is significant in more empirical terms because so much of humanity is in some sense outside the modern inside/outside of the international. The story of modern politics is a story of a pattern of inclusion and exclusion within a modern system of states, within the international. We are all the same, as humanity, but all different, as members of different national cultures: We are the ambivalent people/peoples of the United Nations (Ibidem).

## 2.5 Deconstruction

Resorting to universalizing terms is common in international discourses. A classic example is the one that makes reference to *humanity*, such as human rights, usually evoked by decision-makers in international forums. Justifying their actions

on behalf of this concept of humanity that is made abstract, these discourses are presented through the totalization of their referent object. However, it can be inferred that those whose rights are not embraced by these totalizing discourses are left out of this universal humanity.

Contemporary writers, based on Foucault, Heidegger, Derrida, and others, propose investigations on what these classifications mean, where they come from and to what they make reference. These authors, by questioning and problematizing stable, fixed and so-called natural definitions, endeavor their studies on deconstructive paths. In this way, they intend to understand, for instance, what it means to discourse on behalf of a whole such as humanity, what kinds of actions are taken when a universalizing discourse is adopted, and what the consequences are for this very *humanity* in the name of which this discourse is justified.

As described by Derrida, deconstruction involves a double movement: in the first place with

the task of recalling the history, the origin and subsequent direction, thus the limits, of conceptions of justice, the law and right, of values, norms, prescriptions that have been imposed and sedimented there, from then on remaining more or less readable or presupposed (Derrida, 2002, p. 19).

This movement takes to the suspension of the former credibility, in direction to a “moment of suspense”, an anxiety, that can also be translated as a moment of freedom: not in a sense of negation of foundations, but of conscience and recognition of these very foundations (Derrida, 2002; Marchart, 2007).

In this investigation, I propose an analysis through these same deconstructive routes in order to question what it means to claim a “Universal” and what kind of exclusions this discourse ends up producing. Through a deconstructive strategy, I intend to avoid “both simply neutralizing the binary opposition, thereby confirming it” (Vaughan-Williams, 2005, p. 126). Therefore, my purpose is to understand what responsibilities can arise from this universal related to the alterity that the former tries to negate, while I analyze the relation between both for their very existence. Through deconstruction, I take a path of undecidability (Derrida, 2002), in which alterity is not overcome, but the process of differentiation that creates and recreates alterity is denounced in order to overcome asymmetric

discourses, and, thus, lead to an “undecidable infinity of possible truths” (Vaughan-Williams, 2005, p. 129).

Here, the ideas of teleology and origin are deconstructed: due to the unceasing temporalization of the being, its continuous movement of differentiation, while it delays its definition, demonstrates the impossibility of a historicity. There are no starting nor arrival points for this object. The object, then, will be accessed through its problematization: through the deconstruction of its foundations and their questioning. The idea of *problematization* will be essential for this analysis’ purposes. This investigation will be compromised to destabilize, shake, bring into light, question, deconstruct fixed structures. According to David Campbell:

A problematization is something that has made it possible to think in terms of problems and solutions; it is something that “has made possible the transformations of the difficulties and obstacles of a practice into a general problem for which one proposes diverse practical solutions”. A problematization “develops the conditions in which possible responses can be given; it defines the elements that will constitute what the different solutions attempt to respond to”. In seeking to show how different solutions to a problem have been constructed and made possible by the way the problem is posed in the first place, *it demonstrates how different solutions result from a specific form of problematization* (Campbell, 1998, p. x, emphasis added).

The question of language, therefore, just as presented above in this Chapter, and as introduced by Fierke, “is not only about analysis, but also about how human beings use language” (Fierke, 2003, p. 81). A deconstructive approach helps us to bring into light the different strategies employed by actors when using language. Therefore, language and the different strategies that can be used to articulate it are crucial in this analysis. Here, the focus will be directed to the use of universal terms and discourses that affirm to embrace the totality of beings and possible existences.

According to the relation analyzed by Michael Shapiro between language and text, the way the social world is presented to us depends on rules of representation that go beyond our “immediate social context” (Shapiro, 1989, p. 11). In this sense, when I refer to universals, I keep in mind the dichotomy drawn by Butler between the “universal” that claims universality and the exterior that has been excluded: “At stake in this definition of universality is the distinction between an idealizing supposition of consensus that is in some ways already there and one that is yet to be articulated, defying the conventions that govern our anticipatory imaginings” (Butler, 1997, p. 90-91). This “universality” discourse, thus, other than

being the universal, is introduced by these rules and relations of representation, through which the universal that is claimed is (re)presented from

various pre-texts of apprehension, for the meaning and value imposed on the world is structured not by one's immediate consciousness but by the various reality-making scripts one inherits or acquires from one's surrounding cultural/linguistic condition (Shapiro, 1989, p. 11).

For a deconstructive perspective, language

presents open, generative structures that are always charged with relations of domination, and temporarily fixed within historically contingent sets of meanings (discourses), the settling of which is the outcome of a political struggle. Discourse is the primary site for the exercise, not of consensual reasoning, but of power (Epstein, 2013, p. 502).

Humanity, the human subject, human nature, all these are examples of categories employed as universals – already existing concepts, names representing a true existential and non-problematic reality – used in the theoretical construction. To know a language, therefore,

is, in effect, knowing a vast and intricate system of rules of how words are appropriately used. (...) to the extent that we know the language, we know from the nature of the language game involved what aspect of a thing is being singled out for our attention (Shapiro, 1992, p. 48).

Language, therefore, creates *realities* – in the plural. It is “a system of differential signs, and meaning is established not by the essence of a thing itself but through a series of juxtapositions, where one element is valued over its opposite” (Hansen, 2006, p. 17). Reality and ideas appear attached to one another for their very existence. The problem I emphasize in my critical analysis, therefore, is not that reality is being presented through the wrong discourses; conversely, it just assumes a meaning *through* discourse. In this sense, the problem is not the content of the discourse *per se*, but the fact that it is constantly presented as the *true* translation of the *real world*. This real world presented by the discourse I analyze, however, as we will see in Chapter 4, does not have a meaning, or, I argue, it has a meaning to different actors, depending on how they incorporate language and how their vocabulary circumscribes the possibilities their world can take to be.

## 2.6 Richard Ashley's Double Reading

Understanding that discourse creates different *real worlds* every time it is enunciated, Richard Ashley (1988) proposed a “double reading” approach in order to contrast what traditional discourses present as reality and other possibilities, which might appear if universals are reinterpreted from their very ontology. In this approach, exactly that which is assumed as a “foundational truth, a self-evident limit that virtually defines the compass of imaginable possibility” (Ashley, 1988, p. 227) is what is problematized and deconstructed. The point here is to assume the discourse’s intention to introduce itself *as if* (Derrida, 1984) it represented the reality and then to go beyond it, so to ask *what if* this foundational and unquestionable truth becomes a problem of interpretation, *what if* we dislocate the focus from the center and the root of the entire structure, and redirect it to the margins, what does this very structure become?

According to Ashley, a self-evidence of a discourse’s representation – the *truth status* which is tied to the discourse – “is attributable to its readiness to replicate, without questioning, the interpretive dispositions and practical orientations that are, in fact, at work in modern culture and productive of the modes of subjectivity, objectivity, and conduct prevailing therein” (Ashley, 1988, p. 228). Reality, for this project, cannot be questioned, constructed or produced, but only reproduced, replicated. Through this practice, meaning is imposed<sup>11</sup> and alternatives are excluded.

Ashley appeals to workings of theoretical discourse in order to understand *how* the very foundations of the discourse are “actively *produced* in history and through practice” (Idem), i.e., when articulated through discourse. As Hansen approached it,

the productive nature of language implies that policy discourse is seen as relying upon particular constructions of problems and subjectivities, but that it is also through discourse that these problems and subjectivities are constructed in the first place (Hansen, 2006, p. 15).

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<sup>11</sup> At this point we can see the performative status attributed to power by the poststructuralist approach. Power in its productive status relates to the Foucauldian understanding of “disciplinary power”, which is employed “in order to produce a certain political subject” (Campbell, 2013, p. 234). By defining what it *is* and what it *is not*, this kind of power, presented within discourse, creates identity through exclusion. Discourse, therefore, when presents reality somehow and not another, creates the event and the identity of those involved in it.

This circularity attached to discourse, what she calls an *interlinked ontology*, is what is going to lead us to the *aporias* silenced by *naturalization*, i.e., “an arbitrary political construction that is always in the process of being imposed” (Ashley, 1988, p. 229).

This discourse works in two related ways. First, it attempts to silence – assuming it is already solved, as a natural existence – its existential problem: its foundations are assumed as given. In this sense, the framework, the scenario, where the discourse takes place is taken as if it has always been there, it is enclosed as if it had natural edges (Marchart, 2007). As Ashley argues, “this is its originary claim, its foundational claim, the claim that must not be questioned if anything else it says is to be taken seriously” (Ashley, 1988, p. 229). Second, the “knowledgeable practice” that is employed by this discourse is a very pervasive but at the same time effective one: it *disciplines* knowledge through a “heroic practice” (Idem, p. 230) that is structured upon a dichotomy between *sovereignty* and *anarchy*<sup>12</sup>. If sovereignty is assumed as order, rationality, just as “our” political system is organized; anarchy, on the other hand, shows up as disorder, irrationality, “their” or “outside” political system. In this sense, sovereignty – the inside part of the discourse, the one “we” should identify with – is evoked as “an originary voice, a foundational source of truth and meaning” (Idem, p. 230). As the foundation, the only truth already in place, sovereignty must not be questioned; in fact, it is the *unquestionable* element in the system, from which all the other parameters originate.

The state, in this discourse, is the source of rationality, the self-sufficient existence that assumes the place of source of identity, source of meaning. Its existence is “founded” by the theoretical discourse: it has always been there, we have just found it that way – the discourse argues. If the state gives meaning to the entire system, its very identity is out of question: the very existence of this theoretical discourse is dependent upon “the imposition of an arbitrary ideological limit whose critical questioning is disallowed” (Idem, p. 231). The state is *the*

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<sup>12</sup> Even though Ashley presents this dichotomy between *sovereignty* and *anarchy*, I decide to follow Walker’s dichotomies of ‘inside’/‘outside’, ‘good’/‘bad’, ‘self’/‘other’ (Walker, 2006a), accordingly to terms related to the practices of exclusion employed by the discourse under analysis.

necessary existence to the system, it is the *pure* source of reasoning and meaning, of identity and rationality to the entire discourse.

In this sense, and in order to question “how this discourse might undermine its own ‘foundations’ and expose new ways of thinking and practicing global politics” (Ibidem), Ashley proposes a strategy of “double reading”, which offers the reading of the discourse twice. The first reading, called *monologue*, poses the sovereign identity at the center of the system, as a foundational enterprise for the entire discourse. Identity, reason and rationality, just as assumed by the sovereign discourse, are employed just as presented, as a fixed existence, as the original moment. The heroic practice, in this sense, is taken as a “deep structure” (Idem, p. 232) which organizes knowledge. Boundaries, for this discourse, are not a problem, but *the* solution: the line that keeps pure the inside against the impurity of the outside. Ashley calls it the “blackmail of the heroic practice”, the dilemma that is faced by the reader of this discourse: an *either/or* choice between accepting and entering into the discourse, or repudiating it and being left with the *impurity* and irrationality of criticism.

On the other hand, as a second reading, Ashley proposes a model of *dialogue*, which inverts the sovereignty/anarchy dichotomy, through a deconstructive perspective that privileges the latter over the former (Idem, p. 233), “reversing the original order of the binary pairs of terms to demonstrate how the exclusion of the second term is central to the first” (Campbell, 2013, p. 234). Discourse is not a reflect of a unique reality; there is not *one* reality which takes the place of source of meaning for the discourse to employ language: “we have no language – no syntax and no lexicon – which is alien to this history” (Derrida, 1978a, p. 354). The meaning of a text, its limits, is “ceaselessly dependent upon never finished processes of intertextual production” (Ashley, 1988, p. 233); the text shows up as an open field where discursive performances are employed and power struggles take place, in an endless relational reality that ends up changing and *rechanging*<sup>13</sup> the very structures of this relationship.

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<sup>13</sup> For Derrida, this differentiation and *redifferentiation* on the very logic of relations of difference is called *différance*. *Différance*, for him, is like “an economy, a structure of deferral whose irreducible originality must be respected. This attempt-to-say-the-demonic-hyperbole [the attempt of the heights thought to announce to itself] (...) is not an attempt which would occasionally and eventually be completed by the saying of it (...) this attempt to say, which is not, moreover, the

The dialogue model, therefore, opens up new meanings and identities to the historical figures in the discourse. If it is an inclusive perspective, it is also a destabilizing approach: it appears as “an opening to new possibilities where formerly there was only the pretense of closure” (Idem, p. 234). By deconstructing the theoretical discourse, the dialogue works *within* the discourse in order to bring light to how it “undermines the philosophy it asserts, or the hierarchical oppositions on which it relies, by identifying in the text the rhetorical operations that produce the supposed ground of argument, the key concept or premise” (Culler, 1982 apud Ashley, 1988, p. 251).

By questioning the *unquestionable* grounds, this dialogue model problematizes the *naturalized* identities, those sources of certainty, the roots that kept the reader attached to the floor, assuring rationality to her existence. Deconstruction does not destroy that which is assumed as the foundations, but questions if they can really be called as such. In this sense, the intent is to show that the discourse, even though possible, “can no longer be simply represented as something foundational, given, and prior to the interpretation of political problems of global collaboration” (Idem, p. 251). Sovereignty – the conceptual category under analysis in Ashley – in the heroic practice starts to be assumed not as the original source but as a *representation*, resultant of power struggles, as always in process of *redefinition* of its character, according to historical context and interests.

The point of this double-reading strategy “is not to demonstrate the truthfulness or otherwise of a story, but to expose how any story depends on the repression of internal tensions in order to produce a stable effect of homogeneity and continuity” (Devetak, 2005, p. 170). In the current analysis, thus, I adopt this strategy of double-reading to problematize the discourse of the Responsibility to Protect. The conceptual category that I bring under question relates to the image that is constructed about the human being and its universality, i.e., the humanity. In Chapter 3, I propose a first reading of this discourse, following the foundations that are usually pointed by this concept’s advocates as its sources of debate. Already in Chapter 3, I start demonstrating some of the limits of this discourse, which, even

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antagonist of silence, but rather the condition for it, is the original profundity of will in general. (...) The economy of this writing is a regulated relationship between that which exceeds and the exceeded totality: the *difference* of the absolute excess” (Derrida, 1978b, p. 75).

though aiming a universalistic scope (i.e., even though it presents itself *as if* it represented the universal), is structured upon a specific logic of organization which privileges differences and inequalities. In Chapter 4, then, I propose a second reading, which starts from these limitations in order to destabilize the former's structures. Following a strategy of questioning *what* the discourse would be *if* it in fact were universal, I propose a conceptual framework based on the body of distinct people within the discourse so to illustrate the exclusions that are committed every time that the universalistic narrative is invoked. My purpose, then, is not to negate the discourse's possibilities or contributions, but only to destabilize its certainties and to dissolve its fixity, so to open place for other realities to also be invoked.

### 3 First reading: a conventional discourse of R2P

#### 3.1 Introduction

Since the beginning of the 21<sup>st</sup> century, a new concept related to armed conflict has made headlines in discussions of humanitarianism. First cited in the report resulting from the meetings of the International Commission on Intervention and State Sovereignty, in 2001, the Responsibility to Protect (R2P) concept is promoted by its advocates as a proposition that has been elaborated by a diverse group of international thinkers to deal with the new reality of human rights violations constituted since the end of the Cold War<sup>14</sup>.

The Cold War and the 1990s are usually pointed to as the changing moments when new challenges and understandings emerged in the international scenario due to distinct events that were registered. These new challenges and realities will be further explored below. However, one aspect that remained is the reference to the *international*<sup>15</sup> (Walker, 1993, 2010; Jabri, 2007), as a point of reference which

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<sup>14</sup> This way of presenting itself anticipates one of the main arguments introduced by this new concept: its universal representativeness. One clear aim when the main proponents, such as Gareth Evans (2008), introduce the debates that resulted into R2P is to argue about how representative this concept is for both global North and South, since people from the two hemispheres were present during the discussions and have been consulted about their impressions on the subject. One point for the debate may be the physical presence of Southerners within discussion indeed, but another topic, much more controversial, though, is about the origins of the so-claimed ethics and moral values that are argued to call for action and, consequently, the implementation of this new concept. Below, I develop more deeply this critique and how the discourse that advocates for R2P construct a structure of argumentation based on previous regimes rooted in international law and ethical values.

<sup>15</sup> The intended critique when the concept of *international* is highlighted within the text is directed to an understanding that, even though the world is continuously divided into a sphere of analysis of national states and an international scenario, this may not be enough to explain what is involved in the relations within the states system (Walker, 2006b). In Chapter 4, I will develop a deeper argument containing this view. Summarizing, the argument centers around Vivienne Jabri's understanding that, even though modernity still has its structural logic of organization (based on hierarchical relations, practices of exclusion, differences among subjects, for instance), its expression in the system has been changing, following the new realities outside. The new conflicts registered since the 1990s, accordingly, may be product of a distinct configuration on the system's foundations, one that reflects a more exceptional lens, which brings to light the limits of this so-far modern system of states. Armed conflicts, in this scenario, assume a transformative role for the global relations, at the same time that their own realities are subjected to these very transformations (Jabri, 2006).

implies several arguments that come from other times, such as state sovereignty and national borders, tied to a modern-Westphalian order (Jabri, 2007).

As we will see in this Chapter, new arguments about what an armed conflict can be, what state sovereignty should imply, and what is the place of the human being before the body of international law have been articulated. Still, previous references remain about state governments and its citizens, of national borders and international relations, and of the place of the United Nations to help to deal with the relations between all these actors. In Chapter 4, a deeper critique will be developed about what these recurrent references mean for this discourse of R2P and for those involved in it. At last, in this current Chapter, the discourse is introduced, together with the regimes that founded it, while I construct the basis for the critique brought in the next Chapter.

### **3.1.1 Introducing R2P**

According to Gareth Evans, one of the main proponents of R2P, this new concept was articulated as a reflection of events registered in the 1990s, when, he argues, the international community took notice of the possibility that some governments could not only be unable to protect their own populations, but also commit denigrating acts against their citizens, and even use their own power to engage in mass atrocities that shocked global public opinion. (Evans, 2008). The argument follows that until then wars had been seen as acts of aggression undertaken by one state against another, and which could evolve into a threat against international peace and security due to the fact of going beyond stated international borders. Such “mass atrocities”, however, revealed “a dangerous gap between the codified best practice of international behaviour as articulated in the UN Charter and actual state practice as it has evolved in the six decades since the Charter was signed” (Thakur, 2006, p. 246).

As we will see in this chapter, within this scenario a group of humanitarian specialists were invited by the Canadian government to come together to rethink the language and arguments involved within the field of humanitarian interventions.

Accordingly, as an attempt to sell their case, these advocates proposed a challenge to the traditional conceptions of the state and its role before its citizens. They argued that if states did not meet their first and most fundamental responsibility to their internal sovereignty (i.e., to protect the human rights of their own population), they would not enjoy their horizontal sovereignty, which means that this responsibility should be transferred somewhere else, to an accountable body representing the international community, which, as a residual responsibility, would be able to do so. This rearticulation, however, should not be understood as a movement away from the systemic order and its principles. Even though questioning meanings, these specialists still had a preoccupation with emphasizing the system's organizational principles, such as state sovereignty.

Although selling new arguments, we can see that the discourse is still playing according to the *rules of the game* (Onuf, 1999). During all these discussions and developments, the United Nations was placed at the center of the debate. The UN, R2P's proponents argue, is the most suitable body to represent the international community. The way the UN Charter has been formulated, it is noteworthy, "clearly places primacy with the sovereign states" (Jabri, 2007, p. 97) – an argument that, as we will see in Chapter 4, delineates the limits of articulation for this concept. An important piece for this discussion, indeed, was the article written by Kofi Annan (1999) calling for heads of state to bring new solutions for this challenging reality. Following the then-UN Secretary General's efforts to boost deeper discussions on the topic, a number of respected and recognized international actors were invited by the Canadian government to meet, in 2001, and discuss new strategies and how to combine all these understandings. Using the terms proposed by Ramesh Thakur (2006), Responsibility to Protect emerged as a new bridge, an attempt to combine arguments about the law of war and the protection of human rights.

The current chapter intends to draw out the roots from which a so-called conventional discourse of Responsibility to Protect emerged, introducing the words and arguments of this concept's main proponents. For this purpose, then, this Chapter will recurrently appeal to the writings of both Ramesh Thakur, one of the Commissioners and main drafters of the ICISS Report, and Gareth Evans, its co-Chair, as two of the most important and trustworthy sources for constructing the

paths taken in the foundation and establishment of the Responsibility to Protect discourse. The intention here is to map the foundations and the argumentative articulations proposed in the R2P discourse, which opened place for new conceptions in the debate around humanitarian intervention. This chapter goes back to the emergence of two background traditions, i.e. the Human Rights Law (HRL) and International Humanitarian Law (IHL), in order to understand from where these two bodies of law emerged and how R2P has systematically combined them in a unique regime of *human rights protection during armed conflicts*.

A further exploration of international law is proposed through analyzing the mechanisms within the United Nations Charter which came to be evoked in this debate. Some of the conflicts of the 1990s and the debates about a right to intervene are also present here, as they served as an argumentative background for the proposition of an expanding understanding of security affairs. As we will see, the R2P discourse resorts to arguments about the protection of common (and universal) standards of humanity and human dignity, the recognition of the needs of victims of armed conflicts and the protection of their human rights, in order to defend a necessity to change the terms of sovereignty to a recognition of a responsibility to protect.

## **3.2 Norms of Intervention**

### **3.2.1 The United Nations Charter**

The United Nations is usually seen as the main body representing authority (combining legitimacy and power, at least ideally), in the international system, where countries meet to discuss and align expectations. Its Charter is one of the most important sources of rules for international law. In this sense, we can find in the UN Charter some of the main pillars and guiding principles that conduct and coordinate the relations between state actors.

The United Nations emerged in the post-World War II era, when state governments were concerned to avoid that any other war ever achieved these same dimensions. For the parties involved in the formulation of the UN Charter, the second Great War was caused by acts of aggressions, which led to great suffering and destruction. For this reason, the main commitment during the formulation of the document was with the respect for state sovereignty and with the principle of non-intervention in the internal affairs of sovereign states. As Adam Roberts summarizes,

among the many reasons for this was the fact that the war was perceived more as a war against external aggression than against tyranny as such. Moreover, there was a natural concern not to frighten off the very entities, namely states, of which the UN was formed (Roberts, 2004, p. 72).

The respect for the human person is central for these purposes of maintenance of peace and security. This commitment with human rights is also stated among the Charter's purposes (Article 1):

§ 3<sup>rd</sup>

To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion (UN, 1945).

Other than that, Article 55 commits states with the “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion” (UN, 1945), which is seen as necessary for creating the conditions for stability and peace among member states.

The main reason for the existence of the UN is to ensure “the territorial integrity of its member states and the maintenance of international peace and security on that basis” (Thakur, 2006, p. 245). This fundamental purpose is since the beginning pointed within the Charter, in its Article 1, when one of the organization's purposes is listed:

§ 1<sup>st</sup>

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace (UN, 1945).

To ensure this purpose is met, therefore, the respect for states' sovereignty is pointed as fundamental. For this, states are ensured that no other state or international power will have the right to interfere in their internal matters. State borders constitute a limiting principle for the coordination of international relations. Here, the principle of non-intervention gained great salience, being listed in the Article 2 of the Charter:

§ 4<sup>th</sup>

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

(...)

