

---

2016

## Syria - Another Drawback for R2P?: An Analysis of R2P's Failure to Change International Law on Humanitarian Intervention

Muditha Halliyade Dr.  
SUNY, mhalliya@uemail.iu.edu

Follow this and additional works at: <https://www.repository.law.indiana.edu/ijlse>



Part of the [Law Commons](#)

---

### Publication Citation

Muditha Halliyadde, Syria - Another Drawback for R2P?: An Analysis of R2P's Failure to Change International Law on Humanitarian Intervention, 4 Ind. J. L. & Soc. Equality 215 (2016).

This Article is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Journal of Law and Social Equality by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact [rvaughan@indiana.edu](mailto:rvaughan@indiana.edu).



**JEROME HALL LAW LIBRARY**

INDIANA UNIVERSITY  
Maurer School of Law  
Bloomington



**SYRIA – ANOTHER DRAWBACK FOR R2P?:  
AN ANALYSIS OF R2P’S FAILURE TO CHANGE INTERNATIONAL LAW ON  
HUMANITARIAN INTERVENTION**

DR. MUDITHA HALLIYADDE

**INTRODUCTION**

By mid-March 2011, the worsening crisis in the Syrian Arab Republic (“Syria”) had rapidly become the center of regional and international attention.<sup>1</sup> Since that time, Syria has experienced a major humanitarian crisis, which still continues. As of this writing, there is no indication that the fighting will end any time soon. The international community has not only failed to prevent mass atrocities in Syria, but has also failed to take timely action to react effectively. Given the politics that has characterized the Syrian crisis to date, the likelihood of effective international cooperation on rebuilding Syria is also bleak.

The Syrian crisis involves multiple, serious problems that undermine the importance of the Responsibility to Protect (R2P) principle in international relations and international law. This crisis highlighted the controversy on whether a state can use force for humanitarian purposes without Security Council authorization, a long-standing international legal question that did not arise in the Darfur, Libya, or Côte d’Ivoire crises. The use of force to effect regime change in Libya and Côte d’Ivoire also undermined the United Nations (UN) taking effective action in Syria. In fact, China and Russia refused to authorize the use of force for, amongst other rationales, reasons related to their positions on the abuse of Security Council authorization in the previous R2P crises of Libya and Côte d’Ivoire. Security Council members, at least, could not agree on humanitarian relief issues in the Syrian crisis. These disagreements illustrate many of the serious problems that have been encountered under the R2P principle during the Syrian crisis.

This Article seeks to give a bird’s eye view on the positions taken by some of the UN Member States on the Syrian issue, their role in shaping R2P, and, as a follow up, whether

---

<sup>1</sup> E.g., Peter Wilkinson, *Syria: How Will Year-Old Conflict Play Out?*, CNN (Mar. 15, 2012, 9:12 PM), <http://www.cnn.com/2012/03/15/world/meast/syria-what-next>.

R2P was successful in changing international law on humanitarian intervention. The Article proceeds first to understand some efforts taken by key international actors to prevent the Syrian crisis. It then proceeds to briefly analyze efforts by key international actors in implementing their responsibility to react to the Syrian crisis. Finally, it evaluates how this blend of reactions by the international community to the Syrian crisis failed to make a solid grounding for R2P to change international law on humanitarian intervention.

## I. APPLICATION OF THE R2P PRINCIPLE IN INTERNATIONAL RESPONSES TO THE SYRIAN CRISIS

The Syrian conflict has been widely discussed as another test case for the R2P principle in international law. From the initial stages of the crisis, there were serious claims that mass atrocities were carried out in Syria.<sup>2</sup> Still, we witness mass-exodus of civilians from Syria on a daily basis. Growing concerns about the deteriorating security situation in Syria brought R2P into the debates within the international community. The Independent International Commission of Inquiry on Syria, established by the UN Secretary-General on August 22, 2011, concluded that the government of Syria had manifestly failed in its responsibility to protect the population. The inquiry further found that gross violations of human rights had been committed in Syria by both the government as well as the armed anti-government groups.<sup>3</sup> These atrocities triggered controversies largely centered on the R2P responsibilities to prevent and react. With the Assad regime manifestly failing to protect the Syrian population, the international community, regional organizations, and the UN took a number of diplomatic measures to help prevent further atrocities in Syria.

### A. *Responsibility to Prevent*

As the crisis in Syria was unfolding, the Security Council first discussed the situation during a meeting on Israel-Palestine negotiations on April 21, 2011—soon after the Security Council's actions on R2P in Libya and Côte d'Ivoire in March 2011.<sup>4</sup> By the end of March 2011, Syrian government forces shot protesters in Damascus and the southern city of Deraa who had demanded release of political prisoners. These actions triggered days of violent unrest that steadily spread nationwide over the following months. The United States, United Kingdom, and France expressed their concern about the dire human rights situation

---

2 See *The Crisis in Syria*, INT'L COALITION FOR RESP. TO PROTECT, <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-syria> (last visited Mar. 27, 2016).

3 Human Rights Council, Rep. of the Independent International Commission of Inquiry on the Syrian Arab Republic, Seventeenth Special Session, U.N. Doc. A/HRC/S-17/2/Add.1, at 1, 8 (Nov. 23, 2011) [hereinafter Rep. of the Independent International Commission of Inquiry].

4 U.N. SCOR, 66th Sess., 6520th mtg., U.N. Doc. S/PV.6520 (Apr. 21, 2011).

in Syria.<sup>5</sup> However, the Russian delegation stated that it did not wish to interfere in the internal affairs of any sovereign state.<sup>6</sup>

In the face of the Syrian government's harsh retaliation against the protests that escalated throughout the country, the Security Council held its first session on Syria on April 27, 2011, in which most delegates strongly condemned gross human rights violations in Syria.<sup>7</sup> The delegations stressed the need to help Syria in order to prevent further violence and civilian suffering.<sup>8</sup> The United States Ambassador, Susan Rice, stated that the United States condemned, in the strongest possible terms, the abhorrent violence used by the government of Syria.<sup>9</sup> The United Kingdom stressed the Syrian government's responsibility to protect peaceful protesters and the need to stop violent repression of such protesters. The UK further highlighted that the protestors themselves must ensure that their actions were peaceful. While China and India expressed their concern about the incidents taking place in Syria, Russia stated that the current situation in Syria did not present a threat to international peace and security.<sup>10</sup> The Member States of the Security Council ("Member States") considered issuing a press statement as proposed by the European Union (EU).<sup>11</sup> However, the statement, which stressed the Syrian government's responsibility to prevent violence against their own people could not be issued because there was no agreement among the Member States. In particular, Russia and Lebanon objected, stating that such a press statement would be undue interference into the internal affairs of Syria.<sup>12</sup>

In response to mounting international unease about the deteriorating human rights situation in Syria, the Human Rights Council held a special session on April 29, 2011, and adopted Resolution 16/1.<sup>13</sup> The resolution condemned the Syrian government's attacks against the civilian population and expressed grave concerns about alleged deliberate killings, arrests, and instances of torture of peaceful protesters by Syrian authorities. The resolution called for the UN High Commissioner for Human Rights to urgently dispatch a fact-finding mission to investigate alleged human rights violations in Syria. Although Resolution 16/1 was adopted by a majority of votes of the Human Rights Council, notable

---

5 *Id.* at 8, 15, 21.