§ 7<sup>th</sup>

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII (UN, 1945).

Even though the principle of non-intervention is one of the basis sustaining international law, in §7<sup>th</sup> of the Article 2, we can see a strong limitation to this principle. The case is introduced by the parenthesis that is brought at the end of this paragraph, i.e., an allowance for the principle to be suspended in accordance with the determinations contained in Chapter VII of the Charter. Accordingly, for proponents of R2P, this reservation was taken as a proof to arguments that sovereignty was never intended to be a *carte blanche*-type of protection, but that even non-intervention has limitations and, then, states should follow some rules to have their rights ensured.

Additionally, a very important concern of the Charter is to limit the right of states to use force internationally. Acts of aggression are forbidden and the use of force is allowed only in two formally recognized exceptions: the right of self-defense, just as defined in Article 51 of the Charter, and to ensure the collective security of member states, stated in article 42 and defined in the Chapter VII of the Charter – which, we will see, is of fundamental importance for the further developments in the international arena. These two exceptions demonstrate that, even though ideally the Organization dictates the non-use of force for the relations among states, it recognizes that there are circumstances where this principle may need to be temporally overridden, so as to reconstitute the systemic equilibrium (and its principles) disrupted by specific events and context.

We see that, for the Charter, no considerations were anticipated about a contradiction or tension between the organization's principles and its excuses. Listing the respect for national borders and the protection of human rights among the institution's purposes was not taken as major problem when the Charter was proposed. The respect for human rights, as we will see, was a governmental concern and should be pursued inside a state's borders. On the other hand, the non-intervention principle was the main guarantee members had that no act of aggression would be taken for private reasons. The defense and promotion of human rights, we see, were taken as fundamental for the very peaceful coexistence and stability between states' borders. In this sense, both purposes were seen as complementary, ensuring the main guiding principle of maintaining international peace and security.

### 3.2.2 International Human Rights Law

Literally speaking, human rights are those rights that one enjoys simply from being a human being. In this sense, they should be *equal* among all persons, since everyone is equally a human being; *inalienable*, since someone cannot stop being a human being, it does not matter how one lives or what one does; and *universal*, applicable to all human beings (Donnelly, 2013). Even though most constitutional and/or international rights concern actions and/or interactions of human beings, human rights are traditionally seen as a special kind: they are taken as being of a higher level. Human rights are not only ideally addressed to all human beings, but, more importantly, they are what should ensure each person to be treated as such, i.e., "human rights are "needed" not for life but for life dignity, a life worthy of a human being" (Donnelly, 2013, p. 15).

In traditional Westphalian politics, the protection of human rights used to be mainly restricted to national borders in what concerned governments' relations with their citizens, usually granted by bills of rights and constitutional law. Ramesh Thakur, for example, understands human rights to "regulate the matrix of citizen-state interaction" (Thakur, 2006, p. 12). In this sense, it has been originally conceived as a body of law that would ensure citizens not only the positive

protection provided by their government (through the provision of necessary conditions for individuals to live a dignified life), but also the negative obligation of state powers not to intrude into people's life (being that through interfering into their private matters or hampering their living conditions). Therefore, human rights became part in political discourses as the most fundamental rights and restrictions that regulate and limit the relations between government and population during normality, i.e. in peaceful (or non-conflicting) situations.

A whole body of what came to be called International Human Rights Law emerged in the post-World War II. The acts committed during the conflict, which reached such a grave and never-imagined level, shocked the entire population of the world and encouraged world leaders to discuss rules to ensure the respect, protection, and promotion of the conditions for people to have a *humane* life<sup>16</sup>. This momentum is strictly related to the human rights abuses committed by the Nazi, their death camps and the degrading and inhumane conditions applied there. Only then, therefore, we can say that human rights as a matter of formality entered in the field of public international law (Quénivet, 2008, p. 2). As we can see on the normative evolution starting from the events related to the World War II,

the regimes constructed in the post-War era, to ensure that one such experience would never be repeated, represent the peak of expansion of the target population described by Finnemore to “who[m] previously were invisible in the politics of the West” (Kenkel, 2012, p. 23).

It is interesting to highlight that this was the moment when the human being gained formal recognition before international law and started to enjoy mechanisms to defend their own rights as such (i.e. a human) – other than as an individual part of a collectivity, such as a citizen before a government.

Two special references of international law were of specific importance for the constitution of this body of formal rights. The first was the creation of the United Nations and the formalization of this institution's Charter, which, in its founding principles, already highlights the commitment with the respect of human rights. The

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<sup>16</sup> As we can see within the UN Charter and, more specifically, within the Universal Declaration of Human Rights, no distinction is made among countries and the rights to be pursued by each. The understanding agreed during the discussions of both documents is that the source that grounds human rights is tied to a *human nature* or *humanity*, which is similar among all human beings. As we will see in the next Chapter, though, this conception of a universal condition for all human beings is highly controversial and may change among communities and historical times.

second reference was constituted in 1948, when the Universal Declaration of Human Rights was elaborated. Jack Donnelly argues that from 1948 on, human rights became more than just a personal aspiration and a moral guideline, to turn into legally formal rights which “authorize and empower citizens to act to vindicate their rights, to insist that these standards be realized, and to struggle to create a world in which they enjoy (the objects of) their rights” (Donnelly, 2013, p. 12). It should be highlighted, however, that the Declaration, even though supported and stressed by all the state parties of the time, does not enjoy a binding quality, being only a guiding document for states to inspire their actions – and, surely, for them to demonstrate their commitment with these principles.

Other bodies of international law concerning human rights commitments on specific areas emerged over the 20<sup>th</sup> century, more specifically from the 1960s on. In 1966, the Covenant on Economic, Social, and Cultural Rights; and the Covenant on Civil and Political Rights were proposed, entering in force in 1976, with a legally binding power. In 1951, the Refugees Convention was signed; in 1965, the International Convention for the Elimination of All Forms of Racial Discrimination; in 1979, the Convention on the equal status of women; in 1984, the Convention against Torture; and in 1989, the Convention of the rights of the child – all of them integrating the current regime of International Human Rights Law.

If we try to delimit the scenario in which the legal regime of Human Rights should be located, therefore, an argument based on the UN Charter would say it to be a matter of national concern that should be ensured, protected and promoted by states. The formalization of this international regime of human rights, then, helped to institutionalize and delimit what these rights are, how to pursue them, how to protect them and, more importantly, what should not be done in order to avoid threatening their complete promotion and enjoyment. From this list, a specific group gained salience, for being fundamental for the accomplishment of all the others. This group was discriminated into *non-derogable rights*, i.e., those which must never be loosen nor ceased.

We can see that the obligation from governmental parts to protect the human rights of citizens and to ensure human dignity inside national territory is not a new topic in international law. This obligation formally exists since 1945 and its

specification since 1948. If we follow the argument of delimiting the implementation of these rights to within national borders, however, we could argue that its fundamental origin can be traced from the origins of the national state and the acceptance by individuals to have their liberties limited by a governmental power (this argument will be further developed below). However, if, this obligation fundamentally exists since the constitution the national state, and was formally elaborated in the post-World War II, it was not until the end of the Cold War, that states started to discuss the necessity of the international community to engage on the supervision of states' actions concerning their commitment with and respect for this fundamental and formal obligation.

The great implications, therefore, originating from this large body of human rights law are addressed by Roberts: “for good or ill, they strongly reinforced the view that a government’s treatment of its citizens was a matter of legitimate international concerns” (Roberts, 2004, p. 75). As we will see later in this Chapter, this new understanding, which developed from a reinterpretation of the role of individuals under international law, will have great implications for a new body of humanitarian actions to be taken by the international community.

### **3.2.3 International Humanitarian Law**

The regime of International Humanitarian Law, when contrasted with the Human Rights Law, is much older, dating back to the 19<sup>th</sup> century, but with references that can be traced to the middle ages, evolving from then until its first formalization through customary law (Quénivet, 2008, p. 2). This regime, also called the Law of War, was initially conceived to regulate inter-state relations during conflicts and, from its beginning, it was developed within public international law, establishing some rules of conduct and ensuring that all parts understood their limits of action in order to establish a “civilized” society of states. It is noteworthy that back then war was conceived only as armed aggressions between states, and, therefore, rules and regulations, as well as rights and warranties, were only directed to state actors.

The first codified treaty of this system of rules was the Geneva Convention of 1864 (Quénivet, 2008, p. 2). Back then, the preoccupation was to regulate the conditions for combatants in the state of war, also known as *ius in bello*, such as the first aid services for those injured, which inspired the constitution of the International Commission of the Red Cross. In this framework of humanitarian law, the Fourth Geneva Convention, from 1949, which deals with the protection of civilians, is usually the most highlighted one since its focus was to ensure humane conditions and treatment for those taking part into armed conflicts and others caught between acts of aggression.

Even though the Fourth Convention represents a landmark for the regime of international humanitarian law, by considering the rights of civilians during armed conflicts, no concerns had so far been anticipated in relation to mass atrocities that could be committed or not-avoided by governments against part or the totality of their own populations. This position was revised with the formalization of genocide as an international crime.

By formalizing genocide within the specter of international crimes, the United Nations recognized that there are certain crimes that go beyond national jurisdiction, being a matter of international concern. As Roberts states, “the first multilateral treaty explicitly prohibiting a crime against humanity is the 1948 UN Genocide Convention, which establishes that genocide, even if carried out entirely within the borders of a state, is a matter of international concern” (Roberts, 2004, p. 75). This recognition is of fundamental importance for efforts of placing the human being within international law (and accordingly for helping defining the arguments for the discourse of R2P) because, just as pointed by Jennifer Welsh, “the evolution of international humanitarian law suggests that responses to genocide could be seen as another legitimate exception to Article 2(4)” (Welsh, 2004b, p. 54). The arguments of those that do not see a fundamental problem in the coexistence between human rights and state sovereignty defend the beginning of a flexibilization of the traditional understanding of state sovereignty and a formal stressing of what constitutes the sovereign’s responsibilities at the higher level.

Further developments of humanitarian law can be pointed, such as the Statute of the International Criminal Tribunal for Rwanda, from 1993, and the

Rome Statute of the International Criminal Court, from 1998. In both treaties, the concepts of *genocide* and of *crimes against humanity* were emphasized. For Roberts, both can be seen as a renewed focus at the UN on the implementation of international humanitarian norms (Roberts, 2004, p. 75). This, by its turn, helped in the merging of these so-called laws of war and the regime of fundamental rights of individuals, which will be seen later on.

### 3.3 Liberalism and the liberal peace tradition

Beyond legal discussions, however, those defending a more effusive action from the international community often argue about the necessity and, consequently, the legitimacy of an intervention to save civilian lives, even if not recognized by the Council. The argument is constructed on the basis that, even if overriding the Charter's principles, interventions with humanitarian purposes are legitimate since they would be taken to pursue and defend universal values of human rights. Here we can see arguments that go beyond legality, being justified on the grounds of legitimacy, claiming the morality and even ethical principles that should defend a *humane* treatment for human beings.

These arguments based on morality and ethics are part of a liberal tradition that, as we have already seen, was recurrent in the post-Cold War era. This tradition, called, *liberal peace*, follows “the attempt to institutionalize a new international security framework which emphasizes the development of international norms and the promotion of democracy and human rights, by interventionist means if necessary” (Chandler, 2004, p. 60). For them, “democratic and peaceful states take a leading responsibility for ensuring the interests of common humanity” (Idem). Accordingly, for these proponents, international peace is consonant with the defense of individual rights and democratic values.

The liberal peace tradition can be traced to Emmanuel Kant's writings. For Kant, to reach a perpetual peace, states need to follow three *definitive articles* of peace (Doyle, 1983). First, the civil constitution of states should be republican, which is the kind of government that combines moral autonomy, individualism, and

social order. Republics enjoy separation of powers, what would ensure juridical freedom. Second, progressively liberal republics would be guided to a *pacific union* among themselves. Last, a cosmopolitan law is necessary to work in conjunction with the pacific union, ensuring universal hospitality to liberal citizens. All these three articles together would bring “a natural evolution [that] will produce “a harmony from the very disharmony of men against their will”. The first source derives from a political evolution, from a constitutional law” (Doyle, 1983, p. 227-228).

Accordingly, for Kant, republics naturally lead states to peaceful relations. Doyle points out that Kant

argues that once the aggressive interests of absolutist monarchies are tamed and once the habit of respect for individual rights is engrained by republican government, wars would appear as the disaster to the people’s welfare that he and the other liberal thought them to be (Doyle, 1983, p. 229).

In republican governments, the consent of the citizens is necessary for wars to be declared. As such, caution is higher than in other types of governments. Internationally, liberal states, following liberal economic relations, establish cosmopolitan ties from economic cooperation. From this, the conclusion is that “Since keeping open markets rests upon the assumption that the next set of transactions will also be determined by prices rather than coercion, a sense of mutual security is vital to avoid security-motivated searches for economic autarky” (Idem, p. 231).

As we see, moral and ethical values in this tradition root the logic of argumentation. The liberal tradition is fundamentally rooted on arguments about peace and its identification with principles of democracy and individual rights. Arguing for the universality of human rights, the liberal peace tradition advocates for specific ethical values that would be more consonant with the defense and promotion of the former. As David Chandler critically presents, “states which fail to act in a morally responsible manner and abuse the human rights of their citizens then necessitate intervention by other states which ‘are indeed capable of *acting as agents of common humanity*’” (Ibidem, p. 62-63, emphasis added). These ethical values defended by liberal peace, even though argued to represent the universality of human values, have been first met by a group of agents, those who have already internalized democratic and other subsequent principles. These agents, then,

representing those so-called universal values (of liberalism), should *help and conduct* others to equally meet them.

An interesting example of a practical advocacy for these values is the special group called the Independent International Commission on Kosovo (IICK). In the report concerning the NATO's intervention in Kosovo, its members argued that:

The Commission concludes that the NATO military intervention was *illegal but legitimate*. It was illegal because it did not receive prior approval from the United Nations Security Council. However, the Commission considers that the intervention was justified because all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population from a long period of oppression under Serbian rule (IICK, 2000, p. 4, emphasis added).

This argument articulating a vocabulary of “illegality but legitimacy” of this intervention, which has also been repeatedly endorsed by the then-UNSG Kofi Annan (2012), serves as a foundation for subsequent arguments about a responsibility that every state has to defend and protect universal values. Both strategies, we will see below, sustain themselves through these highly moral discourses, so as to compensate the lack of consent about their legal foundations and, more importantly, about their institutional implementation.

For the liberal tradition, there is no dilemma among the principles introduced within the UN Charter, since the defense of human rights has always been an internal part of sovereignty. Some diplomatic failures are mobilized to sustain the argument that a strict understanding of international law, which takes legality without considering the ethical necessities of specific contexts, disregards the specificity of distinct events and the legitimacy of taking some action when demanded by the context. As Ramesh Thakur brings to the discussion:

The debate on intervention was ignited in the closing years of the last century by humanitarian crises in Somalia, Rwanda, Srebrenica and East Timor which revealed a dangerous gap between the codified best practice of international behaviour as articulated in the UN Charter and actual state practice as it has evolved in the six decades since the Charter was signed. The 1990s were a challenging decade for the international community with regards to conscience-shocking atrocities in many parts of the world (Thakur, 2006, p. 246)

As we will see below, the events registered during the 1990s, combined with the liberal peace arguments about the morality of acting in the face of serious violations, opened the doors for arguments proposing a reconception of state

sovereignty and the responsibilities tied to it, and the necessity of creating a conceptual paradigm to guide international action.

### **3.4 Contextualizing: The 1990s**

The decade of 1990 is usually referred to as a turning moment for discussions of human rights protection and humanitarian intervention. Humanitarian crises never-before imagined, and crimes that reached such a shocking level of human catastrophe were registered along the decade. Many discussions were unleashed since then challenging assumptions so-far agreed and international norms that used to be taken as sustaining the international system of states. As we will see, from this decade on, an entire body of law started to be questioned and its determinations, so-far unquestioned (and perhaps even unquestionable), started to be relaxed and reinterpreted.

The atrocities that occurred in the new-independent states were combined with the post-Cold War scenario, which opened space for an international community that was more welcoming for discussions concerning security affairs with a new appearance. Human atrocities, as we will see later on, helped the international community to expand their understanding of international security to comprise human protection, which gave a booster injection to a paralyzed UNSC. According to Nicholas Wheeler, “The 1990s witnessed a new activism on the part of the Security Council as it extended its Chapter VII powers into matters that had previously belonged to the domestic jurisdiction of states” (Wheeler, 2004, p. 29).

This new understanding of the concept of security was motivated by a combination of a changing nature that started to be registered in armed conflicts and advances in academic thought on the subject. Until then, as we have seen, wars used to be understood as acts of aggression that occurred between states. Internal disturbances, on the other side, used not to be taken as a matter for international attention, but only for the limited concern of the affected state. The post-Cold War order assumed a liberal character that emphasized individual rights and freedoms, following American principles of society. In this order, the individual emerged as

another actor to be considered by international politics and international law. Facing genocide and crimes against humanity, it became difficult to sustain the differences between the law of international and non-international armed conflicts, regarding the protection of human beings. As Ramesh Thakur states, “Given the changing nature and victims of armed conflict, the need for clarity, consistency and reliability in the use of armed force for civilian protection now lies at the heart of the UN’s credibility in the maintenance of peace and security” (Thakur, 2006, p. 246). Following the events registered along the decade (as it had happened in the post-World War II era), rules and principles were demanding adaptations to these new realities.

This new reality, for its turn, supported by its distinct nature and demands, which were not anticipated by the until then in-force body of international humanitarian law, generated the challenge, for the UN, the international community and international lawyers, to find a new consensus on the matter. According to Evans, “It was not until the 1990s that the tension burst into the open between the high ideals of the international treaties and declarations, and the low realpolitik of the actual behavior of governments and intergovernmental organizations” (Evans, 2008, p. 25). This is the inviting background where thinkers of international relations came together to propose new concepts and ideas to be fitting on these distinct events. For a specific group, hence, the context demonstrated that the distinction between international armed conflicts, a matter for international discussions, and non-international armed conflicts, a matter for national states, could no longer be sustained. This group defended the category of “new wars”, which were illustrated with the cases of Somalia, Bosnia, Rwanda and Kosovo, territorially limited within specific boundaries, but with great international consequences, challenging the whole so-far established body of law. As Welsh states,

Although the lawyers supporting a new customary right of humanitarian intervention overstate their case, there is a body of post-1990 practice that demonstrate support – or at least toleration – for UN-authorized actions with an expressly humanitarian purpose (Welsh, 2004b, p. 56).

All these discussions, as we will see, were encouraged by the sentiments that emerged that this kind of atrocities could not be repeated.

This group of international thinkers argued that these events from the 1990s challenged the legal stability proposed within the Charter. Accordingly, they argued that these non-international armed conflicts, involving state parties, but with consequences overlapping national borders, should become a matter of concern for international law. The main examples raised for these conflicts are Rwanda, Kosovo, Srebrenica, when governmental forces overtook mass atrocity crimes against their own populations. As Ramesh Thakur emphasizes,

the overwhelming majority of contemporary armed conflicts are internal, not interstate, and civilians comprise the dominant portion of casualties. This presents the UN with a great difficulty: how to reconcile its foundational principle of member states' sovereignty with the primary mandate to maintain international peace and security (Thakur, 2006, p. 245).

### **3.4.1 Somalia, Bosnia, Rwanda, Kosovo**

Among the many shocking conflicts that erupted in the post-Cold War scenario of the 1990s, the first among the most-alarming ones happened in Somalia, in the beginning of 1991, when President Siad Barre was overthrown in the aftermath of the disintegration of Soviet Union, which used to give support for his government. Barre's government gave place to a "clan-based civil war" (Evans, 2009, p. 27), what resulted in hundreds of thousands of people being forced to leave their homes and move to more secure places. A UN mission was designated, followed by a United States-led force, with the support of the Non-Aligned Movement, to ensure that there would be enough military force to provide humanitarian protection for those in need. During the actions, however, as a consequence of an attempt to fight against the militia leaders, eighteen Americans died in the "Black Hawk Down" debacle in Mogadishu, encouraging the American troops to leave the country. The result was the expelling of the UN mission and the consequence of leaving the nationals by their own chance.

Bosnia was the next conflict categorized within the most shocking ones to take place, in May 1993. After the disintegration of the former Yugoslavia and the worsening of the situation in the region, the UN Protection Force (UNPROFOR, a peacekeeping operation previously established with the consent of the former local

government) had its mandate extended to protect five special *safe areas*. The mission, however, had determined within its mandate the clear order of remaining impartial during the fighting. The result, in 1995, as Evans presents the facts,

Bosnian Serbs under the command of General Ratko Mladic seized Srebrenica, brushing past the 400 Dutch UNPROFOR defenders by threatening to kill hostages if there were air strikes and no surrender, loaded 8,000 men and boys into truck and buses, drove them to nearby fields and forests, and shot them in cold blood – by far the largest mass murder in Europe since the Second World War (Evans, 2008, p. 29).

Following the “Mogadishu effect”, as became known the hesitation among international forces after the killing of Americans in Somalia, none of the troop contributing countries was aiming to risk their people nor to be blamed for any more deaths. This hesitation was especially apparent in Rwanda. In April 1994, the Rwandan president Juvenal Habyarimana died after the plane where he was travelling was shot down. An ethnic cleansing started after that, and, even though reports about a massive violence taking place, no reinforcement was sent to the peacekeeping mission. On the contrary, the Belgium government decided to remove all of its contingents from the country and the UNSC reduced the number of troops for the mission. As a result, “some 800,000 Tutsis and moderate Hutus were slaughtered in less than four months, an unequivocal case of genocide in any lawyer’s language and by far the worst since the Holocaust” (Evans, 2008, p. 28).

Last, in 1998, the Serbian president Slobodan Milosevic undertook an ethnic cleansing to stop Kosovar Albanian attempts for independence. After Rwanda, however, a regretful feeling of *never again* emerged among international leaders. Perceiving that no decision would be found at the UNSC due to Russian and Chinese interests in avoiding international powers in the region, the NATO allies put together their forces to work on the conflict. The NATO intervention came into place in 1999, through a campaign of air strikes. This is usually seen as one of the most controversial interventions ever sponsored. Arguments can be found defending it was both a success in protecting people from a genocide and a complete failure that just produced more suffering and death. In Evans perception, it is noteworthy,

The seventy-eight days of destructive bombing produced a flood of refugees and internal displacements, and a surge of further killings – some thousands in all – by the Serbs, but a settlement was reached only when NATO finally threatened the insertion of ground troops (Evans, 2008, p. 29).

An additional outcome of the NATO's intervention, and which brought consequences for the entire discussion and understanding around the debate of humanitarian intervention, is highlighted by Ramesh Thakur:

The discourse on NATO's intervention in Kosovo in 1999 was framed largely in the language of humanitarian intervention – when in fact that intervention consisted of three months of bombing. If that was humanitarian intervention, then it must necessarily also have been humanitarian bombing (Thakur, 2006, p. 250).

Even though the intervention in Kosovo is until today highly controversial, this was certainly a very contrasting experience when confronted to Rwanda. In the latter case, on the one hand, no agreement nor resolution were reached within the international community and a great reluctance was perceived among members to act on it. The arguments surrounded the question concerning which right a ruler has to jeopardize nationals' lives to save foreigners in a strange country. The result, then, became recognized as paralysis and even sometimes connivance of the Council leading to complete inaction before a horrifying genocide. On the other hand, however, there are also arguments about another paralysis within the Council, this time concerning Kosovo, this one answered by the Western powers with an intervention without the UNSC's consent. As we can see, then, following these events, the pendulum of forces that so-far tended to be driven to the states' side (with some others event-driven exceptions, such as post-World War II, as we have seen above), started to swing to the individuals' side, as a reflex of an increasing understanding – and a clear debate – that individual rights are part of sovereignty.