6 *Id.* at 26.

7 U.N. SCOR, 66th Sess., 6524th mtg., U.N. Doc. S/PV.6524 (Apr. 27, 2011).

8 *E.g., id.* at 8.

9 *Id.* at 4.

10 *Id.* at 7-8.

11 Neil MacFarquhar, *Push in U.N. for Criticism of Syria is Rejected*, N.Y. TIMES (Apr. 27, 2011), [http://www.nytimes.com/2011/04/28/world/middleeast/28nations.html?\\_r=0](http://www.nytimes.com/2011/04/28/world/middleeast/28nations.html?_r=0).

12 *Id.*

13 Human Rights Council Res. S-16/1, U.N. Doc. A/HRC/RES/S-16/1 (Apr. 29, 2011).

opposition was raised by some Member States. China, Russia, Pakistan, and Malaysia voted against the resolution, while the delegations of Nigeria and Saudi Arabia abstained.<sup>14</sup>

Pursuant to Human Rights Council Resolution 16/1, “the High Commissioner for Human Rights established a [fact-finding mission] to investigate all alleged violations of international human rights law in Syria [. . .] to establish the facts and circumstances of such violations and of the crimes perpetrated, with a view to avoiding impunity and ensuring full accountability.”<sup>15</sup> Although no explicit reference was made to R2P, the fact-finding mission itself was to complement the responsibility of the international community to prevent further atrocities in Syria. In May 2011, the fact-finding mission began and the High Commissioner for Human Rights made a formal request to the government of Syria to cooperate.<sup>16</sup> Despite repeated requests by the Human Rights Council, the Syrian government did not cooperate with the fact-finding mission. Nonetheless, the mission gathered credible, corroborated, and consistent accounts of violations from victims and witnesses.<sup>17</sup>

As the Syrian government increased its suppression of the opposition, the Human Rights Council and some UN Member States put more pressure on the Syrian regime. In succeeding months, the United Kingdom, the United States, France, Germany, and Portugal made efforts to pass a resolution of the Security Council condemning the Syrian government’s atrocities, efforts that failed in the face of resistance from Russia, China, Brazil, South Africa, and India.<sup>18</sup> Although the resolution noted that the widespread and systematic attacks by the Syrian authorities against its people may amount to crimes against humanity under international law, it did not refer to R2P or the responsibility to prevent such atrocities. The Member States that resisted the resolution argued that the Syrian crisis was an internal matter and the Security Council should not dictate the nature of any reform program that the Syrian government should undertake.<sup>19</sup> These Member States absolutely refused any external military intervention in Syria.<sup>20</sup>

---

<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Fact Finding Mission on Syria: Call for Submissions (A/HRC/RES/S-16/1)*, OFF. UNITED NATIONS HIGH COMMISSIONER FOR HUM. RTS. (May 24, 2011), <http://www.ohchr.org/EN/Countries/MENARegion/Pages/SyriaFactFindingMission.aspx>.

<sup>16</sup> *OHCHR Fact-Finding Mission to Syria Terms of Reference*, OFF. UNITED NATIONS HIGH COMMISSIONER FOR HUM. RTS. 1–2 (May 24, 2011), [http://www.ohchr.org/Documents/Countries/SY/TORs\\_FFM\\_Syria.pdf](http://www.ohchr.org/Documents/Countries/SY/TORs_FFM_Syria.pdf).

<sup>17</sup> *See Human Rights Council Debates Situation of Human Rights in Syrian Arab Republic in Special Session*, OFF. UNITED NATIONS HIGH COMMISSIONER FOR HUM. RTS. (Aug. 22, 2011) [hereinafter *Human Rights Council*], <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11324&LangID=E>.

<sup>18</sup> Dan Bilefsky, *New Move to Condemn Syria in U.N.*, N.Y. TIMES (June 8, 2011), [http://www.nytimes.com/2011/06/09/world/middleeast/ognations.html?\\_r=0](http://www.nytimes.com/2011/06/09/world/middleeast/ognations.html?_r=0); *UN Deadlocked Over Draft Syria Resolution, as Crackdown Continues*, Radio Free Eur. Radio Liberty (June 14, 2011 11:13 AM GMT).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Although the Syrian crisis was considered an internal matter by some Member States, violence in Syria began to creep across the borders into Turkey. In addition, Syrian refugees had become an international concern by the end of 2011.<sup>21</sup> More than 2.5 million Syrians had fled their homes by the end of 2011, taking refuge in neighboring countries or within Syria itself.<sup>22</sup> Absorbing the massive influx of refugees has been a huge challenge for Syria's neighbors, with serious consequences for the stability of the entire region.

Given the escalation of violence and other humanitarian problems in Syria, Francis Deng, the Secretary General's Special Advisor on the Prevention of Genocide, and Edward Luck, the Secretary General's Special Advisor on R2P, issued a statement on Syria on July 21, 2011.<sup>23</sup> Emphasizing that the atrocities in Syria amounted to the crimes against humanity, the Special Advisors urged the Syrian government to fulfill its responsibility to protect its civilian populations.<sup>24</sup>

In August 2011, after much discussion, the Security Council adopted a presidential statement expressing grave concern about the deteriorating humanitarian situation in Syria and calling for unimpeded access for humanitarian workers.<sup>25</sup> While reaffirming its strong commitment to the sovereignty, independence, and territorial integrity of Syria, the Security Council also stressed the importance of a Syrian-led political solution to the conflict.<sup>26</sup> However, neither the presidential statement nor any individual country's statement made specific reference to R2P or the responsibility to prevent in particular.