### 3.5 Humanitarian Intervention

Many distinct interpretations can be raised concerning what comprises humanitarian interventions, from vaguer to more specific definitions, each one encouraging defenders and opponents. Some of the sources of confusion are related to distinct understandings about the need or absence of consent from the part of the intervened country; the use of only punitive actions or more enduring ones by the intervener forces; and the demand (or not) for an expressed UNSC authorization for the intervention to take place.

One satisfying definition for my purposes here is proposed by Jennifer Welsh: humanitarian intervention, she proposes, is a “*coercive interference in the internal affairs of a state, involving the use of armed force, with the purpose of addressing massive human rights violations or preventing widespread human suffering*” (Welsh, 2004, p. 4). Exploring the roots of the interventionist debate and how it came to be linked with human rights concerns, however, may be helpful for us to understand how this concept came to the top of the international security agendas until it became one of the most controversial concepts within the field, and nowadays it is repeatedly avoided by humanitarian specialists.

If humanitarian interventions became a central topic within the UN Security Council’s agenda in this century, this was not an issue for concern at the time of the formulation of the Charter. In the scenario in which the Charter has been formulated, international wars – those that should come as a concern to the international peace and security and, consequently, become a topic within the UN Security Council – were understood as resulting basically from acts of aggression. Endeavoring wars for humanitarian purposes would seem no less than contradictory in the first half of the last century. As we will see below, some actions in fact have been taken, a few years after the signing of the Charter, by some countries mainly concerning internal affairs of other parties and which could be justified through humanitarian reasons. Nevertheless, other reasons, those anticipated by the document’s mechanisms, have been articulated as an attempt to ensure the legality of these actions before international opinion.

### 3.5.1 The Right to Intervene

The concept of a *right to intervene* was first articulated by Bernard Kouchner, the cofounder of the international non-profit organization *Médecins Sans Frontières*, and his associate, law professor Mario Bettati, in 1987. His argument about a *droit d’ingérence* (translated as “right to intervene”, and also known as the *droit d’ingérence humanitaire*) gained great salience in the post-Cold War scenario, when some thinkers of international security argued about the occurrence of humanitarian catastrophes, which demanded effusive and agile actions from the

international community. As Evans reminds us, the expression gained real international prominence

at the time of the U.S.-led intervention in Somalia in 1992, when just about all major French newspapers, struggling to find a way of capturing the apparently self-contradictory idea of a “humanitarian invasion”, at Kouchner’s urging uniformly headed their editorials “*Le droit d’ingérence*” (Evans, 2008, p. 33).

In opposition to the already discussed *non-intervention/non-interference principle*, the *droit d’ingérence* presupposes “a right to intervene in a territory if the rights of a people within it are being massively denied” (Roberts, 2004, p. 76). It entitles one country, therefore, to act in cases where there are flagrant and conscience shocking violations of international and individual rights. If this emerging “right”<sup>17</sup> apparently obfuscates the non-interference principle, it should not, though, be automatically implied that one ceases the other. As Fernando Tesón recognized, mentioning the International Court of Justice’s decision on the *Nicaragua v. USA* case<sup>18</sup>, “although the Court is correct that there is no *general* right of intervention, that does not dispose of the issues whether there are *specific* grounds to intervene” (Tesón, 1988, p. 13). His position demonstrates that the general principle of non-intervention, just as stated in the United Nations Charter and many other international law’s mechanisms, prevails in normal situations of law. However, as we have seen above, the UN Charter’s Article 2.7 provides a strong limitation to this principle, in cases where the Chapter VII of the Charter should be put in practice, i.e., in cases where there is a threat to the international peace and security. Accordingly, continues Tesón, the international law and the realities verified especially since the decade of 1990 make necessary the provision of “*specific* grounds” to be applied in special situations, when such a shocking

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<sup>17</sup> The term *right* here appears between quotation marks because, even though this new concept is identified as a right (i.e., the right that states have to intervene within another state when mass atrocity crimes are being committed), formally it is not a legal right recognized by international law. Therefore, *droit d’ingérence* should be taken as an ideal right or as an so-argued moral right that states have to act, following an also argued moral code of conduct, which, confronted to the legal body of international laws, for instance, has no practical nor formal appeal.

<sup>18</sup> The *Nicaragua v. USA* case was judged by the International Court of Justice in 1986. The case was presented within the Court by Nicaragua, which claimed that the Reagan administration, by providing weaponry to the rebel group “Contras”, had violated the Nicaraguan sovereign right – based on both Article 2<sup>nd</sup> of the UN Charter and Articles 18 and 30 of the Charter of the Organization of American States. The Court ruled favorable to Nicaragua. This case is repeatedly raised as one of the consolidating pillars for the non-use of force rule within international law (Gray, 2008).

situation is registered that the normal international law does not handle coping with it.

However, the problem with the concept was that it emphasized just one of the sides of the catastrophe. Accordingly, many critiques were articulated, especially from those integrating the global South, echoing the argument that a right to intervene ended up emphasizing the right that the powerful ones arguably had to interfere into the internal matters of the weak, what could be nothing more than just a masked *mission civilisatrice*, in the same way that used to be all other imperialist ventures. Within these interventionist arguments, critiques maintained, the victims of the atrocities and those in need of protection were neglected to a second place, in a highly contradictory and doubtful strategy. As we will see in the end of this Chapter, some interventionism advocates, following these critiques, proposed distinct terms for this debate, as an attempt to bring together the two sides of the discussion.

### 3.5.2 Human Security: Human Rights as a security issue

The concept of *human security* gained great resonance in 1994 with the United Nations Development Program's (UNDP) *Human Development Report*, which recognized a crisis of underdevelopment in the world and argued it to threaten not only economic growth, but also environmental protection and international peace. The Report recognized the need to combine both strategies of development and human rights, through seven dimensions: economic, food, health, environmental, personal, community and political security (Thakur, 2006, p. 73). According to Ramesh Thakur, rapidly the concept became endorsed by most of the member states, especially due to its positive sonority – and arguably vagueness, though (Thakur, 2006).

For our purposes here, the human security concept is interesting due to the articulation that it proposed between two so-far distinct traditions and the consequences that this entailed to those arguing for a (re)conceptualization of security. On the one hand, this new concept “is in the human rights tradition, which

sees the state as the problem and the source of threats to individual security (...) [and in] the development agenda that sees the state as the necessary agent for promoting human security” (Thakur, 2006, p. 72). This articulation among both human rights and development traditions is interesting especially because of the ambiguous relations it establishes with the state, which until then was the unquestioned central focus for security discussions. Here, however, the central place that the state assumes within discourses is softened and it becomes securitized<sup>19</sup>, i.e., it is opened a possibility for taking it as a source of threats (instead of the one threatened) for the completion of security concerns. This movement, as we will see below, opened place for arguments questioning of the actual role and importance of the state for people’s lives.

One the other hand of this concept, but intrinsically related to the understanding presented in the above paragraph, we can see an expanding movement concerning the academic concept of *security*. Security per se, it is noteworthy, has always been a contested concept. According to Krause and Williams, “the concept of security is not empty: it implicitly invokes and relies on a series of accepted prior visions of what is to be secured” (Krause et al., 1997, p. x). Traditionally speaking security was related to ensuring no one would disrespect the inviolability of a state’s border, which included not interfering politically neither militarily into its internal affairs. Introducing *human security* as an agreed concept internationally, however, demonstrates that not only both human rights and development agendas were gaining a bigger space, but – more importantly – that the security agenda was following this event-driven path and easing its tough and hard edges to include a more *humane* agenda.

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<sup>19</sup> The securitization tradition defends that originally no security topic can be seen as an existential threat. Security, according to Buzan, Wæver and de Wilde (1998), does not have a fixed meaning, but depends on what the securitizing actor (i.e., the one which has the power of speech act, and, thus, to dictate about security affairs) says it is. Securitization, then, relates to the practices of labelling a subject as a security affair, in order to bring more attention and a greater urgency to it. According to Weaver, “Existential threat can only be understood in relation to the particular character of the referent object in question” (Weaver, 2012, p. 21). The argument presented above, therefore, pointing to the securitization of the state, is intrinsically linked to this emerging movement of dividing the center of security concerns for an additional referent object, i.e., enlarging the theoretical framework of security concerns, until then highly directed to the protection of the state, into a movement that also embraces the protection of individuals, which from then on became an important referent object for security efforts.

This movement, on its part, enabled greater adaptations within the most powerful and recognized institutional body of international law: the United Nations Security Council. Both David Forsythe and Ramesh Thakur recognize these changes. The former states that “presumably human rights fell into one of the categories other than security – such as social or humanitarian. But the Council was authorized by the Charter to take action to remove threats to the peace. Logically, threats to the peace could arise from violations of human rights” (Forsythe, 2006, p. 59). More than that, the author highlights that this new understanding encouraged the Council to pay greater attention to topics related to the security of those inside states, which implied a greater emphasis on human rights matters. Ramesh Thakur, by his turn, understands this momentum of a new security agenda relating to our topic of analysis: “the human rights and human security agenda had greatly expanded and in the 1990s was often expressed in the form of the so-called challenge of humanitarian intervention” (Thakur, 2006, p. 19).

Even though the human security concept helped to introduce the recognition of the place of the individual in international security discussions, its practical effectivity might be questioned (Thakur, 2006). Even if an increasing understanding that human rights protection should be a real concern within international law and brought into the center of discussions in the Security Council, both authors presented here understand that more should be done for its operationalization to turn it into real policies (Forsythe, 2006). Ramesh Thakur, for instance raises that, albeit the concept helped to give strength to an emerging agenda and it has been endorsed by most member states, it seems destined to never have immediate operational utility unless its real operationalization is discussed and proposed. For this, he opens opportunities for new concepts and ideas related to human security, but more strategically engaged for its operationalization – which, as we will see later, was one of the intentions behind the International Commission on Intervention and State Sovereignty’s initiative.

### 3.5.3 The controversy in humanitarian interventions

Many advocates of humanitarian intervention argue that when mass atrocity crimes are being committed by militias or governmental forces against a proportion or the entirety of the population, “forcible action to stop serious human rights deprivations is permitted by international law, properly construed” (Tesón, 1988, p. 5). The question raised during the discussions about humanitarian intervention was about the possibility to balance the goods and harms that an intervention, with the use of force, could generate in the location where it is undertaken and against the lives of those affected.

Jennifer Welsh considers that the theme of humanitarian interventions remains “a controversial norm in international relations – largely because of continued opposition from certain members of international society, and concerns about its potentially negative consequences” (Welsh, 2004, p. 2). More than just the moral dilemma introduced by the liberal peace tradition, through arguments about just motivations that would justify wars and states’ moral obligation with the protection of others, however, the discussion about the possibility of undertaking interventions with humanitarian purposes also brings into the center of the debate the legal divide that exists between different interpretations about international regulations concerning human rights and the use of force.

One argument posed by those defending interventions relates to the momentum of the elaboration of the UN Charter when confronted with current international realities. When the Charter was proposed, in a post-World War II scenario in 1945, no provisions about the respect of sovereignty acting as a hamper for the protection of human rights, or, on the other direction, about the need to override the inviolability of national borders in order to ensure the protection of civilians, were anticipated. Most of the current international humanitarian rules were developed in moment of post-establishment of UN Charter, such as the genocide convention, for instance. This latter is highlighted by Welsh to underline her argument of confronting the current international scenario and its resulting legal demands with an entire body of international legal specifications formulated and formalized in another era, when necessities and reality were not necessarily the same as nowadays: “The evolution of international humanitarian law suggests that

responses to genocide could be seen as another legitimate exception to Article 2(4)” (Welsh, 2004, p. 54).

According to Evans, originally interventions were not linked to humanitarian concerns. In fact, there was even a registered reluctance among member states to make use of this kind of arguments during their military incursions. The author argues that “the cold war period was notable for the quite large number of coercive military interventions of one kind or another that did occur for purported, and sometimes real, humanitarian reasons” (Evans, 2008, p. 22-23). In three of these interventions the author even identified that there were real and strong humanitarian grounds that could have been raised, due to the threats of retaliation that people suffered from their own governments: in East Pakistan, Cambodia and Uganda, respectively India, Vietnam and Tanzania preferred to justify their incursions based on “flimsy arguments about self-defense due to the intense international hostility to intrusions on sovereignty for any other reason” (Evans, 2008, p. 23).

Two exceptions, however, are usually raised: Rhodesia and South Africa. Both conflicts are usually tied to human rights roots, demonstrating the initial phases of construction of the argumentation defending interventions based on a universalist perspective. In both cases, the background scenario involved a white minority dominating and repressing the majority due to racist motivations. In these two cases, the international community understood there were potential threats to international peace and security, enabling the triggering of the Charter’s Chapter VII. The arguments pro-intervention defended that a threat to the international stability could emerge from the insecurity of persons within a state. Some authors argue this can be taken as one of the most important and during interpretative revisions for the international body of law contemplating security affairs. As David Forsythe balances this changing behavior within the Council:

the line dividing security issues from human rights issues was often blurred. The Council thus expanded the range of Chapter VII enforcement action and stated, much more often compared with the past, that human rights violations were linked to international peace and security, thus permitting invocation of Chapter VII and even leading to an occasional enforcement action (Forsythe, 2006, p. 59-60).

Certainly, these decisions taken by the Council opened the possibility of broader interpretations about the meaning of security that could go beyond

protecting the inviolability of national borders. Legally speaking, then, these two cases proclaimed an important legal precedent for subsequent ones. For those advocating for a new state behavior regarding internal catastrophes, this decision helped to strengthen their moral arguments by giving a juridical precedent and legal foundation.

Following the events of this time and the legal and theoretical developments in the security agenda, some arguments were raised about the need to consider using international armed forces to detain atrocities and protect civilians within a state and, more importantly, without the approval of – and sometimes even against – the governmental powers. The central issue raised by those sympathizing with the idea of the UN engaging in the use of force for the protection of civilians concerned the possibility of humanitarian crises to be encompassed by the UN Charter. The main argument was related with the understanding that the UN was an organization for the maintenance of peace. If we take a look at the Charter's Article 39, for instance, we will see that the UN, through its Security Council, in fact has the authority to

determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security (UN, 1945).

There is no further clarification of what should constitute as these situations though. Therefore, we may say that the Charter leaves these determinations open for interpretation. In this sense, Roberts understands that “in practice, humanitarian crises within states can encompass or coincide with any or all of these” (Roberts, 2004, p. 74).

### **3.6 Sovereignty?**

During the deliberations encouraged by the introduction of the theme of humanitarian intervention into the international forums, much of the discussion was centered about the topic of state sovereignty and the need, on the one hand, to respect this principle, which was seen as one of the most fundamental ones and sustaining the entire international system, and, on the other hand, to soften its

understanding and to adapt it to the current reality and configurations of this very system.

The principle of sovereignty, as traditionally evoked by member states, tends to be linked to the Treaties of Westphalia and the so-called myth<sup>20</sup> that was constructed around the year of 1648 (Osiander, 2001). The concept is based on a twofold conception, which ensures states about their internal authority while it determines external equality between all the members of the international system (Weber, 1995). Therefore, while externally states are equal and ideally have the same status, within its national borders each state has the complete authority onto its territory and internal affairs. As we can see, state sovereignty sets the limits of action for each member and enables the coexistence among them. As Jennifer Welsh points out, state sovereignty undoubtedly is “a defining pillar of the United Nations (UN) system and international law” (Welsh, 2004, p. 1).

By criticizing the non-interventionist articulations of state sovereignty as a way to avoid the commitment of doing something against internal conflicts (and starting to delineate the path for his own arguments), Evans introduces the non-interventionist discourse arguing that, for this tradition, no matter what happens inside a state’s borders, the position is that it is an internal matter which concerns only and exclusively the local governmental authority and, in this sense, it is *nobody else’s business* (Evans, 2008). In this same direction, Finnemore criticizes that, for the non-interventionist discourse, “states *are* states only because they have control over force within their territory and other states recognize that control” (Finnemore, 2003, p. 7). Following that understanding, the argument is that “the necessary condition for sovereignty among states *is* nonintervention” (Idem, emphasis added), which means that if the non-intervention principle is not respected or if it is ceased,

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<sup>20</sup> Here, the critique that is presented follows Osiander’s writings (2001), which point out the act of historical demarcation, through practices of representation. The practice of representation among historical marks and their significances – just as occurs with the year of 1648, which became the historical mark for the emergence of state sovereignty, as if from one moment to the other, the entire state-system configuration changed – works to give an existential significance to these concepts, but also to move away any inquiries about their existence and meaning (Weber, 1995). The constitution of myths around a historical moment is not necessarily concerned with the moment per se, but with the narrative that is employed, which “entails ontological and epistemic choices with distinct ideological and even specifically political implications” (Hayden White apud Vaughan-Williams, 2005, p. 122). When we talk about the political role of concepts, we understand that the focus is not the convergence between historical moment and political reality, but actually their *effects* for the political practice and for the very construction of knowledge so-called International Relations (Clark, 2005).

the very state sovereignty, or one of the founding and sustaining pillars of the entire system of states, is jeopardized. Finnemore continues introducing the tradition, which understands that “It is precisely because states show restraint that we live in a world of sovereign states at all. In this sense, nonintervention is that practice that constitutes the state and sovereignty as foundational institutions of contemporary politics” (Finnemore, 2003, p. 7-8). Here we can see one of the most fundamental arguments usually raised by non-interventionists, i.e., the risk that interventions, no matter if with humanitarian or other purposes, pose to the entire structure of states that makes it possible the very introduction of these debates and argumentations in the first place.

Certainly, the respect for the principle of state sovereignty is fundamental for the maintenance of the current international system. But within this argument, these authors emphasize the importance of not forgetting that states’ rights have their origins in individual rights, and, as such, for the former to have validity, the latter must be ensured. When confronted to the humanitarian atrocities committed in the 1990s, however, some researchers started to question what sovereignty in fact means and what states are here for (Tesón, 1988; Finnemore, 2003; Evans, 2008). The point they tried to raise was that if, on the one side, some thinkers opposed propositions for humanitarian intervention supported by arguments about how intervention could hamper the principle of state sovereignty, on the other side, critical thinkers questioned whether state sovereignty should be so hardly safeguarded, even if this would mean doing nothing to stop human atrocities and to protect those in need. This latter group, questioning the traditional meaning of sovereignty, started to attach to it an understanding of colluding with the crimes that were being committed:

For present purposes, the significance of the Westphalian principles (...) is that all their undoubted utility as a stabilizing element in international relations, they effectively institutionalized the long-standing *indifference* of political rulers toward atrocity crimes occurring elsewhere, and also effectively *immunized them* from any external discipline they might conceivably have faced for either perpetrating such crimes against their own people or allowing others to commit them while they stood by. Thus sovereignty – the possession by a country of the recognized trappings of independent statehood – meant immunity from outside scrutiny or sanction: what happened within a state’s borders and its territorial possessions, however grotesque and morally indefensible, was nobody else’s business. In the history of ideas, there have been few that have prevailed to more *destructive effect* (Evans, 2008, p. 16, emphasis added).

For this second group – sympathizing to interventionist arguments – certainly state sovereignty remained an important pillar for the stability of the community of states. In turn, however, “The principle of non-interference with the essential domestic jurisdiction of States cannot be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity” (De Cuellar, 1991 apud Deng et al., 1996, p. 14). Following this emerging tendency was noted in the 1990s, the concept of sovereignty should not be eliminated nor weaken, but reinterpreted, recognizing that it could assume different forms (Deng et al., 1996, p. 14).

For this tradition, sovereignty should not only ensure authority but also imply responsibility – as a conditional principle – for the sovereign authority. The main argument for this understanding is that the state power emerges from the population and it should be concerned with the population’s needs. If the citizens’ demands – mainly the most basic ones, such as fair and humane treatment – are not met, the source that gives powers to the governmental institution should be ceased. Fernando Tesón argues in accordance with this understanding:

My main argument is that because the ultimate justification of the existence of states is *the protection and enforcement of the natural rights of the citizens*, a government that engages in substantial violations of human rights betrays the very purpose for which it exists and so forfeits not only its domestic legitimacy, but its international legitimacy as well (Tesón, 1988, p. 15, emphasis added).

As we can see, then, much of the discussion was instigated by these distinct understandings about the role of the states and the meaning of state sovereignty. Even though preoccupations about the status of sovereignty are valid and noteworthy, at the end, however, pragmatically speaking, this does not tend to be the main source of concern when the theme of humanitarian intervention is under scrutiny – at least for the intervener power. Kofi Annan recognized and followed this trend, arguing that, albeit much of the debate was positioned around the principle, the actual and strategic concerns involve much more pragmatic and real-life aspects of military efforts:

Confronted by gross violations of human rights in Rwanda and elsewhere, the failure to intervene was driven more by the reluctance of Member States to pay the human and other costs of intervention, and by doubts that the use of force would be successful, than by concerns about sovereignty (Annan, 1999, p. 8).

On the other side, however, this is still a remaining and central preoccupation for Third World countries, especially for those that still uphold a very clear memory of their experiences as colonial rules.

### 3.7 How to ensure Human Rights protection?

Another part of this post-1990s discussions concerned the commitment of states to human rights principles. This formal commitment can easily be seen through the universal ratification and endorsement by states of the Universal Declaration of Human Rights. From endorsing to promoting and protecting these rights, there can be, however, a great edge. As we have seen above, contrarily to the International Humanitarian Law, which has very clear and binding norms, the International Human Rights regime is constituted by basically aspirational norms, which do not oblige nor strictly define what states must and/or must not do.

An understanding of this group that emerged arguing that states should do something to protect human rights principles was that following the Westphalian conception of state sovereignty, human rights law has been traditionally seen as a regime to only be applied to peaceful moments. David Forsythe makes this point very clear along his book:

Along the way, I repeatedly address the distinction between human rights and humanitarian affairs. Legally and traditionally speaking, human rights pertains to fundamental personal rights in peace, and humanitarian affairs pertains to protecting and assisting victims of war and other victims in exceptional situations. International human rights law and international humanitarian law are different bodies of law, with different histories and supposedly pertaining to different situations (Forsythe, 2006, p. x).

Accordingly, human rights are traditionally seen by states as an affair concerning normal politics and, in this sense, an internal affair of states, which should not unleash any reasons to encourage international preoccupation. This new group, however, demonstrated their preoccupation about the possibility of those instructions oriented by human rights' regime not being always pursued nor obeyed by governmental forces. The argument followed that, if human rights affairs only concern states and their relations with their own population, a problem arises when these rights are not protected – and are even injured – by these very governmental

powers, such as occurred in the 1990s. At this point, the international community faces the difficult question: “How to ensure Human Rights protection?”.

Facing this question and the dilemma that non-interventionists argued to exist between, on the one side, respecting state sovereignty and the right that has been guaranteed to them by international law about the inviolability of their national borders, and, on the other side, protecting human rights and ensuring humane treatment to all individuals, no matter nationality, gender, sexual orientation, religion, political affiliation etc., the African Union proposed that in these cases, when human rights are catastrophically violated, there should be a shift in the focus, from *noninterference* to *nonindifference* (Evans, 2008, p. 44). The core argument was that it did not matter if international law stated that sovereignty should be respected and states should not intervene in the affairs of their counterparts, all of us, as human beings, could not ignore human rights violations within other states. Nonindifference, in this sense, meant that states could not avoid commiserating with the suffering of people, they just could not pretend nothing was happening. Advocating for necessity of this nonindifference principle, Gareth Evans raised the argument remembering the failures of the international community to act and protect people in the 1990s:

The 1990s saw not only the catastrophes of Rwanda and Srebrenica but also the debacle of the attempted intervention in Somalia in 1993 and the inability of the UN Security Council to agree on a response to the killing and ethnic cleansing that broke out in Kosovo in 1999. (...) But the enduring memory of the decade is hesitation and incapacity to act, or act quickly and effectively enough, in case after case where civilian lives were massively at risk – and of an endemic lack of consensus among decisionmakers as to what was the right thing to do (Evans, 2008, p. 3).

The point raised by the African Union, and followed by this new group, therefore, is that states should do – they *must do* – something when they take notice that shocking and horrifying human rights abuses are being committed somewhere else: the emotions that emerged after the horrors of the 1990s could not be avoided nor forgotten. The problem, though, remained about how to deal with the nonintervention principle, unanimously endorsed by states, according to the UN Charter’s purposes.

### 3.7.1 Overcoming the sovereignty-human rights dilemma

As we have seen, the United Nations was created in a post-World War II era, with the purpose of promoting peaceful principles, ensuring that stability would remain in the international system, and to avoid that war would ever come again to dominate the international scenario. What was not anticipated, however, in the time of the constitution of the organization, was that arguments would be articulated in the international scenario about the possibility of undertaking war for the very implementation of peace. According to the regime of Human Rights Law, it is the governmental powers' responsibility to ensure the protection and promotion of their citizens' human rights, when these rights are being threatened because the state is not able to protect them or it is itself the very source of threatening, another source for protection is demanded to avoid the persistence of suffering and the committing of these crimes.

Even though a feeling existed among members of the international community that never again atrocity acts and indiscriminate murders could take place, the legal dilemma of protecting human rights at the expense of disregarding the nonintervention principle and the argued foundation of international society, i.e., sovereignty, continued to be raised by non-interventionists. On the other hand, however, those against these non-interventionist articulations argued that human rights and sovereignty should not be taken as two irreconcilable principles. Accordingly, they believed the protection of human rights should be more than just an aspirational ideal at the expenses of respecting of sovereignty; these two principles were fundamentally connected and, for sustaining state sovereignty, the protection of human rights should be regarded.

Martha Finnemore, for instance, argues that “[h]umanitarian activity in the 1990s suggests that certain claims, particularly human rights claims, *now trump sovereignty* and legitimize intervention in ways not previously accepted” (Finnemore, 2003, p. 21, emphasis added). Even though the preoccupation remained mainly with postcolonial countries about the imperialist implications of this greater weight destined to human rights principles, a more welcoming tendency emerged reflecting a “norm displacement, from the established norm of non-intervention to a claimed emerging new norm of ‘humanitarian intervention’” (Thakur, 2006, p. 245).

Fernando Tesón, one of the main academics about humanitarian intervention, defends his position by arguing that this entire discussion goes beyond moral imperatives related to discussions about impeding crimes against humanity. According to the author,

almost no moral arguments are put forward for or against humanitarian intervention by the participants in the legal debate. This seems to focus exclusively on the issue of whether state practice or the UN Charter permits or forbids humanitarian intervention (Tesón, 1988, p. 7).

Tesón is defending that the central principles of human rights – at least those concerning human dignity and the respectful and fair treatment for the human person – is intrinsic in the *universal understandings all over the world* and part of every and each culture. It is worthy to return, at the point, to the liberal peace tradition and its strategy to introducing its moral values as representing the *universal ethical values* of human beings. Accordingly, the liberal peace tradition and Tesón state that just wars (for the former) and humanitarian interventions (for the latter) are in accordance with the universal principles of humanity. The controversy, then, is not about the morale behind human protection, but relates to “two competing principles of *positive* international law – the principle that states should refrain from the use of force and the principle that individuals are entitled to fundamental human rights” (Tesón, 1988, p. 7-8).

The way norms interact and what each of them means and implies depend on how they are articulated by those sitting in the mandatory forums. For this controversy, then, norms and principles are open for interpretations and rearticulations, according to current costumes and demands from those implicated by the international body of laws. Two strategies were articulated by those against arguments about a dilemma between human rights and state sovereignty: (1) rethinking what the so important term *international peace and security* means and what may be considered as a threat against its maintenance; and (2) adopting and changing the angle of analysis when dealing with state sovereignty, from an argument about the authority that is conferred to those who hold the power to emphasizing the responsibilities that come linked to and which are a predisposition for enjoying this very power. Following I will discuss more about these two strategies and analyze how they helped blurring the legal borders that so-far had

been conferred between the two regimes of international humanitarian law and human rights law.

### 3.7.2 Rethinking “international peace and security”

The arguments against the existence of a fundamental dilemma among principles within the UN Charter followed that norms as principles of international law are not immune from reinterpretations according to the actual needs of the community of states. Therefore, concerning the topic of humanitarian intervention, one of the strategies was to reconsider what the concept of “international peace and security” constituted. Considering the enlargement of the concept of security undertaken by the discussions of *human security*, the advocates of this strategy argued that security concerns and, thus, the strategies to deal with threats against it should go beyond underscoring states’ borders. Human beings and their needs, in this new trend, should also become a matter of security and, thus, be able to trigger the UN Security Council and to articulate its mechanisms.

As it has been discussed before, in Article 1 of the Charter it is stated that one of the key roles of the organization is “To maintain international peace and security” (UN, 1945). For that purpose, it is listed in the Charter (especially in its Chapter VI) many peaceful means which the organization and its members should overlook to remove any threats against peace and security. If these peaceful means are not able to overcome these threats, however, it is conferred to the UN Security Council – through the UN Charter’s Chapter VII – the power to take all the necessary measures to restore peace and security. The understanding of what this term of *international peace and security* means and then what constitutes a threat against it is crucial for the possibility of unleashing the military capabilities of the UN – and, accordingly, became subject of articulation for this strategy.

The Chapter VII of the Charter can be seen as one of the most important mechanisms of international law. As such, it is expected to be restricted to very alarming situations. Ramesh Thakur, one of the proponents of this strategy, argues that:

Only in relation to its role ‘to maintain or restore international peace and security’, does the UN come close to having the kind of straightforward executive role that we associate with sovereign governments, complete with a body of manageably sized membership clearly empowered to make legally binding decisions (Thakur, 2006, p. vii).

The articulation of the Chapter VII of the UN Charter implies the possibility of the *legal* use of force in an international context. This provision concerning the *collective use of force* can be triggered when it is identified, by the international community of states (represented by the UNSC), a serious threat to *international peace and security*.

The UN Charter, though, does not determine what kind of situations or crimes can be taken as such. Therefore, it is up to the members within the Council to clarify when the use of force is permitted. After encountering the humanitarian challenges that were posed all along the decade of 1990s, one of the strategies used by the Council to overcome the impasse was to understand that humanitarian crises and acts of genocide could be assumed as a threat to the international peace and security. Jennifer Welsh, however, argues that even though articulating the term in a new way may have helped to trigger international assistance, this does not mean that the security agenda has been enlarged that simply. According to her position:

most instances of intervention in the post-cold war period have involved Chapter VII Security Council resolutions that refer to the transborder effects of humanitarian crises. This suggests that states remain reluctant to assert that a human rights violation by a government against its own people is, *in itself*, a sufficient justification for the use of force (Welsh, 2004, p. 5, emphasis in the original).

This is a recurrent argument among sceptics, who say that most of the humanitarian assistance provided in the 1990s (and nowadays) have been prompted due to selfish concerns from national governments about, for instance, the refugee flows overlapping into their countries that may be caused by a determined internal conflict. Following this argument, cases where humanitarian assistance has been provided are confronted to other human calamities where nothing has been agreed or that not even have been included into the international security agenda. This is an important argument and it will be further analyzed in the next Chapter.

Continuing though with interpretations about the international community’s position before human rights violations, another way to face this strategy is to argue that “the council established that under certain circumstances, there may be a close

relationship between acute needs for humanitarian assistance and threats to international peace and security, which trigger international involvement” (Deng et al., 1996, p. 17). This argument is endorsed by the group that came together in 2001 to propose a new strategical argumentation for humanitarian interventions.

### **3.7.3 From sovereignty as authority to sovereignty as responsibility**

The second strategy articulated by advocates of humanitarian intervention to deal with the dilemma between protecting human rights and respecting state sovereignty in cases of inhumane treatment within a state was to propose that discussions about sovereignty assumed a new angle to deal with the concept, one which would follow arguments about the responsibilities intrinsic to the authority right. The recognition of this need to change the behavior towards sovereignty was initially recognized by the former UN Secretary General Boutros Boutros-Ghali, who argued that

A major intellectual requirement of our time is to rethink the question of sovereignty – not to weaken its essence, which is crucial to international security and cooperation, but to recognize that it may take more than one form and perform more than one function (Boutros-Ghali, 1992/1993 apud Deng et al., 1996, p. 14).

The proposition to change the focus of debates from arguments about sovereignty linked to the right that is granted from the international body of laws and that is agreed among all members to states to be the higher authority within their national borders and the final voice to dictate commands inside their territory, to arguments about sovereignty as responsibility gained greater international resonance with Francis Deng and his coauthors’ book from 1996. According to their understanding, the main focus should be given to the responsibilities that are intricated into this sovereignty right, i.e., the responsibilities that state authorities have to fulfill and answer before their citizens, who have conceded this power to them, and before the international community, which is entitled to ensure that the commitments of international law are universally respected.

Following this conception, they argued that the premise for the endowment of sovereign authority was that the state government respected the responsibilities that come tied to this right. The argument developed in the sense that

The sovereign state's responsibility to both domestic and external constituencies must be affirmed as interconnected principles of the national and international order. Such a normative code is anchored in the assumption that in order to be legitimate, sovereignty must demonstrate responsibility (Deng et al., 1996, p. xvii).

The intention of Francis Deng's book, therefore, was to argue that sovereignty should be taken beyond just rights, also involving positive responsibilities to ensure and promote the welfare of individuals and the protection of their human rights. A legitimate government, therefore, is the one that at the very least protects its population and ensures that their basic needs are provided.

This understanding about an obligation to ensure that the sovereign responsibilities are met in order to legitimize authority evolved from modern writings about political science and the basic assumption that the power that the state authority enjoys comes from the population and their agreement to recognize the governmental authority. According to Fernando Tesón, the very reason for the creation of states was to ensure and promote the protection of individuals and their basic rights<sup>21</sup>. The author goes further to argue that:

since states do not have the same moral status as individuals, discourse about rights of states must be reduced to discourse about rights held by individuals. Propositions about international rights of states can be translated into propositions about individual rights without any loss of meaning (Tesón, 1988, p. 111).

Therefore, he argues, if states do not comply with the most essential reason for their existence and do not meet their responsibilities as sovereigns, they prove not being the suitable authority for this position.

In his article to the *Economist*, Annan argues that, after the tragedy in East Timor, it became apparent once more “the need for timely intervention by the international community when death and suffering are being inflicted on large number of people, and when the state nominally in charge is unable or unwilling to

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<sup>21</sup> In Hobbes (1969), we can find a preoccupation to find a place for order and peace in a world filled by humans in hierarchical equality and enjoying freedom. This freedom that is enjoyed, on the one hand, makes it possible for individuals to do whatever they please in nature. On the other hand, however, it makes individuals highly vulnerable to each other and the violent means they may undertake due to scarcity and competition. The solution proposed by the author – and fundamental for establishing the basis of modern arguments – to deal with the vulnerabilities and the fears that it generated was the concentration of power and authority. The individuals' abdication of parts of their liberty for the constitution of a sovereign authority, accordingly, was to overcome the dangers related to vulnerability. Sovereignty, then, is introduced in Hobbes' writings as both a limit for the liberties that individuals can enjoy within community, but also as limited by this social contract through which they abdicated from their state of nature in the first hand. Therefore, the social contract can be dissolved in the case of the sovereign not following the rules of the contract, i.e., ensuring the protection of the individuals against each other and itself.

stop it” (Annan, 1999). Accordingly, these arguments proposed for a redefinition of state sovereignty. The dual sovereignty to which Annan refers are the state and the individual one: he proposes that the former is passing through a process of redefinition at the expense of the latter, which is gaining greater resonance. Therefore, he argues that

States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty – by which I mean the fundamental freedom of each individual (...) has been enhanced by a renewed and spreading consciousness of individual rights (Idem).

Moreover, these proponents highlight the dual focal point to which state governments should direct their concerns related to the fulfillment of their responsibilities. This regards the so-agued dual sources from which the sovereign rights emanate: the population, which accepts and complies with the governmental authority above them; and the international community, which recognizes the sovereign authority that each state enjoys. This latter and the responsibilities linked to it are related to the rules that each state conforms with when accepting to be part into the international society of states. When the obligations that are related to the sovereign responsibilities are not conformed, the argument follows, “it is understood that they [states] open themselves up to on-site monitoring and visits, criticism, condemnation, sanctions, and even armed intervention where regional or international peace is threatened” (Deng et al., 1996, p. 7). Accordingly, infringement of these responsibilities and violations of human rights is argued to be “a matter of international concern” (Welsh, 2004, p. 2).

The argument evolves pointing that, if the international community acts, it is not the case that the principle of sovereignty is being violated: the very right to sovereign authority ceases to exist once the state power does not meet with its primary responsibilities. The proponents emphasize that the point of sovereignty as responsibility is not that sovereignty traditionally conceived as a fundamental pillar for the international society of states should be dissolved. As Nicholas Wheeler argues,

sovereignty – and its logic corollary the rule of non-intervention – remains the dominant legitimating principle. However, it is no longer conceived as an inherent right. Instead, states that claim this entitlement must recognize concomitant responsibilities for the protection of citizens (Wheeler, 2004, p. 36-37).

In other words, then, the proposition of this group defending a reconception of sovereignty is not to challenge the foundations that root discourses of sovereign authority and national borders, but only to change the focus of discussion, leaving untouched, then the modern principles of state sovereignty.

### 3.8 The Responsibility to Protect

The intention to introduce the above overview and to present the arguments concerning the discussion about humanitarian intervention was, as explained in this Chapter's introduction, to construct the scenario that facilitated the formulation and provided some of the foundations for the development of a new idea, which was called Responsibility to Protect (R2P). The central argument of the current Chapter, therefore, is that R2P was structured upon and was enabled due to the discussions presented above, concerning the normative body about intervention and the principles and mechanisms for the use of force, the enlargement of the concept of security, humanitarian intervention, and sovereignty as responsibility. Ramesh Thakur, for instance, one of the main thinkers involved in the conceptualization of this new idea, lists some of the most important foundations upon which has been constructed and that sustains the concept:

The foundations of the international responsibility to protect lie in obligations inherent in the concept of sovereignty; the responsibility of the UNSC, under Article 24 of the UN Charter, for the maintenance of international peace and security; specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law; and the developing practice of states, regional organizations and the UNSC itself (Thakur, 2006, p. 255).

R2P is then introduced here as a new concept which founded itself on former discussions about humanitarian intervention and on the arguments from those advocating for it, proposing not much than a new formulation of the former vocabulary and linguistic arguments for political purposes. My argument follows Anne Orford's critique about the originality involving R2P's arguments and propositions. According to the author,

[t]he implementation of the responsibility to protect concept can be seen as an attempt to integrate preexisting but dispersed practices of protection into a coherent account of international authority. It develops an ambitious conceptual framework

aimed at systematizing and giving formal expression to the protective authority exercised by international actors in the decolonized world since 1960 (Orford, 2011, p. 3)

Rather than being a conceptual innovation or a new norm which turns international law *upside down*, Orford proposes that R2P just turns “deeds into words” (Idem, p. 2), i.e., it turns into political promise practices that have been in place in the international scenario for decades. Accordingly, my argument, which will be further developed in Chapter 4, is that, even though proposing a reconception to the concept of sovereignty and a refocusing of debates to the victims of atrocities, the discourse of R2P remains sustained on the same modern structures of the former debate, the one about humanitarian intervention, that it attempts to overcome. My argument, then, is that, if something new is proposed by R2P, it is nothing more than new terms for the already established modern structure, which would follow the new reality faced by this post-1990s momentum (or, as introduced by Vivienne Jabri, a reality of late-modernity (Jabri, 2007)). I will further explore this discussion in the next Chapter; for now, it is worth of bringing what R2P is argued to mean by its official discourse, i.e., what those thinkers that were present during this concept’s formulation and who are its main advocates believe it to be. My argument follows that an aggregation of their writings can give us a satisfactory overview about what is the content of (in my words) the traditional discourse of R2P and how it linguistically articulates arguments and vocabulary to construct a reality for itself.

The intention of what has been discussed in this Chapter until now was to construct the basis which permitted the formulation and proposition of this discourse of R2P. The argument of the founders of this new idea is that it was exactly because, on the one hand, humanitarian intervention was such a contradictory concept and that became highly and negatively associated with the catastrophes of the 1990s – and especially with the non-UN intervention in Kosovo and the bombings against civilians which were launched by the NATO forces, and the failures to save civilians in Rwanda and Bosnia –, and, on the other hand, due to the reinterpretation of norms and concepts of international law that a new conceptual articulation was necessary and possible.

The Responsibility to Protect, then, presents itself as a proposition to deal with the conceptual problems of the hitherto available strategy, i.e., interventions

based on humanitarian purposes, and to suggest a reflection and the change of language for the dialogue about how to deal with the problem of human suffering, why something should be done, in which cases to act, and who should be the right authority with the legal power to make the final decision. As we can see with Thakur, the thinkers involved in the formulation of this idea had three main objectives when reunited:

R2P seeks to do three principal things: change the *conceptual language* from ‘humanitarian intervention’ to ‘responsibility to protect’, pin the responsibility on state authorities at the national and the UNSC at the international level, and ensure that interventions, when they do take place, are done properly (Thakur, 2006, p. 247, emphasis added).

In Thakur’s own speech we can see that R2P does not intend to be something more than a distinct lens to read the same previous text (Shapiro, 1989). In highlighting from Thakur’s writing the proposal of changing the *conceptual language*, I anticipate the argument I propose in the next Chapter about the continuance of R2P in the same structures of discourses in place since Westphalian times and, therefore, in maintaining the same practices undertaken by the advocates of humanitarian intervention, for instance.

If we choose to follow the traditional discourse to know its main arguments, though, we find that R2P identified four main problems in the discussions about humanitarian interventions, which it intended to overcome. First, there was the general negative perception unavoidably linked with the concept of humanitarian intervention. The reason for this was mainly due to the failures that were tied to interventions in the 1990s – both when they happened and when they failed to be approved. On the other hand, when these interventions were raised, the idea of military interventions and the use of force automatically came into people’s minds. Therefore, the discourse of R2P presented as one of the motives for this need of reconceptualizing discussions as “for wanting to sideline the humanitarian intervention terminology [which] (...) has become irretrievably linked to the use of military force and *only* military force, as the way to respond to actual or impending mass atrocities” (Evans, 2008, p. 40, emphasis in the original).

The second problem that was argued was that some sceptics about humanitarian interventions, especially those originally from developing countries,

tended to criticize it as a new imperialist enterprise mostly intended to dictate the political terms in newly-independent countries. This discussion, in this sense,

conjures up in many non-Western minds historical memories of the strong imposing their will on the weak in the name of the prevailing universal principles of the day, from the civilizing mission of spreading Christianity to the cultivation and promotion of human rights (Thakur, 2006, p. 250-251).

This suspicion would be inescapably enhanced when arguments about the need for a humanitarian intervention are tied to the right that states have to intervene in human catastrophes. R2P, then, proposes to change the debate from one that circles around the intervener power and its preoccupations and necessities, to another that would focus on those that in fact need protection and assistance. It is interesting here that the proposition circles around changing the debate, which means bringing new arguments, proposing a new vocabulary, and perhaps even proposing new meanings for those unavoidable concepts, such as intervention in this case. No mention is made, however, about how to implement this discourse into practice. My suspicion, as I propose in Chapter 4, is that this discourse is not concerned about a further *doing* in which its proposals will come into place, but that its intention is in *doing by saying* (Butler, 1993), i.e., the implementation with which R2P is concerned is the one that creates realities and subjectivities by the very act of invoking a speech and circumscribing meanings to concepts.

Third, it argues that the arguments about humanitarian intervention did not make clear the necessary criteria which should be followed in order to undertake a legitimate intervention. The main concern, then, is related to the precedents that may have been opened with the case in Kosovo for other ventures to be taken without the expressed UN authorization. The R2P proponents identify a necessity, in this sense, to emphasize the need for multilateral decisions under the UNSC's scope and the illegality of the unilateral use of force, enforcing the already in place UN Charter's definitions.

Last, they believed that for many the dilemma between the protection of human rights and the respect of state sovereignty has not been completely overcome. Even though some conceptual articulations have been proposed during the 1990s (as we have seen, for instance, with Francis Deng's book), the international discussions using the language of humanitarian intervention did not bring intrinsic to them the understanding that, without the protection and promotion of the

population's basic rights, the sovereign right ceased existing. For this reason, the R2P discourse argued that a further clarification of how articulating both principles was demanded.

The strategy to deal with these four main problems (and numerous others tied to them) was raised by a group of international thinkers brought together by the government of Canada in 2001. Their proposal was to undertake a turnout *in the focus* of discussions. Therefore, instead of talking about the right that intervening powers had to interfere into other state's internal disturbances, the idea was to focus on the victims of these internal conflicts and on their need for protection. In addition, instead of focusing on military strategies to deal with conflicts, a stronger emphasis would be given to preventive measures and non-military strategies to avoid graver consequences. Moreover, this emerging idea was sold as a bridge between the two apparent conflicting principles of international law. Ramesh Thakur summarizes the proposition behind R2P:

Crucially, R2P acknowledges that responsibility rests primarily with the state concerned. (...) Thus R2P is more of a linking concept that bridges the divide between the international community and the sovereignty state, whereas the language of the right or duty to intervene is inherently more confrontational between the two levels of analysis and policy (Thakur, 2006, p. 251).

### **3.8.1 The International Commission on Intervention and State Sovereignty (ICISS), 2001**

The International Commission on Intervention and State Sovereignty (ICISS) was an initiative of the Canadian government aiming to promote a vast and broadly represented discussion about the contradictions and dilemmas concerning humanitarian interventions and the measures taken concerning the topic until then. Intended to answer to the challenges enumerated in the previous session and answering the appeal made by the then-SG Kofi Annan for states to come together with a solution to deal with the events that occurred in the previous decade, Canada selected a group of specialists on the topic to announce at the General Assembly in 2000 the creation of the ICISS. The Commission started its works proposing

to wrestle with the whole range of questions – legal, moral, operational and political, rolled up in this debate, to consult with the widest possible range of

opinion around the world, and to bring back a report that would help the Secretary-General and everyone else find some new common ground (ICISS, 2001, p. VII).

Just over a year, at the end of 2001, the Commission published a report called *The Responsibility to Protect*, which ended up naming the central idea that summarized the conclusions containing there. According to Gareth Evans, who co-chaired the Commission together with the Algerian diplomat Mohamed Sahnoun, their expectations, during the Commission's meetings, were sustained by the understanding of "the power of new ideas, or *old ideas newly expressed*, to actually change the behavior of key policy actors" (Evans, 2008, p. 42, emphasis added). In this sense, we see that rather than bringing new pieces into the discussion or formulating a new strategy to deal with the problem, the ICISS' purpose was to clearly define the meaning of the main concepts involved within the debate and how they should be articulated through discourse.

The discourse of R2P defined its roots on a three-pillars argument that says that both states and international community have responsibilities. The central intention of this discourse, then, is to justify its propositions by making the case that state sovereignty "implies responsibility, and the primary responsibility for the protection of its people lies with the state itself" (ICISS, 2001, p. XI). The international community, it follows, has the responsibility to encourage and support states to fulfill this primary responsibility. Last, in cases

where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect" (Idem).