Given the escalation of violence and unrest in Syria, the League of Arab States (LAS) issued its first condemnatory statement on Syria on August 7, 2011 and called on the government of Syria to immediately end the violence.<sup>27</sup> However, the statement made no explicit reference to R2P. From the initial violence in March 2011 until August 2011, the LAS did not respond to the crisis in Syria. The reason for the LAS's initial silence towards the crisis situation in Syria was related to other regional crises that occurred in the wake of the Arab Spring, including the political instability in Egypt after the overthrow of Hosni Mubarak and NATO's Libyan operation, which kept LAS's attention away from the Syrian crisis. Similarly, Persian Gulf countries were engaged with unrest in Bahrain, Yemen, and Saudi Arabia at the time and were not willing to take any steps against Syria.

---

<sup>21</sup> See *The Crisis in Syria*, *supra* note 2.

<sup>22</sup> See *Syrian Refugees: A Snapshot of the Crisis—In the Middle East and Europe*, MIGRATION POL'Y CTR., <http://syrianrefugees.eu/> (last updated Oct. 2014).

<sup>23</sup> See Press Release, Francis Deng & Edward Luck, Special Advisors of the United Nations Secretary-General, U.N. Press Release (July 21, 2011).

<sup>24</sup> *Id.*

<sup>25</sup> See U.N. SCOR, 66th Sess., 6598th mtg. at 2, U.N. Doc. S/PV.6598 (Aug. 3, 2011).

<sup>26</sup> *Id.* at 2.

<sup>27</sup> See Isabel Coles & Yasmine Saleh, *Arab League Expresses Growing Concern About Syria*, REUTERS (Aug 7, 2011, 11:13 AM), <http://www.reuters.com/article/2011/08/07/us-syria-league-idUSTRE7761H720110807>.

The Independent International Commission of Inquiry on Syria (“the Commission”) was established on August 22, 2011 by Human Rights Council Resolution 17/1.<sup>28</sup> The Commission had a mandate to investigate all alleged violations of international human rights law that had occurred in Syria since March 2011.<sup>29</sup> The Commission was also tasked with establishing facts and circumstances that may constitute such violations and other crimes perpetrated and, where possible, identifying those responsible with a view to ensuring that perpetrators of violations, including those that may constitute crimes against humanity, were held accountable.<sup>30</sup> Resolution 17/1 was adopted with thirty-three votes in favor, four against, and nine abstentions.<sup>31</sup> China, Russia, Cuba, and Ecuador voted against the resolution.<sup>32</sup> Explaining his vote after the adoption of the resolution, the representative of Russia stated that the resolution was one sided and could further destabilize Syria.<sup>33</sup> The Chinese delegation also expressed its concern about the resolution and stated that the Syrian crisis should be resolved through discussions and cooperation.<sup>34</sup> Although the resolution made no reference to R2P or the responsibility to prevent, the votes against the resolution represented continued opposition to the taking of any diplomatic measures against Syria.

In October 2011, the United Kingdom, France, Germany, and Portugal tabled a draft resolution at the Security Council, proposing an arms embargo and setting up a new sanctions committee.<sup>35</sup> The resolution’s preamble emphasized the Syrian government’s primary responsibility to protect its population.<sup>36</sup> Given strong opposition from some Member States, the draft resolution was watered down during negotiations. Despite all the revisions, the resolution could not be adopted because Russia and China vetoed it.<sup>37</sup> Brazil, India, Lebanon, and South Africa abstained from voting on the resolution.<sup>38</sup> Russia rejected the resolution and stated that it could not agree with accusations against the Syrian regime and that the threat of an ultimatum and sanctions against the Syrian authorities was unacceptable.<sup>39</sup> Russia added that the situation in Syria could not be considered by the Security Council separately from the Libyan experience and that a similar interpretation of

---

<sup>28</sup> Human Rights Council Res. S-17/1, U.N. Doc. A/HRC/S-17/2, ¶ 13 (Aug. 22, 2011).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Human Rights Council, Rep. of the Human Rights Council on its Seventeenth Special Session, U.N. Doc. A/HRC/S-17/2, at 4 ¶ 25 (Aug. 22, 2011).

<sup>32</sup> *Id.*

<sup>33</sup> *See Human Rights Council, supra note 17.*

<sup>34</sup> *Id.*

<sup>35</sup> S.C. Res. 612 (Oct. 4, 2011).

<sup>36</sup> *Id.*

<sup>37</sup> Press Release, Sec. Council, Security Council Fails to Adopt Draft Resolution Condemning Syria’s Crackdown on Anti-Government Protestors, Owing to Veto by Russian Federation, China, U.N. Press Release SC/10403 (Oct. 4, 2011).

<sup>38</sup> U.N. SCOR, 66th Sess., 6627th mtg. at 2, U.N. Doc. S/PV.6627 (Oct. 4, 2011).

<sup>39</sup> *Id.* at 3.

the Security Council resolutions on Libya should not be a model for the future actions of NATO in implementing R2P.<sup>40</sup> Russia suspected that excessive force would also be used in Syria, as NATO did in Libya. Russia also stressed the importance of knowing how this particular resolution would be implemented.<sup>41</sup> They asserted that “a significant number of Syrians do not agree with the demand for regime change and would rather see gradual changes, believing that they have to be implemented while maintaining civil peace and harmony in the country.”<sup>42</sup>

China highlighted the importance of respecting Syria’s “sovereignty, independence, and territorial integrity.”<sup>43</sup> China stated that, under the circumstances, sanctions or the threat of sanctions would not help to resolve the conflict in Syria and, instead, may further complicate the situation. The Indian delegation expressed a similar view and stated that all states have a responsibility to respect the fundamental rights of their people, address their legitimate aspirations, and respond to their grievances through administrative, political, economic, and other measures.<sup>44</sup> At the same time, India stressed states also have the obligation to protect their citizens from armed groups and militants. India further stated that the international community should give the Syrian government time to implement the far-reaching reform measures it announced.<sup>45</sup>

The states that supported the draft resolution expressed regret at the Security Council’s failure to take action to prevent further atrocities in Syria. The United States was outraged that the Security Council had “utterly failed to address an urgent moral challenge and a growing threat to regional peace and security.”<sup>46</sup> United States UN Ambassador Rice expressed disappointment at the failure of the Security Council to take action to counter Assad’s brutal oppression.<sup>47</sup> Rice further stated that, in failing to adopt the draft resolution, “the Council [had] squandered an opportunity to shoulder its responsibilities to the Syrian people,” and “[t]he crisis in Syria [would] stay before the Security Council, and [the United States] [would] not rest until the Council [rose] to meet its responsibilities.”<sup>48</sup> Also expressing disappointment over the failure of the Security Council to adopt the resolution, the United Kingdom stated that the time for strong Security Council action was long overdue and that it had to shoulder its responsibilities and take tough actions.<sup>49</sup>

---

40 *Id.* at 4.