In other words, the argument that the discourse of R2P proposes states that, following the principle of sovereignty in place within the international system and its foundations, in those cases where there are alarming records of human suffering and the concerned state does not or cannot change the situation, the international community has responsibility to call to itself the sovereign task to protect this population.

The report also proposed a definition of the cases which would circumscribe the applicability of R2P. The Commission settled four specific mass atrocity crimes, argued to be sustained by international law, which were taken of such gravity that could unleash an international response. These crimes are: genocide, war crimes,

ethnic cleansing and crimes against humanity. Only in occasions where one or a combination of some of these crimes is registered, R2P would, then, be legitimate to be invoked.

In addition, the Commission had the preoccupation to highlight three specific elements of R2P: the responsibility to prevent, the responsibility to react, and the responsibility to rebuild. This point is of quite significance in what concerns the previous concept of humanitarian intervention, and the concern of this new discourse to withdraw from its damaged image. As an attempt to contrast to the concept and practices of humanitarian intervention, which were intrinsically related with military incursions – and, thus, encouraged suspicions by those sceptics of arguments about using military means to reach peaceful ends and about colonialist intents behind humanitarian arguments – R2P's proponents repeatedly stressed that the new idea would go beyond just the use of force, and that this latter was just one small part of its agenda. For this, a discussion on preventive means took the largest part of the report. The argument, then, was that it was much less costly and traumatic to focus on prevention and avoid that the crisis would even take place. Concerning the responsibility to react, the authors were careful to make the case that military means were just one of the mechanisms available, and, more importantly, they should be taken as the last available alternative, to be implemented only after all other peaceful means have proven ineffective. In addition, a third responsibility related to the post-conflict scenario was provided. This latter helped for the argument that R2P was more than just force, also providing “full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or aver” (ICISS, 2001, p. XI).

Moreover, the Report dedicated an entire Chapter to discuss the lawful authority, which it concluded, following the UN Charter's Article 24, to be the United Nations Security Council. The Report, however, took notice of the “Uniting for Peace” resolution of 1950, which opens a breach for the UN General Assembly to make decisions concerning security matters in cases where the Council finds itself obstructed. For this purpose, in addition, the Report made an explicit request for a *code of conduct* for the use of the veto, according to which the five permanent members of the UNSC would avoid making use of their veto power on decisions

concerning the need “to stop or avert a significant humanitarian crisis” (ICISS, 2001, p. 51). Even though this last part of the efforts of defining the right authority may create expectations about real innovations brought by this new discourse, as we will see, a lack of capacity on specifying implementational means ended mining this sight of hope for changing the scenario in place so far.

Last, the Commission defined five criteria which should be observed before undertaking a military campaign. These are the following: just cause (also called the threshold criteria, which states that due to the exceptionality of military intervention, it should only be undertaken if there was “serious and irreparable harm occurring to human beings, or imminently likely to occur” (ICISS, 2001, p. XII) concerning large scale loss of life or large scale ‘ethnic cleansing’, both actual or apprehended); right intention (i.e., the primary purpose for intervention should be linked to humanitarian motives); last resort (as stated above, all non-military options have to be proven ineffective before undertaking a military intervention); proportional means (concerning scale, duration and intensity); and reasonable prospects (there must be reasonable prospects of success and it must be assured that no more harm than good would come from the intervention).

The works of the ICISS, in this sense, were proposed to determine and make it clear what should be done in practice, concerning both the sovereign state and the international community. In this sense, R2P declares that it is first of all the responsibility of that concerned state to protect and promote the most basic rights of individuals inside its territory. Moreover, R2P makes it clear that the international community also has responsibility before the peoples inside a state. On the one hand, it must assist the concerned state to fulfill its primary responsibility and, therefore, it is its duty to ensure that the latter is respecting peoples’ rights and, when needed, to help it to protect these rights; and, on the other hand, when the state does not have the means or does not intend to do it, the primary responsibility to protect is transferred completely to the international community.

Here we see that the discourse of R2P claims it to go beyond just principles of protection, also being something that can be called a guideline for the UNSC on implementation. As we will see below, R2P failed on its specter of implementation due to the fact of, I argue, having failed on its promise of being universal. My point,

then, is that, on the narrative side, R2P have faced little opposition: no arguments would be raised against human rights and the defense of human beings. On implementation, however, as it constructs its structure upon a tradition that has a particular understanding about peace and that draws a strict line of how to achieve it, consent demonstrates itself more complicated to be met. My suspicion, however, as I will discuss in the next Chapter, is that the plan is not aimed for consent on implementation. By constructing an argument based on a determined understanding about humanity, it needs practice (i.e., implementation) to confirm the arguments of reality that it creates. Accordingly, opposition is necessary to prove that some are out of the *borders* that define the group of the civilized and peaceful states and accordingly are in need to be instructed inside.

### 3.8.2 Further reports and the 2004 World Summit

The *Responsibility to Protect Report* was launched at the end of 2001. Due to the timing of its publication, which coincided with the debates concerning self-defense, intervention and terrorism, in the aftermath of the attacks of September 11<sup>th</sup>, the new idea of Responsibility to Protect was left in a second place within the international agenda. In 2003, it was established the UN Secretary-General's High-Level Panel on Threats, Challenges, and Change, which conclusions were turned into a report published in 2004 and entitled *A More Secure World: Our Shared Responsibility* (UN, 2004). This report, in a session concerning UN Charter's Chapter VII, internal threats and R2P, recognized the lack of definition within the Charter about which measures should be taken to save lives in situations of mass atrocity.

The report highlighted the Charter's commitment to fundamental human rights, without specifying, however, how to protect them – especially in cases where it comes to conflict with Article 2.7's definition of the principle of non-intervention. Nevertheless, the report recognized that “The principle of non-intervention in internal affairs cannot be used to protect genocidal acts or other atrocities (...) which can properly be considered a threat to international security and as such

provoke action by the Security Council” (UN, 2004, p. 65). Concerning this topic, then, the High-Level Panel stated that:

We endorse the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent (Idem, p. 66).

According to Evans (2008), the recommendations and endorsements containing in the report were an important mark for R2P, since they represented a shared understanding among sixteen international thinkers – more than half of them originally from the global South – about the significance and utility of this new proposed idea. Following the Panel’s recommendations, the then-UN Secretary General, Kofi Annan, published, in March 2005, his own report, *In Larger Freedom: Towards Development, Security and Human Rights for All* (UN, 2005a). In fact, Annan was a great enthusiast and an important advocate for R2P during his term as UNSG. As we have seen above, in 1999 he published in *The Economist* an article proposing a new way of understanding sovereignty, divided into two aspects (Annan, 1999), which came as an inspiration for R2P’s understanding on responsibilities. In this latter report, then, Annan declared his support to the new idea and asked states and international leaders to join him in embracing R2P and, when necessary, acting on it (UN, 2005a). For Evans, Annan’s decision to place in distinct sections the topics of use of force and R2P ended up “resulting in them being seen as quite separate, rather than inherently linked, proposals when they came to be debated at the World Summit. From one point of view that may have helped on the R2P side, in disengaging it from a military context” (Evans, 2008, p. 46).

Nevertheless, it was not until 2005, on the occasion of the World Summit, which celebrated the sixtieth anniversary of the creation of the United Nations, that the Responsibility to Protect was brought officially into the agenda of international policy debates. On the occasion, there were more than 150 heads of state reunited to discuss the major topics within the international agenda. An important remark here is the participation of the then-new US ambassador to the UN, John Bolton, who showed up with an extensive list of amendments to the resulting resolution, which took “the whole painfully evolving negotiating process into chaos” (Evans,

2008, p. 47). His contribution is important to be emphasized because, even though the main advocates of R2P – such as Gareth Evans – argue about the importance of the great endorsement that was achieved to the idea, the core of what constituted R2P had been largely emptied during the meeting, exactly to enable a definition about it.

The World Summit Outcome Document is usually pointed to as one of the most important documents for R2P, since it received unanimous support from member states. Nevertheless, the content of the document, when it concerns R2P, is quite distinct – or, better, more restricted, than its letter in the ICISS Report. There were three main points that have not been mentioned in the 2005 Report when compared to the initial ICISS' report worth of being noted. The first one concerned the criteria to be followed in order to evoke an R2P intervention. As even Evans recognizes, this was a disappointing omission, which left “the argument for such guidelines to be made another day” (Evans, 2008, p. 48). As I anticipated above, by leaving aside the criteria for determinations, R2P as a project was disintegrated, losing its implementation proposals and being left only with the narrative about principles and human rights.

In addition, no reference was made to the commitment that was claimed for the five Permanent Members in the UNSC (USA, UK, France, China and Russia) to avoid using their veto power during human protection cases. This is an obvious omission, which otherwise would possibly hamper the great powers' endorsement to the resolution. Moreover, the member states made a very clear definition about to whose responsibility R2P should refer: the document makes reference only to the responsibility that “Each individual state has (...) to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity” (UN, 2005b, §138). This means that, according to R2P, when the international community understands that intervention should take place, the onus of justification is now placed with the state to be intervened. As Philip Cunliffe analyzes,

Claiming a right to intervention placed the onus of justification on the intervener to defend his violation of state sovereignty. But, under the cover of elevating the victim, the ICISS Report effectively shifts the onus of justification away from the intervening state to the state being intervened in. (...) Any potential target of an intervention has to substantiate why it should remain free from external interference (Cunliffe, 2007, p. 48-49).

In addition, to the international community there is only reference to a recommendation stating that it *should* encourage and help states to fulfill their responsibilities. Furthermore, there is a recognized responsibility concerning the international community to engage in conflicts through *diplomatic and other peaceful means*. Last, states declare to be “prepared to take collective action (...) including Chapter VII, on a case-by-case basis” (UN, 2005, §138) if peaceful means prove ineffective – without, however, defining this as an additional *responsibility* that *must* be taken when necessary.

The argument about the resistance on implementing R2P – even though the unanimous stressing it received in 2005 – can be endorsed by the events that occurred after the World Summit. In 2009, the then-SG Ban Ki-moon released a report called *Implementing Responsibility to Protect*, in which he recognized that “while the scope should be kept narrow, the response ought to be deep” (UN, 2009, §10(c)). Even though this approach might be seen as a strategy to bring states together and overcome “concerns about RtoP’s potential to legitimize interference in the domestic affairs of states and other fears about abuse” (Bellamy, 2010, p. 145), it also confirms the disagreement around this concept and the need to understate its scope.

An additional example of discontentment can be taken from the Brazilian contribution during the 2011 debates at the UN General Assembly. On the occasion, the then-Brazilian President Dilma Rousseff proposed a new concept, the *Responsibility while Protecting*, that, rather than bringing a competing concept, expressed a recurring concern about the parameters and practical procedures to implement R2P. As I understand RWP, as it became known, it demonstrates the preoccupation (especially from Southern states) about the liberal values which substantiate R2P and to what extent (and with what consequences) this latter would be committed to achieving them.

In practice, R2P has been present in some UNSC resolutions since its discussion in 2005. Right after the World Summit, it was slightly mentioned in the SC Resolutions concerning the situations in the Democratic Republic of Congo (UN, 2006a) and Darfur (UN, 2006c), and generally about its commitment with the protection of civilians (UN, 2006b; 2009). It was not until 2011, however, that it

was called into action in determining the courses to be taken within a conflicting situation. The UNSC Resolution 1973, about the conflict in Libya, represents “the first time that the Security Council has authorized the use of military force for human protection purposes against the wishes of a functioning state” (Bellamy, 2011, p. 263). Constructing its case by “reiterating the *responsibility* of the Libya authorities *to protect* the Libyan population” (UN, 2011, emphasis added), the Security Council authorized member states “to take *all necessary measures* (...) to protect civilians” (Idem, §4<sup>th</sup>, emphasis added).

Right before the NATO intervention took place in Libya, the registers of number of deaths in the conflict were between 250<sup>22</sup> and 2.000<sup>23</sup>. Shortly after the implementation of the NATO mission in Libya, however, the number of deaths, according to the same sources presented above, was about 20.000 and 50.000. Established with the intention “to protect civilians and meet their basic needs, and to ensure the rapid and unimpeded passage of humanitarian assistance” (UN, 2011), the results obtained by the intervention are controversial. According to a report of the *Human Rights Watch*, at least 72 civilians have been killed in 8 NATO air strikes in 2011<sup>24</sup>. This same report states that from August 2011 to April 2012, NATO “conducted roughly 9,700 strike sorties and dropped over 7,700 precision-guided bombs during the seven-month campaign” (HRW, 2012). It is noteworthy that NATO has already recognized that “it has no teams on the ground to assess the impact of its air strikes on the civilian population” (BBC, 2011). Following these figures, some authors argue that “it is now absolutely clear that, if the purpose of western intervention in Libya's civil war was to “protect civilians” and save lives,

<sup>22</sup> According to the website *E-International Relations*, “Before the rebels took up arms in Libya, fewer than 100 people had been killed. After the rebels chose war, the numbers reached around 250. Then Gadhafi made a threat to go “house-to-house” in Benghazi to end the rebellion unless fighters laid down their arms. The *next day* NATO began bombing. In late August, the rebels announced that 50,000 had been killed. A week later, they revised their numbers down to 30,000 killed with tens of thousands more injured”. Available at < <http://www.e-ir.info/2011/10/03/how-to-lose-a-revolution/>>. Accessed on 4th April 2017.

<sup>23</sup> According to Seumas Milne, from The Guardian, “What is now known, however, is that while the death toll in Libya when Nato intervened was perhaps around 1,000-2,000 (judging by UN estimates), eight months later it is probably more than ten times that figure”. Available at < <https://www.theguardian.com/commentisfree/2011/oct/26/libya-war-saving-lives-catastrophic-failure>>. Accessed on 4th April 2017.

<sup>24</sup> “Nevertheless, NATO air strikes killed at least 72 civilians, one-third of them children under age 18. To date, NATO has failed to acknowledge these casualties or to examine how and why they occurred”. Available at < <https://www.hrw.org/report/2012/05/13/unacknowledged-deaths/civilian-casualties-natos-air-campaign-libya>>. Accessed on 4th April 2017.

it has been a catastrophic failure” (Milne, 2011). In Chapter 4, my argument will be constructed starting from these figures and the arguments concerning R2P’s failure to protect in the Libyan situation. From the argument presented above, then, I will propose a critical analysis that inverts the structure of argumentation proposed by those who defend R2P, focusing on the bodies of those that suffered from this intervention in order to question who is this humanity and the humans whose rights this discourse argues to protect.

## 4 The second reading: what if

### 4.1 Introduction

In Chapter 2, I introduced the theoretical framework within which I locate this current analysis. I have introduced poststructuralists' debate about language, meaning and discourse to demonstrate their argument about the inexistence of such thing as *the* reality out there, about which we can discuss. These authors argue that meaning and reality are constructed, in accordance with the ways arguments are introduced and the narrative is constituted. There are no truths about what discourses can talk, but these latter and the rules and structures they follow have part in the constitution of these very truths. Therefore, we should not talk about *the* truth or *the* real world, but only about one possibility of telling a story of truth or constructing a reality among others to be represented through discourse.

The discussion above is important for my intentions here since it will guide my analysis in this Chapter. As I have also proposed in the first Chapter, I follow Richard Ashley's double reading strategy to deconstruct and denaturalize the world within which the discourse of R2P introduces itself. For this, in Chapter 3, I walked together with R2P's proponents in order to read this discourse according to how they present it. Unavoidably, during this path, some limitations and inconsistencies have been found. Continuing with Ashley's strategy, in this Chapter 4, then, I propose a reading that follows a "dialogue" (Ashley, 1988), i.e., I will proceed below with this discourse of R2P, but now reversing its structures in order to go beyond it, starting from the limitations that I have found in Chapter 3.

My intention here is to demonstrate that the act of invoking a discourse that introduces itself *as if* it were universal is not a naïve process. The fact of R2P being constructed based on arguments about individuals' human rights and to ensure the protection of humanity brings behind it conscious decisions previously made. R2P, I continue, consciously decides to place its discourse within arguments of reality that are structured according to specific logics of relation among the beings that compose them. Recapitulating from Chapter 2, the argument I am proposing here

follows Derrida's critique about what he calls the Ferdinand Saussure's *logocentric procedure* (Derrida, 1989). As I presented in the second Chapter, the structuralism theory, accordingly, is based on structures of oppositional signification, in which meaning is conceived by paired oppositions established by hierarchical relations. In this Chapter, then, I argue that the R2P discourse that we have read in the previous Chapter follows this structure of signification. For that, Vivienne Jabri's (2007) contextualization about a current temporality of late-modernity and its juxtaposition with R.B.J. Walker's (1993;2010) explanations about the structures within which a territoriality of an international is constituted will help me to situate in time and space the traditional discourse of R2P. As it follows, I will propose readers to read this discourse in a different way, by destabilizing these fixed structures and questioning its certainties.

As we have seen in the previous Chapter, the traditional discourse of the Responsibility to Protect proposes a new narrative to deal with humanitarian interventions. Facing a changing reality that brings with it new complexities and challenges, this discourse attempts to articulate new arguments related to the meaning of state sovereignty and to the use of force within intra-state conflicts. By combining both regimes of International Human Rights Law and International Humanitarian Law, R2P tries to emphasize the foundational principle of the respect of human dignity for the international law and its importance for the maintenance of the international peace and security. At the same time that R2P calls attention to human rights defense and to the protection of human dignity inside states, then, this discourse is only possible within an *international* world, i.e., a world that is divided into states and that has well defined national borders.

As we have seen, the traditional discourse of R2P is rooted in international law and the principles and mechanisms defined within the UN Charter. R2P locates itself according to parameters of the Geneva Conventions and the Universal Declaration of Human Rights, and defines its rules of law in accordance to the UN Security Council's decisions and resolutions. Moreover, even though proposing a reconception for the meaning of state sovereignty, this principle remains central to its articulators, being repeatedly resumed as both a strategy to avoid critiques about a cosmopolitanism or utopianism, and as an attempt to prove itself as a valuable mechanism for policy within the states system.

No doubts, therefore, R2P locates its discourse within an international world, where sovereignty is reaffirmed and states' borders are emphasized. Choosing to be part of this system, R2P intends to raise awareness about the place of the human being and humanity for sustaining the basis that erected this entire structure so-called modern states system. The human being, the discourse proposes, should not be seen as a cause but as the source of the authority that is conferred to states. Therefore, a higher principle remains as a condition for the respect of internal authority and non-intervention, which is the universality of human rights and human dignity, and the defense of a universal humanity that must be treated as such. The R2P discourse, as we can see, proposes a new perspective for states to deal with their responsibilities within an inter-states system, one that emphasizes the foundational aspect of human rights, but which is still sustained on arguments about relations between states and the considerations of national borders.

Making use of arguments of international, however, brings many more consequences than just the necessity to reinforce state sovereignty. In this fourth Chapter I propose a debate about what it means to resort to this kind of argument and what are the consequences of proposing an *internationalized* approach that argues about a universal humanity and its demands. I apply here, therefore, a postmodernist approach to critically analyze this R2P discourse, highlighting its sources and the consequences of its foundational choices to the meanings it evokes. I start this Chapter presenting what I argue to be the structure of modernity. Firstly, then, I introduce Rob Walker's critique of the international (1993; 2010), so we can understand what are the consequences of choosing an internationalized structure upon which arguments of a universal are constructed. This critique helps me to bring Vivienne Jabri's (2007) arguments about what she calls as a period of late-modernity and the role that violence assumes as both an instrument for war, but also as a societal practice which determines roles and places for subjects involved in the discourse. It is within this late-modernity and with regards to this international spatiality that I aim to introduce my critique to the R2P discourse – or, as we can call it, a second reading to this discourse (Ashley, 1988).

Following Ashley's proposition of a dialogue that inverts dichotomies, and so "reversing the original order of the binary pairs of terms to demonstrate how the exclusion of the second term is central to the first" (Campbell, 2013, p. 234), at the

end of this Chapter I propose a second reading which focuses on the bodies of those who suffer from the humanitarian violence, in order to question what these bodies mean for the violence that is being committed by the intervener forces, and, inversely, what this violence means for the constitution of meaning for these subjects whose bodies are suffering from this same violence. This discussion based on body, however, should be understood as an illustration of my critique about the structure within which the traditional discourse of R2P chooses to situate itself. As we will see in my conclusions, my argument is concerned with an order that goes much beyond the R2P discourse and of which this latter is just an example.

Accordingly, I resort to Judith Butler (1993; 2004) and Lauren Wilcox (2015) to structure my argument about the paradox of universals. From then on, I propose a moment of abstraction, through which I attempt to imagine what would happen if R2P were in fact universal in reach, and, thus, not founded through violent practices. Last, I argue about the *non-universality of universals*, which, once inscribed within a structure of modernity, are founded by practices of drawing boundaries and differentiating inside from outside. My purpose in this Chapter, hence, is to present a second reading of this R2P discourse, one which attempts to disrupt its stable roots by questioning What would happen if we thought about it in a different way?; What would happen with the R2P discourse if we proposed different meanings for its fixed concepts?

## 4.2 The modern structure

My argument about a structure of modernity can be divided here into two logics of representation: territoriality and temporality. As we will see below, the international as we know, a spatial reality constituted by national states divided and differentiated into state borders, is just one possible occurrence of modernity; but still one of the greatest expressions of this modern structure. In a late-modern world (Jabri, 2007), however, the international, as we understand, rooted in internal sovereign authorities and external formal equality, is susceptible of being questioned. The modern structure, nevertheless, remains standing.

The modern political life has been created through the establishment of boundaries, of lines that “express both limits and beginnings and work not only to distinguish and separate modern selves and states, but also the world of modernity itself from all other worlds” (Walker, 2010, p. 36). The modern structure is itself constituted through this logic of drawing lines to separate realities. The modern structure itself, then, is constituted through a discursive paradox that can be illustrated by the expression of “international world”, i.e., as both the promise of exclusions and connections, of particularity and universality.

One of the characteristics of this structure, as we will see below, is the strategy of introducing stories of truth that are constructed through articulations based on a dualism of life (Walker, 1993, p. 61). Following one of the expressions of this structure, life in this modern spatiality of the international is divided into what is inside and what is outside state. This logic of differentiation and exclusion, however, is not singular to the international, and, as we will see, can be articulated following other argumentative articulations according to the foundational narrative that roots these arguments.

The point here is that the international needs difference for its very constitution. My argument, as it follows Walker’s, is that difference is an integrative part of the international and it should be recognized as such. The intention here, then, is not to criticize the propositions introduced by the R2P discourse *per se*, but the way that it defends its arguments. Accordingly, I will demonstrate how the R2P discourse is in fact inserted into a reality of both synonym and antonym, and, as such, it should acknowledge that “the entire world is forever beyond reach” (Idem, p. 22).

#### **4.2.1 A critique of the international**

When I argue that the discourse of the Responsibility to Protect is inserted into an international world, my intention is to emphasize the relations of signification that exist between this discourse and a world that has been divided into state borders. This discourse, I argue, raises its narrative upon the same modern

structure of argumentation that enabled the foundation of a system of relations based on an international territoriality. Accordingly, a further discussion about what arguments of an international mean and how they are structured is of use for us to situate the discourse of R2P within a spatiality and to understand how its structure has been conceived and how it works.

In his book *Inside/Outside: International Relations as Political Theory* (1993), R.B.J. Walker proposes a critique of this discourse of the international that traditionally comes attached to positivist theories of international relations. Accordingly, the author argues that this international is constituted through a narrative that reifies a “historically specific spatial ontology” (Walker, 1993, p. ix), sustained through sharp distinctions between here and there, inside and outside, at the same time that it constructs its arguments through the invocation of a shared ethic, common to every being within this international world. The modern structure of politics, within which this international is situated, at the same time that it constructs itself through logics of differentiation, resorts to a promise of commonality as an aimed end. This modern paradox is fundamental in any moment of modern articulations, and we can see this evident in the discourse of R2P, which is itself constructed by a promise of a universal humane ethic and universal values of humanity, but which needs those modern hierarchical structures of power and excluding practices of differentiation for its very existence.

In this *international* world, differentiations are fundamental, such as a spatial distinction of Same and Other. When Walker argues that universalistic arguments tend to be part of national strategies, he reminds us, however, that “the possibility of temporal convergence towards a community of common identity is firmly resisted” (Idem, p. 66). Even though political discourses articulate universalizing concepts and arguments, there is no intention in universalizing for real, i.e., overcoming differences. The same can be argued when we read the discourse of R2P just as presented in the Chapter 3. In this “universal reason” (Idem, p. 71), modernity is interpreted as “a divided space of sovereign states in which the categorical imperative gives rise to the two key demands of perpetual peace” (Ibidem), i.e., the establishment of an internal perfect civic constitution and the external prohibition of the use of force. In a first moment, we may get the impression that in fact there is a move of overcoming differences through the

articulation of arguments for the protection of human rights and about human values. Walker calls this impression of universalizing a temptation, which is easily accredited if we ignore that sovereignty is just part of a broader story. The point that Walker wants to highlight is that even if these universalistic discourses, such as R2P, argue to be intended to rethink the role of states within the international world, their foundations remain based on spatial differentiations between inside and outside.

The temptation referred by Walker, therefore, is precisely about making reference to this presumption of *universality*, about a universal human dignity. We can see in the discourse of R2P that “the most troublesome consequence of state sovereignty, from this point of view, are the continuing legitimacy of the resort to war and the principle of non-intervention” (Idem, p. 75). When talking about a humanity, for instance, it is assumed the existence of some ethical standard. The ethical standard, in R2P is this higher principle of the need to defend the oppressed peoples, the universal human rights. What this argument means or how it should be pursued, however, does not come into discussion.

In another occasion, Walker argues that an international spatiality or, more specifically, international relations can in fact be understood as a synonym or antonym to world politics. On the one hand, as opposites, international relations demonstrate the “impossibility of any politics that might encompass the entire world as it is known to modern political life” (Walker, 2010, p. 21), bringing us into a leap of specificity and plurality. On the other hand, as synonyms, we are invited into a seductive leap of discourses of universality and universalization. If, however, we take the international and the world as both synonym and antonym, Walker suggests the possibility of affirmation of both

the ambitions and limits – the possibility and impossibility – of specifically modern forms of politics: form of politics that aspire to be universal, to engage the entire world, yet that must always eventually acknowledge that the entire world is forever beyond reach (Walker, 2010, p. 22).

Following Walker, I argue that one depends on the other: universal claims are not only strengthened by the existence of borders, but they depend on arguments that are constructed based on these same borders in order to bring its claimed universal together. On the other hand, these borders are constructed by these

universal arguments, once difference is marked within this world, demonstrating that some need to be left outside so to enable the arguments about the whole.

Taking the world and the international as both synonym and antonym, then, enables discourses about a whole, without, however, running away from the responsibilities towards the decisions and selections that have been necessary for the very constitution of a speech (such as the practices of exclusions for the drawing of boundaries). This process underlines and recognizes this discourse's constitutive aporias, i.e., even though it constructs its narrative through claims for a universal, it recognizes that limits have been necessary for the definition of a meaning for this universal. This means that this discourse of international, when it accepts both similarities and differences with world politics, recognizes that the world it is talking about is just one possible reconfiguration that does not exhaust other possibilities of articulation.

This strategy, however, is not usually assumed by modern discourses, which tend to follow just one of the paths of articulating arguments of particularity or, inversely, as if it represented the entirety of existences. The critique that I propose in this Chapter is related to this articulation of international relations and world politics. My argument is that the discourse of the Responsibility to Protect that we have read in Chapter 3 resorts to structures of international relations, at the same time, however, that it presents itself as if its narrative were inserted within a logic of world politics, through resorts to universalistic arguments. I emphasize here the limits and possibilities between these two logics of argumentation.

On the one hand, it opens the possibility to practices of constitution of meaning based on arguments of similarity and universality, such as those about ethical values, for instance. We can see the international resorting to arguments of world politics, such as referring to ethics, in the reading proposed in Chapter 3. As I have argued, the tradition of liberalism founds R2P and encourages it to make use of force, if necessary, for the defense of individual rights.

The limits, on the other hand, are unavoidable, since

affirming modern political life expresses claims to freedom, autonomy and self-determination, and celebrating the distinction between human subjectivity and the world that is at the heart of the most profound uncertainties expressed by claims to modernity (Walker, 2010, p. 23-24).

As we have seen then, liberalism is based on a particular conception of humanity which is founded on particular arguments of ethics. Moral arguments about democracy and individual rights, then, situated on specific examples of spatiality and temporality, encourage its proponents to defend the possibility of resorting to war to implement their conception of peace, *liberal peace*, within those spatialities that have not succeeded to meet these values yet or that do not comply with them.

Walker argues that, even though constructed as a principle that is universal among its beings, liberalism and other ethical articulations evident in modernity are nothing more than historical practices specific of a historical reality that is inserted into this structure. These articulations attempt to define how the world should be known and guided and which truths should be recounted and which realities should be forgotten, based on a specific view of the world restricted to a particularistic reality and interests, and without acknowledging that decisions have been deliberately taken that way at the expense of other discourses of truth. Other versions of reality and other possible truths, then, are taken as *unreal* and *untruth*, being left outside of the claimed universal, unconsidered when the universal morality is brought into discussion.

For R2P, this argumentative logic brings great consequences for its conception of humanity. On the one hand, Walker illustrates this relation with the complexities that are brought with the transition from feudalism to capitalism and the rise of a system divided into national-states. The tension he identifies are related to “the universalist claims of Christianity and Empire and the competing claims arising from participation in a particular statist community” (Ibidem). Both orders of the particular and the universal are raised here. On the other hand, Anne Orford (2011) identifies with R2P this same resort to some sort of divine authority which would ground universalist arguments of ethics. According to the author, “grounding authority on the capacity to protect does tend to privilege certain kinds of institutions and certain forms of action over others” (Orford, 2011, p. 133). Still, Orford argues, the logic within which R2P is instructed rejects vesting the power in the people, but vests it in the international community, which is constituted by the community of states, so to reaffirm the structures from which state sovereignty has evolved.

State sovereignty, then, is one of these strategies of truth telling (or, in other terms, it is used as a foundational myth), which attempted to “reconcile the claims of men and citizens, of a universalist account of humanity and a particularist account of political community” (Walker, 1993, p. 62). Sovereignty, therefore, while geographically dividing the world into state spatialities, also embodied “a historically specific account of ethical possibility in the form of an answer to questions about what political community can be” (Ibidem), giving to the sovereign power the political authority to define the local content of what will mean the universal narratives of human identity, for instance. In a spatial reality, state sovereignty clearly demarcates the division between life inside and outside, turning such divisions the true organizational form of the international. Even though this *international* involves arguments about a universal humanity and human nature, the meaning of these concepts is only defined within national territory and according to the local reality, and, thus, within states, universalist aspirations to human dignity are specified, but its meaning is delimited within a spatial territory.

The contradiction emerges when Walker questions the place of human and humanity in the international. Such a question does not appear within the first reading of R2P – it cannot do so, once it would reveal this discourse’s inconsistencies and limitations. This puzzle emerges when we confront the relationship between universalist and particular principles in two different spatial contexts. For Walker, one part of the puzzle concerns the life within states, and relates to the disputes among both people’s pluralistic understandings of their own demands and the universalistic claims of the state authority about what would be the best for its own citizens. The locus of authority here is questionable, and oscillates among those two sources of authority mentioned by Kofi Annan (1999), i.e., the state sovereignty and the people sovereignty. The other part of the puzzle is the recognition that claims for universality within states are in fact hierarchized, only concerning a particular and privileged group of citizens.

Two distinct realities are evident here. The external world that is claimed to exist within each state is quite distinct from the world among states. State sovereignty, in this sense, is not only an answer for enabling the existence of political communities, within which citizens have agreed to relinquish part of their liberty in order to make it possible the pursue of a good life (Walker, 1993, p. 64),

but is also part of a broader theory of politics, one whose point of departure is much more complex than just a historical selection. State sovereignty, in this second possibility, is part and just one possible reflex of a broader story of modernity, which is itself constructed through distinctions, such as domestic politics and international relations, but that can also involve other ethics of exclusion (Idem, p. 65).

Walker continues the point saying that “The real difficulty is not the absence of universalistic accounts of how the problematic of ethics and international relations might be resolved, but quite the reverse” (Idem, p. 76). The reference to universalism, then, is the problem *per se*, since it determines what it should mean to be human and how we should act and pursue our own goods. Talking about a universality, therefore, “underlines the possibility that explorations of what it can mean to speak of ethics under contemporary conditions might even be understood as elaborations of insights that are *already expressed within the theory of international relations*” (Idem, p. 77, emphasis added). The risk that Walker is referring to is about constructing a discourse that claims about a universal reality, about a human ethic common to every being, which, even though proposing an alternative role to the state, remains within a modern structure of reality, which is constructed through logics of exclusion and differentiation.

#### **4.2.2 The R2P discourse in a late-modern temporality**

The second logic of representation of this modern structure is its expression in temporality. For Vivienne Jabri (2007), we are currently living in a temporality of late-modernity, in which “a post-Westphalian global order (...) called for rethinking not just the formative texts of International Relations, but our understanding of borders, difference, and the shifting dynamics of inclusion and exclusion in a globalised arena” (Jabri, 2007, p. viii). Her argument is that the modern structure continues based on the same logic upon which it has been erected, but that its expressions in the world have been changing, according to the distinct narratives of reality. In this late-modern period, war and the discourses that surround it, for example, can be articulated to constitute instruments for this

transformation. As we have seen above, the international as traditionally conceived in international relations, framed by the sovereign authority, is just one expression of the modern structure of politics. In a late-modern period, then, the structure that erects the international keeps with the same facet, but the foundational myth from which it is framed, however, can assume different arguments and narratives.

According to Jabri, the modern structure of sovereign states is fundamentally based on differences, exclusions and a hierarchical structure. In a Westphalian system, hierarchy can be seen in the relations between state authority and population; differences are present in the determination of those that are nationals in comparison with foreigners; practices of exclusions are constituted among those that are inside against those that are outside national borders. The post-Westphalian system, however, is still rooted upon modern structures of power. Hierarchy in this system can be seen between those that already hold liberal values of peace and democracy, being the suitable ones to determine the content of claimed universal human ethics, in comparison with rogue states, which failed in applying for the recognition of their own sovereignty; differences are articulated within the interventionist discourse, about those who already hold universal values and then are in place to provide protection, and the others who do not have internalized humane ethics yet and, thus, need to be protected; and practices of exclusion are based on arguments about the protection of human dignity, which ends up constructing a universal, i.e., the humanity kept inside, and the ‘other’, the enemy in this war, which is drawn as the inhuman and, thus, left outside the universal limits.

In this section, I follow Vivienne Jabri and argue that R2P is part of this late-modern period, and the international within which it is inserted is distinct from the one founded in the Westphalian myth (Osiander, 2001). Within the R2P discourse, this changing reality can be captured by arguments of sovereignty, which is no longer rooted by authority and framed by national borders, but by arguments about human rights and a universal humanity.

As we have seen in Chapter 2, linguistic articulations are fundamental for recreating and circumscribing this new reality. For modernity to ensure its place in a changing world, it had to adapt its outstanding appearance to the new demands

that may emerge. The way it is justified, therefore, “and which judgement reach the public sphere are intricately related to existing structures of domination, including dominant discursive practices” (Jabri, 2007, p. 14). It may seem to us that this new kind of war, so-called humanitarian interventions, reflects a new systemic structuration based on cosmopolitan values, which puts under scrutiny the very role of states. It may seem, also, that the modern world, as it has been imagined through a Westphalian narrative is eroding. As we have seen with Walker, this is a great temptation that faces all of us. This temptation, I continue, is constituted by discursive articulations that construct arguments of truth as if this new international was encompassing the world as its synonym. In R2P, the temptation is created by arguments about the universal in the name of which this discourse is erected, a temptation, then, of believing that humanitarian wars are needed so human rights can be ensured and the entire humanity can be brought within the lines of protection.

Vivienne Jabri, however, does not follow this temptation. According to her, the Westphalian narrative may be eroding, which does not mean that the R2P discourse is not located within a modern structure. She argues that even though framed by a narrative of human rights and universal humanity (which may seem to us that boundaries are being overcome and giving place to a world community and universal values), exclusionist practices, hierarchical structures and scarred differences still define this discourse’s structure. War, therefore, is not only characterized by the violence that it infringes on the other’s body, but it is also societal, in a sense that it transforms social relations and realities exactly through the meanings that this violence assumes for the different subjects.

It is worthy at this point to return to the structuration of modernity, so we can understand what Jabri means when she refers to the role that violence assumes on the constitution of meaning. Modernity, from its beginning, was constituted by a differentiated and hierarchized system of states, sustained by the colonial enterprise. The international human rights regime, for instance, was born within this epoch, when not every human being was considered as a human endowed with fundamental rights. Even though the colonial system has officially eroded years ago, the roots from which human rights discourses (and the R2P discourse, consequentially) emerged continue sustained upon this structure of differentiation and exclusions. Here we can see that R2P does not challenge the modern project,

but plays by its rules indeed, and, in this sense, by introducing a universalizing discourse, it proposes a new stage for its framing.

For Jabri, this rearticulation that the expressions of the modern structure suffer by fixing their roots in new foundational myths – and the consequential redefinition of foundations – has been possible through narratives about war and its use *per se*. The discourse of R2P, I argue, is part of this reality, by being inserted into a logic of war that intensifies control and exclusion, while promising the inclusion of the other and calling for a universal community of human beings. This rearticulation is instrumentalized, I continue, by a resort to violence, which I argue to be used not only as an instrument for the humanitarian war, but that is also existential, in a sense that it helps to constitute and to give meaning to the different subjects involved in this humanitarian discourse, and to define their place and role within this discourse. This paradox of promising universality while resorting to war and violent exclusions to achieve it seems as a temptation that promises an idealistic world community that may overcome differences, but which is in fact “emergent from the extreme intensification of the institutions of modernity” (Jabri, 2007, p. 7).

Therefore, the international as traditionally articulated may have been reconsidered, which does not mean that the structure behind it is being overcome. On the contrary, what Jabri argues is that the Westphalian international is giving place to a new political representation that follows the new challenges faced by this reality of late-modernity, at the same time that the violent practices of exclusion and the logic of organization based on structures of hierarchy keep as part of this logic of argumentation. If the traditional international tends to be attached to a foundational myth of state sovereignty, Jabri argues that this late-modernity is structured through discursive articulations about the role of and the need for war.

The meaning that is given to this war, however, “is hence imbued with epistemological and ontological controversies” (Jabri, 2007, p. 23). Hierarchy here finds its place when defining which sorts of violence are nothing but *pure* violence while others are defined as humanitarian wars. Power relations, therefore, and political regimes, determine what violence is to be politicized and which ones are to be depoliticized, through the invocation, for example, of discourses of

humanitarian intervention for the protection of *international peace and security*, which enables, as we have seen in Chapter 3, the right to use violence. The meaning of this kind of wars, Jabri argues, goes beyond the battlefields, having a wider content for the entirety of social members involved through its discourse.

A humanitarian incursion, in this sense, defines meaning to some sort of violent acts, determining what is humanitarian, what is human and who are part of this universal humanity. These wars, accordingly, “are deemed to be “liberal wars”, aimed at the transformation of the international from a local subject to the restrictions of sovereignty to one that is primarily defined in terms of humanity as a whole” (Jabri, 2007, p. 8). Liberalism here is a central strategy, once it articulates representation in order to differentiate uses of violence: on the one hand, the violence committed by the Other is the one that must be combated, the one that has been used by the enemy; on the other hand, war is instrumental for the pursue of a liberal peace:

War is hence also a manifestation of contest wherein an “other” is conceived and constructed as enemy, the target of violent acts. War in this sense constituted violent conflict which in turn must be understood in social terms, implying not just the practices of situated agents, but deeply-rooted institutional forms that constitute the enabling conditions for violence, both materially and discursively (Jabri, 2007, p.12).

Moreover, as we have seen in Chapter 3, in the traditional discourse of R2P, the international community is vested with the power to decide when some sort of violence is legitimate, in opposition to another kind characterized as the non-legitimate one. Here we see that hierarchical structures of power are established among those who have already succeeded following these liberal principles and implementing their ethical values. The legitimate violence, then, is infringed by those already representing the so-called universal morale, the liberal principles of peace, in order to protect those still out of this circle, which need to be brought *inside* the limits of liberal peace. Difference, in this sense, is recognized to exist, and, even though the discourse claims for the end of these distinctions among members, the universality ambitioned is directed to an already defined sort of values. Last, the violence that is infringed by this *humanitarian* force is directed against a target, which in this sense deserves to die. Apart from just defining which forces have the right to define what a legitimate violence is, this R2P discourse ends differentiating which subjects are part of this universal humanity that needs to be

protected and excluding the other ones, which are not part of the universal, and then should be combated.

The international that is mentioned within the discourse of R2P, then, acquires a distinct meaning from that one conceived among the state actors' relations. This new international of a late-modern period is now founded not on state sovereignty and the authority and equality that it implies, but on "a globalized terrain of interactions, a terrain that stresses not just the complex interconnections between various agencies and networks, but the very idea of "humanity" as encompassed in our understanding of human rights" (Jabri, 2007, p. 47). The liberal argument, we see, helps this late-modern temporality to overcome the limits of the Westphalian international, so to bring arguments of universality. It helps to construct, then, a new narrative for the foundational myth, which is no longer centrally concerned about the national boundaries and the arguments about sovereignty, but fixes its discourse on arguments of humanity and on the use of war to draw its boundaries. War framed on a humanitarian justification, then, assumes more than just an instrumental role of targeting an enemy and rescuing those in need, but also an existential role, which permits the reconstitution of this global arena and the redefinition of the meaning that this human subject assumes.

Boundaries, in this late-modernity, do not disappear. As Jabri argues, "they are reinscribed through practices of violence" (Jabri, 2007, p. 59). If in an epoch of a Westphalian narrative, state sovereignty was employed to define where boundaries would be drawn and to confer meaning and levels to the distinct agents on play, in this new epoch that Jabri calls late-modernity, war assumes this role of drawing boundaries. In late-modernity, boundaries are no longer necessarily territorial ones, but are used to define who is within the human substrate and to confer the status of these distinct humans, i.e., who are the ones that will protect, who are the ones to be protected (both *within* the universal borders of humanity, but hierarchically differentiated), and who are those to be excluded from inside, the *inhuman*, who is left outside the universalizing scope of this discourse. As Jabri concludes,

war is hence not some extra-social element that takes place outside society, but is rather both its product and implicated in its formation and transformation (...) war draws immediate social meaning and such meaning is itself steeped in the historical trajectory of those involved (Jabri, 2007, p. 23).

In a humanitarian war, the boundaries are drawn through the violence that is infringed against determined subjects, they are in this sense reinscribed through the violence that is undertaken against the bodies of some that, accordingly, can no longer be called as human beings. The lines that are drawn in this late-modernity no longer concern the territorial space that defines a state, but the limits of humanity, the limits of this discourse that is claimed in the name of this universal. Those that are left outside are the ones that can be killed, are the ones that unfortunately *did not* qualify as human or that *must not* be qualified as such for the very sake of the discourse's logic.

Here we see that, as I have mentioned above, war, and the way it is conceived by those with power, is fundamental in this late-modern temporality for the constitution of the different subjectivities. When the system of knowledge employed by the R2P discourse invokes arguments about a *humanity* to be *protected* and *rescued*, it is still recurring to “a politics of representation steeped in knowledge systems that have a territorial base and a framework of understanding that dissociates the colonialism of the past with its present-day articulations” (Jabri, 2007, p. 30). War, in this discourse, then, becomes at the same time a mode of regulation and domination, to ensure that the paradox fundamental for the structures of modernity – i.e., the promise of universality which content follows particularistic intents – will be sustained.

### 4.3 A critique of universality

The discourse of the Responsibility to Protect, as we have already discussed, is inserted into the structures of modernity, even though in a late-modern period whose international is no longer framed in state sovereignty, but in the promise of a universality based on arguments of humanity and human values. R2P, in this sense, naturalizes within its discourse the violent modes of relations that are usual from modern structures, such as hierarchy, exclusions and differentiations.

As we have seen above, the modern structure of politics is constructed upon the paradox between universalizing claims and individualistic intentions. This

movement of universalizing particularities “witness[es] the intensification of control and exclusion on the one hand, and the expansion of what [is called] a “moral community” based on the inclusion on the other” (Jabri, 2007, p. 7). This movement is significant within the discourse of R2P, which resorts to liberal arguments about intervention in the name of humanity at large to justify the violence that is necessary to found its reality.

Universalizing terms are presented as if they were the natural categories whose content is unquestionable and completely assimilated<sup>25</sup>. A usual example of arguments that recur to this kind of categories is the one that makes reference to humanity, such as human rights, usually claimed by decision makers in international forums. Humanitarianism, then, introduced on behalf of a whole humanity, presents itself through a claimed discursive solution, i.e., as a promise that goes beyond the limits of the state, in the name of this universality (Teitel, 2011).

The concept of humanity is usually introduced by narratives that present themselves as if they encompassed the entire collectivity of human beings. As we have seen in Chapter 3, the traditional discourse of R2P is based on both regimes of human rights and humanitarian law, which ideally entitle all human beings with rights due to their simple condition as humans. Therefore, its narrative is introduced as “acting on behalf of humanity, its remit is immediately universal, possessing legitimacy that is limitless in space and time” (Jabri, 2007, p. 123).

Within the discourse of the universal, difference is presented in a naturalized way, without problematization or consideration about what it represents or means. The “Other” usually is not even recognized within discourse, once its existence is negated and/or relegated to existing sub-categories (Schmitt, 2003). Nevertheless,

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<sup>25</sup> According to the relation analyzed by Michael Shapiro between language and text, the way the social world is presented to us depends on rules of representation that go beyond our “immediate social context” (Shapiro, 1989, p. 11). In this sense, when I refer to universals, I keep in mind the dichotomy drawn by Butler between the “universal” that claims universality and the exterior that has been excluded: “At stake in this definition of universality is the distinction between an idealizing supposition of consensus that is in some ways already there and one that is yet to be articulated, defying the conventions that govern our anticipatory imaginings” (Butler, 1997, p. 90-91). This “universality” discourse, thus, other than being the universal, is introduced by these rules and relations of representation, through which the universal that is claimed is (re)presented from “various pre-texts of apprehension, for the meaning and value imposed on the world is structured not by one’s immediate consciousness but by the various reality-making scripts one inherits or acquires from one’s surrounding cultural/linguistic condition” (Shapiro, 1989, p. 11).

according to Giorgio Agamben, “Only if the veil covering this ambiguous zone is lifted will we be able to approach an understanding of the stakes involved in the difference – or the supposed difference – between the political and the juridical, and between law and the living being” (Agamben, 2005, p. 2), or, following the focus of this current investigation, between the human and the sub/inhuman (Schmitt, 1998).