41 *Id.*

42 *Id.*

43 *Id.* at 5.

44 *Id.* at 5–6.

45 *Id.* at 6.

46 *Id.* at 8.

47 *Id.*

48 *Id.* at 9.

49 *Id.* at 7.

The LAS, at an extraordinary session held in Cairo on October 16, 2011, adopted a resolution “calling for a complete and immediate cessation of the acts of violence and killing, and for an end to armed actions” to deal with the crisis with a view to prevent more casualties in Syria.<sup>50</sup> The resolution called on the LAS to establish an Arab Ministerial Committee under the chairmanship of Sheikh Hamad bin Jassim Al-Thani, the Prime Minister and Minister of Foreign Affairs of Qatar, to liaise with the Syrian leadership.<sup>51</sup> Following this meeting on October 16, 2011, the Committee, led by Qatar, with delegates from Egypt, Algeria, Sudan, and Oman, met with Assad on October 26, 2011 and conveyed the decisions of the LAS.<sup>52</sup>

On October 30, 2011, the LAS urged Syria to “stop the bloodshed” in a plan accepted and signed by Syria on November 2, 2011.<sup>53</sup> The action plan urged the Syrian authorities to: end all forms of acts of violence, free political prisoners, withdraw all military elements from cities and residential neighborhoods, and provide free access to the LAS agencies and international media to report on developments and monitor the situation.<sup>54</sup> On November 3, 2011, Nabil el-Araby, the chief of the LAS, met with the Syrian National Council and informed its members of the LAS’s action plan.<sup>55</sup>

However, the Syrian regime did not immediately comply with the proposals made by the LAS, and, in fact, failed to engage in a dialogue with opposition forces within the time frame given by the LAS. This willful inaction by the Assad regime triggered debates about the need for measures against Syria. On November 7, 2011, the LAS chief called for a meeting to assess Syria’s failure to comply with the agreed action plan.<sup>56</sup> As a result, on November 12, 2011, the Ministerial Council of the LAS suspended Syria’s membership, approved with eighteen votes in favor.<sup>57</sup> Yemen, Syria, and Lebanon voted against the decision, with Iraq abstaining. Following the suspension decision, the LAS adopted Resolution 7439 on November 16, 2011, mandating that the LAS send an observer mission to Syria.<sup>58</sup> Although the resolution aimed to verify implementation of the LAS’s plan of

---

50 League of Arab States Res. 7435, ¶ 1 (Oct. 16, 2011).

51 *Id.* ¶ 2; *Arab League Calls for Syria Dialogue Within 15 Days*, BBC (Oct. 17, 2011), <http://www.bbc.co.uk/news/world-middle-east-15330296>.

52 *Arab League Holds ‘Frank and Friendly’ Talks with Assad; 20 More Killed in Syrian Violence*, AL ARABIA (Oct. 26, 2011), <http://www.alarabiya.net/articles/2011/10/26/173742.html>.

53 *Timeline of International Response to the Situation in Syria*, GLOBAL CTR. FOR RESP. TO PROTECT 9, <http://www.globalr2p.org/media/files/timeline-of-international-response-to-syria-27.pdf> (last visited Mar. 28, 2016).

54 *Id.*

55 *Arab League Chief Meets Syria Opposition Group*, HURRIYET DAILY NEWS (Nov. 3, 2011), <http://www.hurriyetaidailynews.com/arab-league-chief-meets-syria-opposition-group.aspx?pageID=238&nID=6444&NewsCatID=352>.

56 *Timeline of International Response to the Situation in Syria*, *supra* note 53, at 9.

57 Neil Macfarquhar, *Arab League Votes to Suspend Syria Over Crackdown*, N.Y. TIMES (Nov. 12, 2011), <http://www.nytimes.com/2011/11/13/world/middleeast/arab-league-votes-to-suspend-syria-over-its-crackdown-on-protesters.html?pagewanted=all>.

58 League of Arab States Res. 7439, ¶ 1 (Nov. 16, 2011).

action, resolve the Syrian crisis, and protect Syrian civilian populations, it made no explicit reference to R2P.<sup>59</sup>

On November 22, 2011, the Social, Humanitarian, and Cultural Affairs Committee of the UN General Assembly adopted a resolution that called on the government of Syria to end all human rights abuses.<sup>60</sup> The resolution was adopted with 122 UN members voting in favor, 13 against and 41 abstentions.<sup>61</sup> It further urged the Assad regime to immediately implement the LAS's November peace plan.<sup>62</sup> The resolution did not create any new mechanisms or procedures, yet it was meant to send a strong signal to Syria and its people that the ongoing human rights violations unfolding there must come to an end. A number of delegations highlighted Syria's primary responsibility to protect its population and prevent atrocities against children and women.<sup>63</sup> Russia stated that the main co-sponsors of the resolution "should remember that being an initial co-sponsor was not only a right, but also a responsibility."<sup>64</sup>

In Resolution 7441 of November 24, 2011, the LAS again requested its Secretary General to immediately deploy the observer mission to Syria.<sup>65</sup> Most importantly, on November 27, 2011, the Ministerial Council of the LAS proposed economic sanctions on Syria.<sup>66</sup> The LAS's proposed sanctions included a travel ban on some senior officials of the Assad regime, a freeze on the Syrian government's assets in Arab countries, a ban on transactions with Syria's central bank, and an end to all commercial exchanges with the government of Syria.<sup>67</sup>

In the meantime, the Commission of Inquiry, established by the Human Rights Council pursuant to Resolution S-17/1, completed its task and prepared its first report on November 23, 2011.<sup>68</sup> The report concluded that human rights violations were committed by the Syrian military and security forces since the beginning of the protests in March 2011.<sup>69</sup> The report further asserted that crimes against humanity were committed in different locations in Syria during the period under review.<sup>70</sup> The report underscored the Syrian government's responsibility to protect its population, provide victims with an

---

59 *Id.*

60 Press Release, Gen. Assembly, Third Committee Approves Resolution Condemning Human Rights Violations in Syria, by Vote of 122 in Favour to 13 Against, with 41 Abstentions, U.N. Press Release GA/SHC/4033 (Nov. 22, 2011).