The structures upon which this discourse is erected are constructed through violent relations, and unequal and exclusionist practices which are necessary for its perpetuation. It is in the process of drawing boundaries that we find the founding violence<sup>26</sup>, a performative violence that determines the internal structures (Derrida, 2002), and differentiates the right and the wrong, the us and the them, the inside and the outside. Borders present themselves in this model as a way of attempting to naturalize the violence that is necessary for its creation (Salter, 2014).

Anne Orford (2003) argues that while it presents itself on behalf of humanity and to protect its human rights, this interventionist discourse tries to distance itself from an alterity that has been left outside the limits of the system of states. The interventionist discourse, then, exercises this founding violence when arguments enabling “all necessary measures” (UN, 2011, §4<sup>th</sup> and 8<sup>th</sup>) to provide protection are proposed, what opens the possibility for the use of force against a defined target that is argued to be threatening the international peace and security. If this R2P discourse argues that its referent object is a population that needs to be protected and, in general, the regime of human rights that needs to be safeguarded, I argue, then, that those whose rights are not embraced and whose protection is not envisioned by this totalizing discourse are left out of this universal humanity – and, thus, located in a *subhuman* substrate. I bring a deeper discussion about this argument in the next section. By now, I emphasize my critique to this world that the discourse of R2P argues to embrace, as if it were universal, but which is inserted into an international reality.

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<sup>26</sup> The foundation of the universal takes place through a violent act: “the founding and justifying moment that institutes law implies a performative force (...) it would consist of a *coup de force*, of a performative and therefore interpretative violence that in itself is neither just nor unjust” (Derrida, 2002, p. 6). Derrida call this founding violence as a mystic violence, i.e., a performative power, which separates the ontological existence from its distinct realities. In the case of the universalizing discourse, the mystic violence which founds this discourse bases itself on the myth of humanity, which takes place in a violent way due to the exclusions that are initially practiced.

This universalizing discourse, which speaks about universal human rights and human dignity, then, can be taken *as if* it encompassed every human being. In fact, however, it does not. Actually, apart from not succeeding to encompass every human being, I argue that this is not its intention. This system, which is sustained by the human rights and humanitarian regimes and makes use of the United Nations' structures, cannot aspire to be based on a *universal universality*; it needs, indeed, an exclusionist and hierarchical structure to be able to come into being, and to be able to draw its boundaries and the limits for its argumentations. This universality claimed by the R2P discourse is a differencing universality, based on practices of exclusion and differentiation, which – before even having taken place – had already determined the places where to identify those to be protected, those that are the source of protection, those that may not be protected, and those to be combatted, and the roles assumed by each of these groups.

#### 4.4 What if? Disturbing certainties

The purpose of this Chapter was to bring light into these structures that are not usually discussed when the narrative of protection of civilians is introduced. After having these structures highlighted, this section aims to abstract about what would happen if R2P had in fact the purpose of being universal in reach, what if it in fact pursued non-violent ends. For this, though, the ontological status selected by this discourse, the roots from which its arguments are proposed, should be reconsidered and softened.

One way of disturbing these fixed structures of R2P is through highlighting the violence that is infringed against local communities which the discourse argues to protect. Lauren Wilcox reminds us that “one of the deep ironies of security studies is that *while war is actually inflicted on bodies, bodily violence and vulnerability*, as the flip side of security, *are largely ignored* (Wilcox, 2015, p., emphasis added). In this section, then, I intend to disturb the certainties that the discourse of R2P brings within it by posing those questions that should not be made.

For this, I analyze the body of those that suffer the humanitarian violence. The body, here, works as an analytical category in order to follow Ashley's instructions for the second reading, i.e., to reverse the hierarchical structure within the discourse (Ashley, 1988). I have selected such a category because I understand it can help us to envision another reality that is not brought inside the discourse of R2P. In this sense, I understand that, when the focus of analysis is moved from the arguments of humanity and the need to protect human rights, to those bodies that are suffering the violence undertaken by the humanitarian forces, these same arguments assume distinct meanings, as I propose below. First, I must recognize, however, that the poststructuralist discussions about the body go much beyond and are much more complex than the remarks I propose here. My intention, then, is not to discuss the body as a poststructuralist theory, but to bring it as an analytical tool that helps me to demonstrate the possibilities that are opened when it is allowed new realities for the R2P discourse. Second, I emphasize that this discussion is just one possible way of disturbing foundations and highlighting aporias. Other realities certainly can be found if this discourse's fixed foundations are shaken and other meanings are allowed as a point of departure.

As we have seen in Chapter 2, the identification of foundations upon which discourses are situated is related to practices of knowledge production, which take place through representative processes, in which a void signified receives value by being tied (delimited) to a specific meaning (Bartelson, 1995). Therefore, "to work within a logic of representation is to maintain that a foundation or signified exists to ground speech" (Weber, 1995, p. 26). Humanity, for instance, and the human status should not be previously conceived by *universal* values particularly defined, but should be *performative* according to the places and roles they receive from discourse, according to the distinct realities that they face.

Judith Butler, a theorizer of performativity, argues that we should not refer to bodies as ontologically existent with their meaning already determined:

To claim that discourse is formative is not to claim that it originates, causes, or exhaustively composes that which it concedes; rather, it is to claim that there is no reference to a *pure body* which is not at the same time a further formation of that body (Butler, 1993, p. xix, emphasis added).

In Butler, performativity is understood not as a single act, but as reiterative practices through which discourse produces the effects that it continuously names.

Hence, construction, such as the practice of drawing boundaries – e.g. between those that are the providers of protection, those that are humanly protectable, those who did not qualify as humans, and those whose humanity has been negated – is a process that does not occur in a single act, but in a reiterative process, in which “there is no power that acts, but only a reiterated acting that is power in its persistence and instability” (Butler, 1993, p. xviii).

As I have argued in Chapter 2, poststructuralism understands that language also has a performative role according to the ways that discourses construct the reality they name. This means that language (and discourse) should not be taken as *just language*, but it has part in the political process of selection. The R2P’s discourse, therefore, is productive in the sense that it materializes exclusions: “that materialization of the norm in bodily formation produce[s] a domain of abjected bodies, a field of deformation, which, in failing to qualify as the fully human, fortifies those regulatory norms” (Butler, 1993, p. xxiv). In other terms, I argue that the violence that is practiced in the context of these humanitarian wars is productive in a sense that it practices the exclusions that it names within discourse. The bodies that suffer this very violence, in their turn, perform these exclusions by having drawn on themselves the lines that divide those to be protected and the Other.

Even though it may seem an obvious concept, the *human* category can be taken as “‘common-sense’ assumptions which are implicit in the conventions according to which people interact linguistically, and of which people are generally not consciously aware” (Fairclough, 1989, p. 2). The *human* category, in this perspective, can be defined in distinct ways, through practices and discourses that assume different indicators to implicitly define what its content would be. Discourse here assumes a role in which

the productive nature of language implies that policy discourse is seen as relying upon particular constructions of problems and subjectivities, but that it is also through discourse that these problems and subjectivities are constructed in the first place (Hansen, 2006, p. 15).

I argue, then, that the discourse of R2P creates, normalizes and legitimizes discourses of alterity when it undertakes violence against the Other. It is this violence that enables the very existence of this discourse, since the latter is justified for the protection of a collectivity (the humanity) that is only possible because some have been excluded: “R2P is meant to protect bodies that have, in Butler’s terms,

failed to materialize as “bodies that matter”” (Wilcox, 2015, p. 176). Following Judith Butler, then, body can be understood as one of the parameters capable of (re)defining what the human being is, once it can be used as a means through which power relations<sup>27</sup> take place.

In this analysis, the body is proposed as an apparatus of force through which power is reinscribed within society. This technology of power is brought into the analysis as an attempt to illustrate and contrapose the discourse that is presented with the force that it exercises, and the subjects that it produces. The body contributes, thus, through eliciting the aporias that the R2P discourse brings into life when claiming a universality at the same time that it excludes by exercising violence against someone. The body is employed here as a strategy to understand, question and propose possibilities for it to acquire different meanings – other than those implied by that discourse’s power.

This strategy can be elucidated through the discursive strategy of taking boundaries as presupposed and consolidating meanings. Instead of accepting the regulatory norms that argue no escaping track for these founding principles, the proposition here is to question these very decisions and to attempt to follow distinct routes, so we can try to bring the *what if* question within the analysis, i.e., to ask what would happen to the entire discursive structure if we disrupted the foundational certainties and proposed new roots or new meanings for the former ones. At this moment, it is worth quoting Butler, who argues that “this instability is the *deconstructing possibility*” (Butler, 1993, p. xix), i.e., the possibility of finding limits and denaturalizing discourses, of bringing in a moment of freedom (Derrida, 2002), of allowing distinct possibilities of truths.

The discourse of R2P, by verbalizing the protection that needs to be provided, creates objects of intervention, referent objects to this discourse. According to Lauren Wilcox, people classified by the discourse as “objects of intervention”, i.e., those civilians who need to be saved by the international

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<sup>27</sup> Power relations in Foucault (2003), apart from war, are registered within society through different relations of force. As the author argues, “the role of political power is perpetually to use a sort of silent war to reinscribe that relationship of force, and to reinscribe it in institutions, economic inequalities, language, and even the body of individuals” (Foucault, 2003, p. 15-16). Power, then, inserts itself within society through a sort of mechanisms of intervention, assuming different levels of force and/or subtlety.

community since their governments are no longer capable or willing to protect them, but whose casualties may occur without great consequences (*those that may be killed* (Agamben, 1998)), “they are not subjects of agency, but are bodies that breathe, suffer, and die, who are “just bodies”. They can then become civilians who are killed accidentally, because they are always already lost” (Wilcox, 2015, p. 176). Here we can see a dubious construction of individuals referred to by the discourse: those that must be protected, but that at the same time may end up dying without greater consequences.

These are the individuals that, even though living beings, are not politically alive. In Agamben (1998), they are those individuals whose lives are classified as *bare life*, i.e., which have not succeeded in politically classifying their lives. Even though obviously living, breathing and biologically existing, they are not classified as political lives. In the reality constituted by the R2P discourse, “the larger, simpler truth here is that, in war, *collateral damage is inevitable* – no matter the humanitarian pretensions of the combatants” (Tharoor, 2012, emphasis added). Therefore, while materially constituting as living bodies, accountable, that breathe, in a political level they only serve as instruments for a bigger objective – their accounting only appears in a collective level (Foucault, 2003); the life of each being individually is not accounted in the political level.

As we can see in Wilcox, these individuals are seen as “just bodies”. Their political signification as humans does not exist for the binding discourse. In this sense, they are just matter, just a materiality that exists in the real world, just as signified by the political discourse. Even if not signified within the political discourse, such beings are essential for the very existence of the reality in which this discourse is inserted. On the other side, however, “the bodies that the practices of violence take as their object are deeply political bodies, constituted in reference to historical political conditions while at the same time acting upon our world” (Wilcox, 2015, p. 3). The bodies that represent the intervener forces, thus, have a highly political signification; these are the ones that define meanings and act as drawing the boundaries that create distinct subjectivities.

While the bodies that suffer the humanitarian violence are *just bodies*, these beings assume a crucial importance for the political discourse exactly because they

are excluded from it. In Agamben (1998), we find this phenomenon characterized as *inclusive exclusion*<sup>28</sup>, i.e., the unavoidable inclusion of beings exactly because of the effort of having them ontologically excluded, which enables the establishment of the conditions of possibility for this political discourse to take place.

Returning to Wilcox's argument, these beings that are present within discourse only by their bodies' materiality should not be assumed as uncoupled with the discourse. Even though apparently outside discourse, they are part of it exactly by the existential necessity of its exclusion. The violence that is enabled by the discourse and undertaken against these bodies "can be understood as a creative force for shaping the limits of how we understand ourselves as political subjects, as well as forming the boundaries of our bodies and political communities" (Wilcox, 2015, p. 3). If the R2P discourse justifies itself for the protection of a humanity, and, at the same time, it does not protect specific beings, these latter are placed outside the *human* borders exactly for the possibility of drawing these very boundaries. These individuals' bodies whose humanity is negated are fundamental for enabling their accounting, to affirm their existence and to bring them within the analysis.

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<sup>28</sup> In this process of fixing foundations, we can identify a double movement: on the one hand, the alterity is excluded from the discourse that claims universality. This means that the life that originally is made natural, a life which is purely biological, the one in which human beings are just indifferentiated biological beings due to their natural characteristics – the life that Agamben calls *zoé* (Agamben, 1998) –, when excluded from the universalist discourse, ends up becoming a politically qualified content. This means that the human being no longer is characterized by her own life, but by her living condition; her life has assumed a political meaning, it has become *bíos*, and, thus, according to the qualification that is designed to the *bíos* of each human being, they are included or excluded from the universalist content. Human beings, then, are no longer recognized in this *biopolitical* world due to their physic-biological characteristic, but due to the political meaning tied to their existence. On the other hand, however, the very effort of excluding *zoé* from the political life ends up including it. According to Agamben, this happens "as an inclusive exclusion (an *exception*) of *zoé* in the *polis*, almost as if politics were the place in which life had to transform itself into good life and in which what had to be politicized were always already bare life. In Western politics, bare life has the peculiar privilege of being that whose exclusion founds the city of men" (Agamben, 1998, p. 7). In this process of inclusive exclusion, the other's exclusion takes place so that the definition of the universal is possible. However, this process ends up by including the first within the content of the latter, in a process of co-constitution.

#### 4.5 Drawing boundaries: the non-universality of universals

The body of this Other – which is left outside of the human category – is essential to define this collectivity called humanity. Here I base my argument on Agamben when he writes about *inclusive-exclusion* (Agamben, 1998). Developing onwards him, I understand that when the subject is excluded, what is at stake is an entire political outlining – which is founded from this discourse of humanity. In this process, the exclusion of the Other is necessary for enabling the definition of the universal. Nevertheless, this process ends up including the former within the latter, in a process of co-constitution. This means that there is no subject before it is produced by power; everything is produced at the exact moment that the subject assumes a life (Foucault, 2003). The effort of denying the Other's existence, of saying that the universal (humanity) *is not* that, at the same time that it relegates alterity to an external place, brings it inside, since this one is necessary, is fundamental for the very *foundation* of the universal.

When someone's body suffers the violence that is legitimized through a discourse that claims to be for the protection of *humanity*, it loses the quality of human in a *political* sense (Butler, 2004). This non-human is excluded from within (Agamben, 1998), for the well-functioning of this interior:

It is not enough to claim that human subjects are constructed, for the construction of the human is a differential operation that produces the more and the less “human”, the inhuman, the humanly unthinkable. These excluded sites come to bound the “human” as its constitutive outside, and to haunt those boundaries as the persistent possibility of their disruption and rearticulation (Butler, 1993, p. xvii).

Wilcox argues that “the production of certain bodies as lives worth saving is bound up in the production of other bodies as not worth saving, or other bodies who deserve to die” (Wilcox, 2015, p. 171). Once the violence that is infringed against the Other's body intending to enable the human existence is elicited, once this violence is no longer assumed as natural nor normal<sup>29</sup>, but is problematized, the very human category that is enabled by this violence and that enables it can no

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<sup>29</sup> In Foucault, the norm appears as an instrument that enables the disciplinary power. This latter is introduced as a process of “normation”, in a way that it is created a line that divides the normal from the abnormal (Foucault, 2009). This process, at the same time that it produces power, creates the subject under analysis. The norm, just as introduced, produces discourses of truth; the norm is the truth for the disciplinary power. According to Foucault, “we are also subject to the truth in the sense that truth lays down the law: it is the discourse of truth that decides, at least in part; it conveys and propels truth-effects” (Foucault, 2003, p. 25).

longer be called as *normal*. When this violence is emphasized, the structures that create the conditions of possibility for this discourse are *denaturalized*: these social structures, that have been created through power and ideology and that produced meanings and obscured them, are made visible.

This violence against the Other allows the very existence of this discourse, once it is justified for the protection of a collectivity that is only possible by the exclusion of some. The R2P discourse, then, is productive since it materializes exclusion: “that materialization of the norm in bodily formation produce[s] a domain of abjected bodies, a field of deformation, which, in failing to qualify as the fully human, *fortifies those regulatory norms*” (Butler, 1993, p. xxiv). If, on the one hand, R2P discursively constitutes the subject of humanity, on the other hand, when humanitarian interventions claimed by the discourse are carried out, the borders of the subject are clearly delineated when some are protected and others are not (and even risk becoming targets of attacks).

Following Judith Butler, “to claim that discourse is formative is not to claim that it originates, causes, or exhaustively composes that which it concedes; rather, it is to claim that there is no reference to a *pure body* which is not at the same time to a further formation of that body” (Butler, 1993, p. xix, emphasis added). The human body, therefore, becomes a product of norms that are evoked through discourse: the way through which someone becomes human depends on how the norms of humanity are reproduced – and on who has the power to defined these norms.

The discourse of R2P, when invoking the protection of human beings, emphasizes only those beings whose bodies succeeded in receiving political meaning exactly by being *protected*. The act of protecting, therefore, politically constitutes those beings that were located within a zone of indetermination between being and not-being, and that have been protected by the intervening forces. On the other hand, however, those many others who similarly were placed within this zone but that have not been protected, whose bodies suffered the casualties of the humanitarian war, are placed outside the human category, at the same time that delimit – by the outside – its borders: “these are de-politicized bodies, bodies to be kept alive, to be fed and healed” (Wilcox, 2015, p. 170).

As we have seen in Chapter 3, the UNSC Resolution 1973 (UN, 2011) authorized the establishment of an intervention in Libya with humanitarian prospects, for the protection of civilians caught in the middle of the conflict in place. This NATO intervention is of great importance for the discussions of security because it is taken as the first intervention within the scope of R2P, i.e., it is the first intervention authorized by the United Nations Security Council recognizing the possibility of triggering the Charter's Chapter VII without the authorization or welcoming of the local government (when there in fact is a local government able to authorize or welcome the international forces). For this, the Resolution 1973 "Authorizes Member States (...) to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya" (UN, 2011, §4<sup>th</sup>).

This same Resolution, however, expressly prohibited the establishment of ground troops within the mission's mandate (UN, 2011, §4<sup>th</sup>). By delimiting the possibilities of intervention, the intervening forces had to resort to air raids in order to allow the claiming of protection. Such attacks, that caused the death of "at least 72 Libyan civilians, a third of them children, killed in eight separate bombing raids (seven non-military targets) – and denounced Nato for still refusing to investigate or even acknowledge civilian deaths that were always denied at the time" (Milne, 2012), can be argumentatively defended as *necessary* so that the intervention, claimed for the protection of humanity, could be undertaken.

Wilcox argues that these bodies, apart from the violence that they suffer – and exactly because of it – "are enabling and generative of war and practices of political violence more broadly. (...) Such bodies are implicitly theorized precisely as organisms that can be hurt or killed" (Wilcox, 2015, p. 3). According to the then-NATO's spokesperson, Oana Lungescu, "NATO did everything possible to minimise risks to civilians, but in a complex military campaign, *that risk can never be zero*" (Al-Jazeera, 2012, emphasis added). Such fatalities, then, even though regrettable, can be argued as necessary for the salvation of numerous human beings that have been protected.

A war that introduces itself on behalf of a whole called humanity assumes, apart from its political intentionalities, an existential character, "implicated at one

in the formation of identities as well as political spaces” (Jabri, 2007, p. 44). Facing these allegations regarding the death of some, which has been caused by the force undertaken by a discourse that is justified for the human rights protection, I am encouraged to question who these humans whose rights in fact are being protected are – in opposition to those beings whose protection has not been provided. War here, on the one hand, discursively presents itself in a humanitarian way, for the protection of a humanity as a whole against an enemy that was threatening it. Violence, on the other hand, is for war an instrument through which it fights the declared enemy. Violence and humanitarianism, then, are discursively constituted within a same narrative pole: they are placed side by side within discourse<sup>30</sup>.

First, the one who threatens humanity appears within the discourse as the one who should not be protected: it is placed out of the humanity’s scope, as an *inhuman* being that must be fought. In a passage from *The Concept of the Political*, Carl Schmitt proposes a critique to these discourses of war introduced in the name of humanity. For the author, when usurping this concept for their own political project, and thus monopolizing its meaning, these discourses end up “denying the enemy the quality of being human and declaring him to be an outlaw of humanity” (Schmitt, 2003, p. 54). The subsequent consequence is that the war that is justified by this discourse excuses itself of humane considerations, once it is triggered against an inhuman enemy. The casualties that occur, then, do not need to be regretted neither registered, once “if there were to be an obituary, there would have had to have been a life, a life worth noting, a life worth valuing and preserving, a life that qualifies for recognition” (Butler, 2004, p. 34).

Second, those who have unpretentiously been hit by the war, who have suffered its violence without being declared as targets, by its turn, end up suffering the violence that not only kills or injures, but that inscribes on their own bodies the borders that separate between those who are and those who are not protected. One example of this violence is brought within an article from *The New York Times*, that says that:

In Libya, NATO’s inattention to *its unintended victims* has also left many wounded civilians with little aid in the aftermath of the country’s still-chaotic change in

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<sup>30</sup> Here we can remind, from Chapter 3, that the international humanitarian law is also knowns as the Law of War, which intrinsically imply that violence is part of the very nature of this regime of protection.

leadership. These victims include a boy blasted by debris in his face and right eye, a woman whose left leg was amputated, another whose foot and leg wounds left her disabled, a North Korean doctor whose left foot was crushed and his wife, who suffered a fractured skull (Chivers et al., 2011, emphasis added).

The violence that works as an instrument of humanitarian war also performs as delineating subjectivities. This means that the violence that is imputed on the body of the subject that assumes the role of the Other can be understood as the very process of boundaries-drawing. According to Jabri, “war is corporeal just as it is societal. In inflicting death, injury and destruction and in demanding sacrifice, it is constitutively a social phenomenon and being so is immediately transformative of social relations and social interaction” (Jabri, 2007, p. 18). The violence that is undertaken against the bodies of some constitutes them as the “Other”, at the same time that, by already being linguistically constructed as such, this violence was directed against them in the first place.

Thus, the violence, just as theorized by Wilcox, is not only destructive, but can also be seen as productive, in the sense of producing subjects and subjectivities according to the war and the realities in which it is undertaken. By taking advantage of the body’s vulnerabilities, the violence that is instrumentalized by the R2P discourse is capable of creating realities that are translated through borders. The bodies, then, *perform* the reality that is to them conferred by the discourse, i.e., they act as “that aspect of discourse that has the capacity to produce what it names” (Butler, 1994, apud Wilcox, 2015, p. 8).

When we change the focus of analysis from the center of the discourse (the need to protect a universal humanity) to those that have been marginalized by it, we understand

how violence not only harms the body, but also produces particular subjects that can be harmed (..)[;] how violence constitutes differently embodied subjects, as well as some of the ways in which bodies can resist the constitution in the social order (Wilcox, 2015, p. 5).

The bodies that suffer the humanitarian violence define the structures of the discourse that allows this kind of practice, and they constitute – at the same time that are excluded from – the borders of this universe called *humanity*. Humanity, within the arguments of this discourse of R2P, does not represent the entirety of human beings biologically existing in the world. In fact, humanity cannot, within this discourse, represent each and every human being. This humanity that is

nominated by this interventionist discourse needs to exclude some, on the one hand, to enable its arguments about ethical principles of peace and, on the other hand, to justify the violence that it undertakes and that may injure the bodies of some or even kill them.

## 5 Conclusion

As Charlotte Epstein argues, “Deconstruction, then, is not the ‘denial’ or undoing of a theory. It is, rather, the critical work that theory accomplishes upon itself to be able to think structures without universals” (Epstein, 2013, p. 513). In this analysis, I followed this understanding, by proposing a distinct founding argument to the R2P discourse, disrupting its fixed structures, and so questioning the universals it claims. I proposed here for us to be suspicious of universalizing discourses. If, on the one hand, it is important the understanding that the human should come before the state and that all of us, as human beings, are endowed with rights; on the other hand, it can be dangerous to place every and each being within a same box and to argue about what humans as a whole are and what they need.

Universalizing discourses tend to argumentatively overcome differences, and this, obviously, is not of all a problematic thing. Differences, however, should not be feared: they are what strengthen each of us individually and as a group, and enrich our society. As such, their existence should not be negated, but affirmed as a locus of strength. While the universal is responsible to the alterity that it excluded so to enable its own existence, it tries to forget and/or to deny such responsibility by delimiting the terms and borders of this discourse’s content. Exactly because the universal can only exist if it is present within all beings, universalizing discourses, to enable themselves, have to deny difference, the contents and beings within which it is not found, those ones that contradict its own affirmations and bring into light its limitations.

According to Agamben, the novelty in this universalizing order “is that it radically erases any legal status of the individual, thus producing a legally unnamable and unclassifiable being” (Agamben, 2005, p. 3). Therefore, the challenge that is posed before this universalizing discourse and that I identify through this deconstructivist approach is to rethink discourse and its constitutive role within different realities. What is under stake in this debate “is the place of the text as an instrument of power. Law occupies an interesting place in this debate, for while the law is a product and effect of power relations, it is also clearly a text-based practice” (Orford, 2003, p. 50).

Universalism, even though presented by R2P as the solution for all the suffering it claims to fight, then, should be faced with skepticism. When the discourse is presented to us, no story is told about how things came to this way; for the discourse of R2P, for instance, it does not matter how that collectivity called *humanity* came to be constituted as such and who is part of it. According to Butler, “to begin to tell the story a different way, to ask how things came to this, is already to complicate the question of agency which, no doubt, leads to the fear of moral equivocation” (Butler, 2004, p. 6). I understand that universalizing discourses – such as the R2P one – enclose the argumentative borders of reality. This means that politics becomes a depoliticized place, in which, while debates take place, its content is (de)limited according to the hierarchical sources of power that have access to this discourse’s ontological foundations.

When a universalizing discourse introduces itself on behalf of a *humanity*, what is expected is the exhaustion of its referent object, i.e., the one that is being protected – in this case, all human beings. Inversely, the threats that this discourse argues to be combatted are the one against this whole. In this sense, in the case that something that do harm to someone’s life or threat her existence, but which is not identified as a threat by this discourse, I argue that the one being threatened is not part of this universal – and, thus, she is out of the category of humanity, of human being. When a discourse is introduced on behalf of humanity, for the protection of human beings and their dignity and supporting their values, thus, suspicion should be posed about “what it means to be human and about how we should act that have achieved the official status of ethics in the modern world” (Walker, 1993, p. 77).

Even though not recognizing it, of trying to forget about it, the universal needs the Other for its own existence; it is responsible towards the Other due to the exclusion that it committed and because, without the Other and its exclusion, the universalist discourse would not able to exist. The violence, within the discourse, appears as a legitimate act. The guilt for this violence, for these practices of exclusion, if it is to be placed somewhere, is located with the figure of that one that has been excluded. Therefore, by recognizing a movement of inclusive-exclusion for the foundation of humanity, I argue that this universalizing discourse cannot be fundamentally *universal*. Just as borders are delimited and inside and outside are fundamentally differentiated,

together with the process by which the exception everywhere becomes the rule, the realm of bare life – which is originally situated at the margins of the political order – gradually begins to coincide with the political realm, and exclusion and inclusion, outside and inside, *bios* and *zoé*, right and fact, enter into a zone of irreducible indistinction (Agamben, 1998, p. 10).

As we have seen in Chapter 4, when the focus of analysis is located in the center of the discourse, the causalities undertaken by the humanitarian forces against civilian targets can be argued as *regretable, but inevitable and necessary for the protection of many others*. Inversely, when we divert the focus to those marginalized by this discourse, when we focus on those whose bodies suffered this *humanitarian violence*, we see that reality is transformed. The violence stops adopting an unavoidable and necessary character and starts being understood as excluding, creating subjectivities that enclose some into a marginality while protect others. According to Wilcox, “theorizing the body allows us to ask questions that have not, and cannot, be asked, given prevailing implicit conceptions of the body in IR” (Wilcox, 2015, p. 4).

When the violence that is infringed against the bodies of those that have been excluded from the discourse of R2P is brought into light, we see that “there is a limit to discourse that establishes the limits of human intelligibility” (Butler, 2004, p. 35). When a discourse that justifies itself for the protection of human rights of a humanity exercises violence against the bodies of some beings, we see there this discourse’s limits, its aporias. Jacques Derrida calls this discomfort that readers experience when they confront the universals’ constitutive practices and limits as the aporetic experience, i.e. “the experiences, as improbable as they are necessary, of justice, that is to say of moments in which the decision between just and unjust is never insured by a rule” (Derrida, 2002, p. 16).

This violence, the discourse argues, is necessary for protection to take place. Nevertheless, its limits show up when the violence practiced by the humanitarian discourse dehumanizes some in order to allow this discourse’s own existence: a discourse that argues to defend while it kills and injures. Thus, its limits are delineated within the borders that determine the reality to be produced and the individuals to be protected. In this sense, the aporias that show up when the focus is transferred to the bodies that suffer demonstrate the undecidability under which this humanitarian discourse has been constructed.

The protection undertaken is not random nor naïve; it is selective from the moment in which it is evoked until the moment in which it is performed against some for the protection of other: when this boundary between inside and outside is delimited and reinforced. If the discourse of R2P is presented in the name of the protection of a universal, such a universal is constructed according to particular interests. While this universality can be understood as a condition of possibility for the existence of this *universal*, this latter does not universally encompass the whole. Here, we find the inexhaustible challenge of defining the human. As we can see with Butler:

It is, we might say, an ongoing task for human rights to reconceive the human when it finds that its putative universality does not have universal reach. The question of who will be treated humanely presupposes that we have first settled the question of who does and does not count as a human. (...) Dehumanization becomes the condition for the production of the human (...) (Butler, 2004, p. 91).

Accordingly, the R2P discourse talks about a dual responsibility: the responsibility that states have to protect their own populations, and the responsibility that the international community has to support states to fulfill their responsibility and, when the latter are not able or willing to do so, to claim for itself the responsibility to ensure the protection of human rights within a national territory. R2P, however, says nothing about another kind of responsibility, one that we all have, as individual members of this international community,

based on a commitment to equality and non-violent cooperation, [which] requires that we ask *how these conditions came about*, and endeavor to re-create social and political conditions on more sustaining grounds. This means, in part, *hearing beyond what we are able to hear* (Butler, 2004, p. 17-18, emphasis added).

My point here is that, apart from a discourse that talks about a positive responsibility that states have and the remaining responsibility that is left to the international community, the *not-protecting* is also a possible way of constructing this reality. Violence, here, works together with the power that allows these structures to take place:

power and violence are hence separable analytical categories, separable practices; they are at the same time connected in ways that work on populations and on bodies – with violence often targeted against the later so the former are reigned in, governed (Jabri, 2006, p. 48).

Assuming this additional responsibility and pursuing mechanisms to fulfill it, I proposed this deconstructionist strategy, through which I brought into light non-

verbalized assumptions and to question the reasons why they came to be the way they are and what would happen if they were not how they are. Instead of putting everyone within a same category that argues about a universal, and risks silencing differences, I proposed the contrary, i.e., to give voice to individualities and to question, to understand and to respect their particularities. As Epstein proposes, we can see “the problem as lying not with structures *per se*, but with universals and the yearning for the centring role that they perform for theorizing” (Epstein, 2013, p. 516).

I argue here that the problem does not lie with the R2P discourse and its proposals *per se*, but with the universals through which it constructs its arguments and with the practices linked with it, i.e., with practices of arguing about a particularistic universal and silencing other occurrences for the beings. The task of rethinking the human and reconsidering who she is, Butler reminds us, “is part of the democratic trajectory of an evolving human rights jurisprudence” (Butler, 2004, p. 90). We have, in history, examples of this reconsidering; this practice should not, however, be restricted to specific moments in history, but be part of an ongoing and reiterative practice among all of us, open to reconsiderations according to the distinct realities that its discourse faces and the distinct necessities of this involved by it.

Accordingly, my intention in this analysis was to propose an elucidation of distinct epistemologies and ways to think reality. I propose, as a subsequent step, debates to bring back difference within the discourse: we should not only analyze the difference, the border, what is inside and outside, and what characterizes each place. As I understand, we should bring, above all, *différance* (Derrida, 2002) into the center of the debate, i.e., we should propose problematization through processes of differentiation, those that enable the excluding and founding process of universalizing discourses to be constructed in the first place.

## 6 References

AGAMBEN, G. *Homo Sacer: Sovereign Power and Bare Life*. Stanford: Stanford University Press, 1998;

\_\_\_\_\_. *State of Exception*. Chicago: The University of Chicago Press, 2005;

ANNAN, K. "Two concepts of sovereignty". *The Economist*, September 16th 1999. Available at <http://www.economist.com/node/324795>;

\_\_\_\_\_. *Interventions: A Life in War and Peace*. New York: Penguin Books, 2012;

AL-JAZEERA. *NATO 'ignoring civilian deaths in Libya: Human Rights Watch urges NATO to provide "suitable compensation" to families of civilians killed in bombing campaign"*, 14 May 2012. Available at <http://www.aljazeera.com/news/africa/2012/05/201251416321904479.html> ;

ARADAU, C. "Security that matters: critical infrastructure and objects of protection" in *Security Dialogue*, vol 41, n. 5, 2010;

ASHLEY, R. "Untying the Sovereign State: A Double Reading of the Anarchy Problematic". In *Millennium*, vol 17, n. 2, 1988;

BARTELSON, J. "Genealogy of Sovereignty". Cambridge: Cambridge University Press, 1995;

BBC. "Counting the cost of NATO's mission in Libya". *BBC*, 31<sup>st</sup> October 2011. Available at <<http://www.bbc.com/news/world-africa-15528984>>;

BELLAMY, A. "The Responsibility to Protect – Five Years On". *Ethics & International Affairs*, vol. 24, n. 2, 2010;

\_\_\_\_\_. "Libya and the Responsibility to Protect: The Exception and the Norm". *Ethics & International Affairs*, vol. 25, n. 3, 2011;

BUTLER, J. *Bodies That Matter*. New York: Routledge, 1993;

\_\_\_\_\_. *Excitable Speech: A Politics of the Performative*. New York: Routledge, 1997;

\_\_\_\_\_. *Precarious Life: The Powers of Mourning and Violence*. New York: Verso Books, 2004;

BUZAN, B., et al. *Security: A New Framework for Analysis*. Colorado: Lynne Rienner Publishers, 1998;

CAMPBELL, D. *National Deconstruction: Violence, Identity and Justice in Bosnia*. Minneapolis: University of Minnesota Press, 1998;

\_\_\_\_\_. "Poststructuralism" in: DUNNE, T; KURKI, M. SMITH, S. *International Relations Theories: Discipline and Diversity*. Oxford: Oxford University Press, 2013;

CHANDLER, D. "The Responsibility to Protect? Imposing the 'Liberal Peace'". *International Peacekeeping*, vol. 11, n. 1, 2004;

CHIVERS, C.; SCHMITT, E. "In Strikes on Libya by NATO, an Unspoken Civilian Toll", *The New York Times*, 17 December 2011. Available at <http://www.nytimes.com/2011/12/18/world/africa/scores-of-unintended-casualtiesin-nato-war-in-libya.html>;

CUNLIFFE, P. "Sovereignty and the politics of responsibility", in BICKERTON, C., CUNLIFFE, P., GOUREVITCH, A. (eds.). *Politics without Sovereignty: A critique of contemporary international relations*. London: University College London Press, 2007;

CLARK, I. "Legitimacy in International Society". Oxford: Oxford University Press, 2005;

DEBRIX, F. "Language. Nonfoundationalism, International Relations". In: DEBRIX, F. (ed) *Language, Agency and Politics in a Constructed World*. New York: M. E. Sharpe, 2003;

DENG, F.M. et al. *Sovereignty as Responsibility: Conflict Management in Africa*, Washington, DC: the Brookings Institution, 1996;

DER DERIAN, J; SHAPIRO, M. *International/Intertextual Relations: Postmodern Readings of World Politics*. New York: Lexington Books, 1989;

DER DERIAN, J. "The Boundaries of Knowledge and Power in International Relations". In: DER DERIAN, J; SHAPIRO, M. *International/Intertextual Relations: Postmodern Readings of World Politics*. New York: Lexington Books, 1989;

DERRIDA, J. "Structure, Sign and Play in the discourse of the human sciences". In: DERRIDA, J. *Writing and Difference*. London: Routledge, 1978a;

\_\_\_\_\_. "Cogito and the History of Madness". In: DERRIDA, J. *Writing and Difference*. London: Routledge, 1978b;

\_\_\_\_\_. "Des Tours de Babel". In: GRAHAM, J. *Difference in Translation*. Ithaca: Cornell University Press, 1985;

\_\_\_\_\_. "Force of Law: The 'Mystical Foundation of Authority'". In: DERRIDA, J. *Acts of Religion*. New York: Routledge, 2002;

DEVETAK, R. "Postmodernism". In BURCHILL, S. et al. *Theories of International Relations*. New York: Palgrave Macmillan, 2005;

DEVITT, M.; STERELNY, K. *Language and Reality*. Cambridge: Mit Press, 1999;

DONNELLY, J. *Universal Human Rights in Theory and Practice*. New York: Cornell University Press, 2013;

DOYLE, M. "Kant, Liberal Legacies, and Foreign Affairs", in *Philosophy and Public Affairs*, vol. 12, n. 3, 1983;

EPSTEIN, C. "Constructivism or the eternal return of universals in International Relations. Why returning to language is vital to prolonging the owl's flight". In *European Journal of International Relations*, vol 19, n. 3, 2013;

EVANS, Gareth. *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All*. Washington: The Brookings Institution, 2008;

FAIRCLOUGH, N. *Language and Power*. New York: Longman, 1989;

FIERKE, K. "Breaking the Silence: Language and Method in International Relations". In: DEBRIX, F. (ed) *Language, Agency and Politics in a Constructed World*. New York: M. E. Sharpe, 2003;

FIERKE, K.; JORGENSEN, K. "Introduction". In: FIERKE, K; JORGENSEN, K. (eds.). *Constructing International Relations: the next generation*. New York: M. E. Sharpe, 2001;

FINNEMORE, M. *The purpose of intervention: changing beliefs about the use of force*. New York: Cornell University Press, 2003;

FORSYTHE, D. *Human Rights in International Relations*. Cambridge: Cambridge University Press, 2006;

FOUCAULT, M. *The archaeology of knowledge and the discourse on language*. New York: Pantheon Books, 1972;

\_\_\_\_\_. "Society Must Be Defended": *Lectures at the Collège de France, 1975-76*. New York: Picador, 2003;

\_\_\_\_\_. *Security, Territory, Population: Lectures at the Collège de France, 1977-78*. New York: Palgrave Macmillan, 2009;

GRAY, C. *International Law and the Use of Force*. Oxford: Oxford University Press, 2008;

GREGORY, D. "Foreword". In: DER DERIAN, J; SHAPIRO, M. *International/Intertextual Relations: Postmodern Readings of World Politics*. New York: Lexington Books, 1989;

HANSEN, L. *Security as Practice: Discourse Analysis and the Bosnian War*. New York: Routledge, 2006;

HOBBS, T. *Leviathan, 1651*. Menston: Scolar P., 1969;

HUMAN RIGHTS WATCH (HRW). *Unacknowledged Deaths: Civilian Casualties in NATO's Air Campaign in Libya*, 13<sup>th</sup> May 2012, Available at < <https://www.hrw.org/report/2012/05/13/unacknowledged-deaths/civilian-casualties-natos-air-campaign-libya>>;

INDEPENDENT INTERNATIONAL COMMISSION ON KOSOVO (IICK). *The Kosovo Report*. New York: Oxford University Press, 2000;

INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY (ICISS). *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*. Ottawa: International Development Research Centre, 2001;

JABRI, V. *War and the Transformation of Global Politics*. London: Palgrave Macmillan, 2007;

KOCH, A. *Poststructuralism and the Politics of Method*. New York: Lexington Books, 2007;

KRATOCHWIL, F. "Constructivism as an Approach to Interdisciplinary Study". In: FIERKE, K.; JORGENSEN, K. (eds.). *Constructing International Relations: the next generation*. New York: M. E. Sharpe, 2001;

JABRI, V. *War and Transformation of Global Politics*. New York: Palgrave, 2007;

KENKEL, K. "O Dilema Interno da Soberania: a evolução das normas de intervenção", in KENKEL, K.; DE MORAES, R. (orgs.). *O Brasil e as Operações de Paz em um Mundo Globalizado: entre a tradição e a inovação*. Brasília: IPEA, 2012;

KRAUSE, K.; WILLIAMS, M. "Preface", in KRAUSE, K.; WILLIAMS, M. C. (orgs.), *Critical Security Studies: Concepts and Cases*. Minneapolis: University of Minnesota Press, 1997;

KRISHNA, S. *Globalization & Postcolonialism. Hegemony and Resistance in the Twenty-first Century*. New York: Rowman & Littlefield, 2009;

LAPID, Y. "The Third Debate: On the Prospects of International Theory in a Post-Positivist Era" in *International Studies Quarterly*, vol 33, n. 3, 1989;

LYCAN, W. *Philosophy of Language: A Contemporary Introduction*. New York: Routledge, 2000;

MARCHART, O. *Post-Foundational Political Thought: Political Difference in Nancy, Lefort, Badiou and Laclau*. Edinburgh: Edinburgh University Press, 2007;

MILNE, S. "If the Libyan war was about saving lives, it was a catastrophic failure", in *The Guardian*, 26<sup>th</sup> October, 2011. Available at <https://www.theguardian.com/commentisfree/2011/oct/26/libya-war-saving-lives-catastrophic-failure>;

MURRAY, R. "Conclusion: The Responsibility to Protect after Libya", in HEHIR, A.; MURRAY, R. (eds.). *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*. New York: Palgrave MacMillan, 2013;

ONUF, N. *World of our Making*. Columbia: University of South Carolina Press, 1989;

ORFORD, A. *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*. Cambridge: Cambridge University Press, 2003;

\_\_\_\_\_. *International Authority and the Responsibility to Protect*. Cambridge: Cambridge University Press, 2011;

OSIANDER, A. "Sovereignty, International Relations and the Westphalian Myth International Organization", vol. 55, no. 2, 2001;

QUÉNIVET, N. "Introduction: The History of the Relationship Between International Humanitarian Law and Human Rights Law", in ARNOLD, R.; QUÉNIVET, N. (eds.). *International Humanitarian Law and Human Rights Law: Towards a New Merger in International Law*. Leiden: Martinus Nijhoff Publishers, 2008;

ROBERTS, A. "The United Nations and Humanitarian Intervention", in WELSH, J. (ed.). *Humanitarian Intervention and International Relations*. New York: Oxford University Press, 2004;

SCHMITT, C. *The Nomos of The Earth: in the International Law of the Jus Publicum Europaeum*. New York: Telos, 2003;

SHAPIRO, M. J. "Textualizing Global Politics". In: DER DERIAN, J.; SHAPIRO, M. *International/Intertextual Relations: Postmodern Readings of World Politics*. New York: Lexington Books, 1989;

\_\_\_\_\_. *Language and Political Understanding: The Politics of Discursive Practices, University Microfilms*. New Haven: Yale University Press, 1992;

SMITH, S. "Positivism and beyond" in SMITH, S. et al. (eds.) *International Theory: Positivism and Beyond*. Cambridge: Cambridge University Press, 1996;

TEITEL, R. G. *Humanity's Law*. Oxford: Oxford University Press, 2011;

TESÓN, F. *Humanitarian Intervention: An Inquiry into Law and Morality*. Ardsmore-on-Hudson: Transnational Publishers, 1988;

THAKUR, R. *The United Nations, Peace and Security*. Cambridge: Cambridge University Press, 2006;

THAROOR, I. "How Many Innocent Civilians Did NATO Kill in Libya?", *Time*, 16 May 2012. Available at <http://world.time.com/2012/05/16/how-many-innocent-civiliansdid-nato-kill-in-libya/>;

UNITED NATIONS (UN). *United Nations Charter*. San Francisco, 1945;

\_\_\_\_\_. *A more secure world: our shared responsibility*. Report of the High-Level Panel on Threats, Challenges and Change. New York: United Nations, 2004;

\_\_\_\_\_. *In larger freedom: towards development, security and human rights for all*. Report of the Secretary-General. A/59/2005. 2005a;

\_\_\_\_\_. *World Summit Outcome*. A/RES/60/1. 2005b;

\_\_\_\_\_. *Implementing the Responsibility to Protect*. Report of the Secretary-General. A/63/677. 2009;

\_\_\_\_\_. *United Nations Security Council Resolution 1653*. S/RES/1653. 2006a;

\_\_\_\_\_. *United Nations Security Council Resolution 1674*. S/RES/1674. 2006b;

\_\_\_\_\_. *United Nations Security Council Resolution 1706*. S/RES/1706. 2006c;

\_\_\_\_\_. *United Nations Security Council Resolution 1894*. S/RES/1894. 2009;

\_\_\_\_\_. *United Nations Security Council Resolution 1973*. S/RES/1973. 2011;

VAUGHAN-WILLIAMS, N. "International Relations and the 'Problem of History'", *Millennium – Journal of International Studies*, vol.34, n.1, 2005;

WAEVER, O. "Aberystwyth, Paris, Copenhagen: the Europeanness of new "schools" of security theory in an American field", in TICKNER, A.; BLANEY, D. (orgs.), *Thinking International Relations Differently*. New York: Routledge, 2012;

WALKER, R. B. J. *Inside/Outside: International Relations as Political Theory*. Cambridge: Cambridge University Press, 1993;

\_\_\_\_\_. "The Double Outside of the Modern International". *Ephemera: theory and politics in organization*, v. 6, n. 1, 2006a;

\_\_\_\_\_. "Lines of Insecurity: International, Imperial, Exceptional", *Security Dialogue*, Vol. 37, No. 1, 2006b;

\_\_\_\_\_. *After the Globe, Before the World*. London and New York: Routledge, 2010;

WEBER, C. "Simulating Sovereignty; Intervention, the State and Symbolic Exchange". Cambridge: Cambridge University Press, 1995;

WEISS, T. "Whither R2P?". In: WEISS, T. et al, *The Responsibility to Protect: challenges & opportunities in light of the Libyan intervention*, e-International Relations, 2011;

WELSH, J. "Introduction", in WELSH, J. (ed.). *Humanitarian Intervention and International Relations*. New York: Oxford University Press, 2004a;

\_\_\_\_\_. "Taking Consequences Seriously: Objections to Humanitarian Intervention", in WELSH, J. (ed.). *Humanitarian Intervention and International Relations*. New York: Oxford University Press, 2004b;

WHEELER, N. "The Humanitarian Responsibilities of Sovereignty: Explaining the Development of a New Norm of Military Intervention for Humanitarian Purposes in International Society", in WELSH, J. (ed.). *Humanitarian Intervention and International Relations*. New York: Oxford University Press, 2004;

WILCOX, L. *Bodies of Violence: Theorizing Embodied Subjects in International Relations*. Oxford: Oxford University Press, 2015;

ZEHFUSS, M. "Constructivisms in International Relations: Wendt, Onuf, and Kratochwil". In: FIERKE, K; JORGENSEN, K. (eds.). *Constructing International Relations: the next generation*. New York: M. E. Sharpe, 2001.