61 *Id.*

62 *Id.*

63 *Id.*

64 *Id.*

65 League of Arab States Res. 7441 (Nov. 24, 2011); *see also* U.N. Secretary-General, Letter dated Jan. 24, 2012 from the Secretary-General to the President of the Security Council, U.N. Doc. S/2012/71 (Jan. 30, 2012).

66 *Timeline of International Response to the Situation in Syria*, *supra* note 53, at 11.

67 *Id.*; *see also* Neil MacFarquhar, *Isolating Syria, Arab League Imposes Broad Sanctions*, N.Y. TIMES (Nov. 27, 2011), <http://www.nytimes.com/2011/11/28/world/middleeast/arab-league-prepares-to-vote-on-syrian-sanctions.html>.

68 *See* Rep. of the Independent International Commission of Inquiry, *supra* note 3.

69 *Id.* at 1.

70 *Id.*

effective remedy, and stop atrocities against its people.<sup>71</sup> It called upon the Syrian regime to put an immediate end to the ongoing gross human rights violations, initiate independent and impartial investigations of these violations, and bring the perpetrators of these atrocities to justice.<sup>72</sup> At the same time, the Human Rights Council adopted Resolution S-18/1, which mandated the establishment of a Special Rapporteur on the human rights situation in Syria.<sup>73</sup> The resolution was adopted by a vote of thirty-seven in favor, four against, and six abstentions.<sup>74</sup> The Russian delegation, which voted against the resolution, stated that the resolution exceeded the mandate of the Human Rights Council.<sup>75</sup> Expressing similar sentiments, China stated that it could not accept any use of force, which would threaten the territorial integrity of Syria.<sup>76</sup>

The Security Council discussed the Syrian situation again on December 12, 2011.<sup>77</sup> During this meeting, Navi Pillay, the UN High Commissioner for Human Rights, stated that an estimated 5,000 people had been killed in Syria since March 2011, and many more civilians had been arrested and detained without trial.<sup>78</sup> She noted that nearly 12,000 refugees had fled Syria and many more were internally displaced.<sup>79</sup> She highlighted that the Syrian government had failed to uphold its responsibility to protect Syrian civilian populations and that the international community should undertake effective measures to protect the civilian population in Syria.<sup>80</sup>

---

71 *Id.* ¶ 24.

72 *Id.* ¶ 112.

73 Human Rights Council Res. S-18/1, U.N. Doc. A/HRC/RES/S-18/1, ¶ 10 (Dec. 2, 2011).

74 Press Release, Human Rights Council, Council Concludes Special Session on Situation of Human Rights in Syria, Established Mandate of Special Rapporteur for Syria (Dec. 2, 2011), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11681&LangID=E> [https://web.archive.org/web/20130901155721/http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11681&LangID=E].

75 Human Rights Council, *Russia, Vote on Resolution, 18th Special Session, Human Rights Council*, UNITED NATIONS (Dec. 2, 2011), <http://www.unmultimedia.org/tv/webcast/2011/12/russia-vote-on-resolution-18th-special-session-human-rights-council.html>.

76 Human Rights Council, *China, Vote on Resolution, 18th Special Session, Human Rights Council*, UNITED NATIONS (Dec. 2, 2011), <http://www.unmultimedia.org/tv/webcast/2011/12/china-vote-on-resolution-18th-special-session-human-rights-council.html>.

77 *Chronology of Events: Syria*, SECURITY COUNCIL REP.,

<http://www.securitycouncilreport.org/chronology/syria.php?page=all&print=true> (last visited Mar. 28, 2014).

78 Press Release, United Nations High Comm'r for Human Rights, Syria: Pillay Calls for Urgent Action to Halt Violence (Dec. 12, 2011),

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11705&LangID=E>

[https://web.archive.org/web/20150404170310/http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11705&LangID=E].

79 UN NEWS CENTRE, *UN agency urges Jordan to allow 12,000 desperate Syrian refugees stranded at border* (Dec. 8, 2015), <http://www.un.org/apps/news/story.asp?NewsID=52760#.Vw2lqMuFNdg/>.

80 *Id.*

On December 19, 2011,<sup>81</sup> the General Assembly adopted a resolution on Syria with 133 votes in favor, 11 against, and 43 abstentions.<sup>82</sup> While Brazil voted in favor, India and South Africa abstained from voting on the resolution.<sup>83</sup> The resolution called for Syria to immediately cease “all human rights violations, to protect their population[,] and to fully comply with their obligation under international human rights and humanitarian law.”<sup>84</sup>

Given the pressure from regional and international actors, Syria signed a peace deal presented by the LAS in which Syria agreed to an Arab observer mission for an initial period of one month.<sup>85</sup> The peace deal also served to initiate talks between the opposition and the government regarding the cessation of violence, release of political and opposition prisoners, and the withdrawal of Syrian troops from cities.<sup>86</sup> China and Russia welcomed the peace deal and applauded the LAS’s involvement in the Syrian peace process, rather than bringing the issue to the Security Council.<sup>87</sup>

However, Syrian opposition leaders criticized the agreement as a new time-wasting tactic by Assad’s regime and, instead, called for foreign military intervention.<sup>88</sup> They condemned the LAS’s monitors and regarded the mission as a farce, pointing to the continuation of violence against protesters in spite of the monitors’ presence.<sup>89</sup> “The United States reacted skeptically to Syria’s agreement to allow [the LAS] to monitor Syrian compliance with [the LAS] peace agreement designed to stop the violence in the country.”<sup>90</sup> Moreover, the appointment of Mustafa al-Dabi to lead the LAS observer mission raised doubts about the reliability of the mission because al-Dabi had served as a Sudanese military commander and intelligence officer and was accused of being involved in war crimes in Darfur.<sup>91</sup> Despite all these arguments, the LAS mission with sixty observers resumed its mission in Syria by late December 2011.<sup>92</sup> After establishing contacts with both

---

81 G.A. Res. 66/176, U.N. Doc. A/Res/66/176 (Feb. 23, 2012).

82 Press Release, Gen. Assembly, General Assembly Adopts More Than 60 Resolutions Recommended by Third Committee, Including Text Condemning Grave, Systematic Human Rights Violations in Syria, U.N. Press Release GA/11198 (Dec. 19, 2011).

83 U.N. GAOR, 66th Sess. 89th plen. mtg., U.N. Doc. A/66/PV.89, at 25–26 (Dec. 19, 2011).

84 G.A. Res. 66/176, *supra* note 81, ¶ 5.

85 Erika Solomon, *Syria to Let in Arab Monitors as Deaths Mount*, REUTERS (Dec. 19, 2011, 11:35 PM GMT), <http://www.reuters.com/article/2011/12/19/us-syria-arabs-idUSTRE7B1oH520111219>; *Syria Signs Arab League Deal to Allow in Monitors*, BBC (Dec. 19, 2011), <http://www.bbc.co.uk/news/world-middle-east-16246689>.

86 *See The Crisis in Syria*, *supra* note 2.

87 *See id.*

88 *See* Hamza Hendawi, *Syrian Opposition Criticizes Arab League Observer*, ASSOCIATED PRESS (Dec. 29, 2011, 12:00 AM MST), <http://www.deseretnews.com/article/700210927/Syrian-opposition-criticizes-Arab-League-observer.html>.

89 *Id.*

90 Arshad Mohammed, *U.S. Skeptical of Syrian Agreement on Monitors*, REUTERS (Dec. 19, 2011, 5:23 PM EST), <http://www.reuters.com/article/us-syria-usa-skepticism-idUSTRE7B1YI20111219>.

91 *Syria Wants General Overseeing Arab League Mission Out*, ASSOCIATED PRESS (Dec. 29, 2011, 3:56 PM), <http://usatoday30.usatoday.com/news/world/story/2011-12-29/syria-arab-league-monitors/52272616/>.

92 *Id.*

factions, al-Dabi stated that the situation in Homs was normal.<sup>93</sup> Although much criticism was levelled against al-Dabi's leadership, the mission remained in Syria. The mission's report, presented to the LAS on January 22, 2012, criticized the Syrian government for its failure to implement the agreement and recommended an extension of the mission.<sup>94</sup> However, Saudi Arabia opposed such an extension and decided to pull its monitors out of Syria.<sup>95</sup> Following Saudi Arabia, other countries also withdrew their observers from the delegation.<sup>96</sup>

By the end of January 2012, the LAS acknowledged its failure at peace efforts in Syria and stated that the Syrian regime had failed to cooperate with the LAS.<sup>97</sup> Given the continued violence in Syria, the LAS referred the situation to the UN and presented a peace plan that called on Assad to hand over power to his deputy.<sup>98</sup> Except for Lebanon, this plan was supported by other Arab countries.<sup>99</sup> Nevertheless, the countries supporting the plan failed to agree on whether it should be submitted to the Security Council.

Throughout all these attempts at negotiation, the violence in Syria continued, and, again, UN Member States made another attempt at the end of January 2012 to address the Syrian crisis. During a Security Council discussion on the LAS's peace plan, Morocco introduced a draft resolution under which the Security Council would fully support the LAS's proposal.<sup>100</sup> The draft resolution included the LAS's goal of forming a new, national unity government, which required that Assad step aside as part of a democratic transition process, grant full authority to his deputy, and hold free elections under Arab and international supervision.<sup>101</sup>

---

93 *Head of Syrian Monitors Reports Homs is Calm but Calls for Further Inquiry*, AL ARABIYA (Dec. 28, 2011), <http://english.alarabiya.net/articles/2011/12/28/184952.html>.

94 Muhammad Ahmad Mustafa Al-Dabi (Head of the League of Arab States Observer Mission to Syria), League of Arab States Observer Mission to Syria, Rep. of the Head of the League of Arab States Observer Mission to Syria for the Period from 24 December 2011 to 18 January 2012, 12-21687, at 9 (Jan. 27, 2012), <http://www.columbia.edu/~hauben/s2012-71ArabLeagueObserverMission.pdf>.

95 *Saudi Arabia Withdraws Its Monitors from Syria; Arab League Calls for Power Transfer*, AL ARABIA (Jan. 23, 2012, 9:47 PM GMT), <http://www.alarabiya.net/articles/2012/01/22/189842.html>.

96 Ayman Samir & Erika Solomon, *Arab League Suspends Syria Mission as Violence Rages*, REUTERS (Jan. 28, 2012), <http://www.reuters.com/article/2012/01/28/us-syria-idUSTRE8041A820120128>.

97 Peter Cave, *Saudi Arabia Says Arab League Observers Have Failed in Syria*, ABC News (Jan. 23, 2012, 8:15 AM), <http://www.abc.net.au/am/content/2012/s3413174.htm>.

98 Yasmine Saleh & Lin Noueihed, *Arab League Proposes New Plan for Syrian Transition*, REUTERS (Jan. 22, 2012, 6:16 PM EST), <http://www.reuters.com/article/2012/01/22/us-syria-idUSTRE8041A820120122>.

99 *Id.*

100 U.N. SCOR, 67th Sess., 6710th mtg., U.N. Doc. S/PV.6710, at 2 (Jan. 31, 2012); Neil MacFarquhar, *U.N. Tentatively Backs a Plan for Syria*, N.Y. TIMES (Feb. 2, 2012), [http://www.nytimes.com/2012/02/03/world/middleeast/diplomats-at-united-nations-work-on-revisions-to-syria-resolution.html?\\_r=0](http://www.nytimes.com/2012/02/03/world/middleeast/diplomats-at-united-nations-work-on-revisions-to-syria-resolution.html?_r=0).

101 See Press Release, Sec. Council, Security Council Fails to Adopt Draft Resolution on Syria as Russian Federation, China Veto Text Supporting Arab League's Proposed Peace Plan Security Council, U.N. Press Release SC/10536 (Feb. 4, 2012) [hereinafter Security Council Fails to Adopt Draft Resolution].

During the negotiations on the resolution, Russia and China “continued to oppose any action hinting at regime change, coercive measures, or other foreign interference in Syria, with the Russian representative warning that such an intervention could spark catastrophic civil war and destabilize the region.”<sup>102</sup> The Syrian representative stated that, instead of interfering in Syria, it was now more important than ever to encourage dialogue among Syrians.<sup>103</sup> Additionally, the Russian Federation’s representative made clear that Russia would not support a solution that might lead to regime change.<sup>104</sup> China also opposed the threat of force—especially forcible regime change—to resolve the Syrian conflict.<sup>105</sup> The representative of India pointed out that “[n]either repression nor outside intervention” could fulfill “the Syrian people’s aspirations to play a greater role in shaping their own destiny.”<sup>106</sup>

Clarifying its position, the Chairman of the LAS Ministerial Council stated that there was no hidden agenda against the Syrian regime and that the sole objective was to stop the massive killing and repression, which had been condemned around the world.<sup>107</sup> He further stated that the LAS was not calling for military intervention or regime change in Syria.<sup>108</sup> The representative of Syria stated that “he found it strange to see Arab leaders calling for action against his country, which had sacrificed much for Arab causes and joining [sic] with other States that wished to destroy Syria through the dissemination of false facts.”<sup>109</sup> He further stated that “Syrians, themselves, would resolve the historic challenges facing their homeland without outside intervention.”<sup>110</sup>

A vote on Security Council Resolution S/2012/77 was held on February 4, 2012, yet it could not be adopted because of Russian and Chinese vetoes.<sup>111</sup> In contrast to previous draft resolutions on Syria, however, there were no abstentions, and the remaining thirteen states voted for the draft resolution.<sup>112</sup> Explaining the veto, Russia stated that “the draft resolution sought to send an ‘unbalanced’ message to Syria” and that “some influential members of the international community had been undermining the possibility of a peaceful settlement by advocating regime change.”<sup>113</sup> China voiced concern that the approach outlined in the

---

<sup>102</sup> Press Release, Sec. Council, Security Council Members Diverge over Path Towards Implementation of Draft Resolution Backing Arab League Proposal on Resolving Crisis in Syria, U.N. Press Release SC/10534 (Jan. 31, 2012).

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> Security Council Fails to Adopt Draft Resolution, *supra* note 101.

<sup>112</sup> *See id.*

<sup>113</sup> *Id.*

resolution would complicate the situation in Syria.<sup>114</sup> Other Member States, in particular the United States, the United Kingdom, and France, expressed their deep disappointment and anger about the outcome of the draft resolution.<sup>115</sup>

Given the failure to adopt a resolution at the Security Council, on February 16, 2012, Saudi Arabia proposed a resolution at the UN General Assembly, condemning the Syrian situation and highlighting the importance of ending human rights violations.<sup>116</sup> The Member States adopted the resolution with 137 votes in favor, 12 against and 17 abstentions.<sup>117</sup> The resolution also expressed its support for the LAS peace plan and requested that UN Secretary-General Ban Ki-moon appoint a special representative to Syria.<sup>118</sup>

Considering successful mediation efforts in Kenya, Kofi Annan was appointed as the UN-LAS joint Special Envoy for Syria on February 23, 2012.<sup>119</sup> “The Special Envoy [was to] provide good offices aimed at bringing an end to all violence and human rights violations, and promoting a peaceful solution to the Syrian crisis.”<sup>120</sup> The Special Envoy was guided in this endeavor by the provisions of General Assembly Resolution A/RES/66/253 and the relevant LAS resolutions.<sup>121</sup> In rendering his duties as special envoy, Annan consulted Member States and “engage[d] with all relevant [parties] within and outside Syria in order to end the [mass atrocities] and the humanitarian crisis” in Syria.<sup>122</sup>

The Commission of Inquiry, established pursuant to Resolution S-17/1 on the situation in Syria, submitted its second report to the Human Rights Council on February 22, 2012.<sup>123</sup> The report concluded that the government of Syria had “manifestly failed in its responsibility to protect [its people].”<sup>124</sup> Since November 2011, Syria’s forces committed more “widespread, systematic, and gross human rights violations.”<sup>125</sup> The report further

---

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> G.A. Res. 66/253, U.N. Doc. A/Res/66/253 (Feb. 21, 2012); *Diplomatic Pressure Intensifies on Syria as UN General Assembly Set to Vote on New Resolution*, INT’L COALITION FOR RESP. TO PROTECT (Feb. 16, 2012, 3:41 PM), <http://icrtopblog.org/2012/02/16/diplomatic-pressure-intensifies-on-syria-as-un-general-assembly-set-to-vote-on-new-resolution/>.

<sup>117</sup> Press Release, Gen. Assembly, General Assembly Adopts Resolution Strongly Condemning ‘Widespread and Systematic’ Human Rights Violations by Syrian Authorities, UN Press Release GA/11207/Rev.1 (Feb. 16, 2012).

<sup>118</sup> G.A. Res. 66/253, *supra* note 116, ¶ 11; General Assembly Adopts Resolution Strongly Comdemning ‘Widespread and Systematic’ Human Rights Violations by Syrian Authorities, *supra* note 117.

<sup>119</sup> Press Release, Sec’y-Gen., Kofi Annan Appointed Joint Special Envoy of United Nations, League of Arab States on Syrian Crisis, U.N. Press Release SG/SM/14124 (Feb. 23, 2012).

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> Human Rights Council, Rep. of the Commission of Inquiry on the Syrian Arab Republic, UN Doc. A/HRC/19/69 (Feb. 22, 2012).

<sup>124</sup> *Id.* ¶ 126.

<sup>125</sup> *Id.* ¶ 2.

noted the abuses were committed by anti-government groups, “although not comparable in scale and organization to those carried out by the Syrian government.”<sup>126</sup>

During a session at the end of February, the Human Rights Council discussed the situation in Syria.<sup>127</sup> It later adopted Resolution 19/1 with thirty-seven in favor, three against, and three abstentions.<sup>128</sup> The Human Rights Council condemned the escalating widespread, systematic, and gross violations of human rights committed by the Syrian authorities, as well as ongoing attacks against civilian populations in cities and villages.<sup>129</sup> In his opening remarks, Nassir Abdulaziz Al-Nasser, President of the UN General Assembly, highlighted the dire image provided by the Commission of Inquiry of the situation on the ground in Syria.<sup>130</sup> Al-Nasser also stated that the Syrian government had “manifestly failed in its duty to protect its people.”<sup>131</sup> Navi Pillay called for “an immediate humanitarian ceasefire to end the fighting and bombardments and [requested that] the Syrian authorities . . . cooperate fully with international mechanisms, including Mr. Kofi Annan [as Special Envoy].”<sup>132</sup> She also requested that the Syrian government allow the Office of the High Commissioner for Human Rights to establish a field presence in Syria.<sup>133</sup> However, Syria condemned the meeting and said that “it was an effort to politicize the High-level Segment of the Human Rights Council.”<sup>134</sup> Syria argued that the Human Rights Council “was not an appropriate forum for such matters.”<sup>135</sup>

During this Human Rights Council session, some delegations, in particular China and Russia, expressed their concern about the appeals for regime change in Syria. “They rejected any attempt to undermine Syria’s sovereignty and territorial independence.”<sup>136</sup> While expressing its concern for the loss of lives in Syria, Cuba “rejected attempts to attribute responsibility for all of the violence to the Syrian regime.” They voiced concern “at the appeals for regime change in Syria and [questioned] those who advocated the use of force and violence to resolve the conflict.” Cuba also “rejected any attempt to undermine Syria’s sovereignty and territorial independence, and it demanded full respect for the

---

126 *Id.* ¶ 126.

127 Press Release, Human Rights Counsel, Human Rights Council Holds Urgent Debate on Human Rights and Humanitarian Situation in Syria (Feb. 28, 2012), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11881&LangID=E> [<https://web.archive.org/web/20150110230312/http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11881&LangID=E>].

128 Human Rights Council Res. 19/1, UN Doc. A/HRC/RES/19/1, at 7 (Apr. 10, 2012).

129 *Id.*

130 See Human Rights Council Holds Urgent Debate on Human Rights and Humanitarian Situation in Syria, *supra note* 127.

131 *Id.*

132 *Id.*

133 *Id.*

134 *Id.*

135 *Id.*

136 *Id.*

principles of self-determination and sovereignty.”<sup>137</sup> China stressed the need for “[a]n inclusive political dialogue” and stated that it could “not approve an armed intervention or the imposition of so-called regime change in Syria.”<sup>138</sup> Russia stated “that the politicization of the situation in Syria would not facilitate the resolution of the crisis.”<sup>139</sup> Venezuela expressed similar concerns and stated that “it was unacceptable to justify foreign military aggression under the need to protect civilians.”<sup>140</sup> The concerns of these delegations demonstrated a strong opposition to any intervention or taking any preventive efforts to stop atrocities in Syria. They mainly suspected that such efforts would allow external intervention in Syria, which possibly would create another Libyan scenario, including regime change.

Other delegations stressed the Syrian government’s responsibility to protect its population and demanded that Assad step aside to allow for a peaceful political transition. For example, Norway emphasized Syria’s primary responsibility to protect its population and reiterated the request that Assad step aside in order to accommodate a political transition.<sup>141</sup> Most importantly, Norway stated that all Member States had to assume their responsibility to protect the population of Syria.<sup>142</sup> The United States stated that Assad must go.<sup>143</sup>

Given the continued escalation of violence in Syria, the President of the Security Council issued a statement on March 21, 2012, deploring the deteriorating humanitarian situation in Syria and requesting Damascus to grant access to the Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator.<sup>144</sup> In light of this statement from the President of the Security Council, UN Secretary-General Ban Ki-moon expressed hope that this development would mark a turning point in the international community’s response to the Syrian crisis.<sup>145</sup>

On April 5, 2012, the Security Council adopted another presidential statement urging the government of Syria to adhere to its commitment to cease violence.<sup>146</sup> On April 14, 2012, the Security Council unanimously adopted Resolution 2042, which emphasized the primary responsibility of the government of Syria to protect its population and

---

137 *Id.*

138 *Id.*

139 *Id.*

140 *Id.*

141 *Id.*

142 *Id.*

143 *Id.*

144 See President of the Security Council, Statement by the President of the Security Council, U.N. Doc. S/PRST/2012/6\* (Mar. 21, 2012).

145 U.N. Secretary-General, Statement Attributable to the Spokesperson for the Secretary-General on Syria (Mar. 21, 2012), <http://www.un.org/sg/statements/index.asp?nid=5934>.

146 Press Release, Sec. Council, Security Council Presidential Statement on Syria Signals Intention to Authorize Mechanism to Monitor End of Violence, or ‘Consider Further Steps,’ U.N. Press Release SC/10601 (Apr. 5, 2012).

authorized the deployment “of up to 30 unarmed military observers [to Syria] to liaise with the parties and to begin to report on the implementation of a full cessation of armed violence in all its forms by all parties, pending the deployment of the mission.”<sup>147</sup> The resolution also requested proposals for a UN supervision mechanism in Syria “to monitor a cessation of armed violence in all its forms by all parties.”<sup>148</sup> Although the Russian delegation stated that “[t]he text had become much more balanced through extensive negotiation . . . [the] Syrian representative said the text was still unbalanced as it did not place enough . . . [burden on] opposition groups.”<sup>149</sup> However, the Syrian “[g]overnment supported Mr. Annan’s mission and [any] measures that would restore the country’s stability.”<sup>150</sup> For his part, Annan pledged support for monitoring the ceasefire, while warning that the monitors must respect Syria’s sovereignty.<sup>151</sup>

On April 21, 2012, the Security Council unanimously adopted Resolution 2043 and established the 300 person UN Supervision Mission in Syria (UNSMIS) to monitor the cessation of violence and implementation of the Special Envoy’s plan.<sup>152</sup> Importantly, the Russian delegation indicated that the Syrian regime would cooperate with observers.<sup>153</sup> However, Russia deplored any deviation from the mandate and stated that “the Libyan model should always remain in the past.”<sup>154</sup>

On June 1, 2012, upon the request by the Permanent Representatives of Denmark, Kuwait, Qatar, Saudi Arabia, Turkey, the EU, and the United States, the Human Rights Council convened a special session on the deteriorating human rights situation in Syria and recent killings in El-Houleh.<sup>155</sup> During the general debate, most Member States condemned the killings in El-Houleh, with many delegations describing the atrocities as crimes against humanity.<sup>156</sup> The Member States demanded that the Syrian Government cooperate with

---

147 S.C. Res. 2042, U.N. Doc. S/RES/2042, ¶ 7 (Apr. 14, 2012).

148 *Id.* at ¶ 5.

149 Press Release, Sec. Council, Security Council Unanimously Adopts Resolution 2042 (2012), Authorizing Advance Team to Monitor Ceasefire in Syria, U.N. Press Release SC/10609 (Apr. 14, 2012).

150 *Id.*

151 *Id.*

152 See S.C. Res. 2043, ¶¶ 5–6 (Apr. 21, 2012); see also Press Release, Sec. Council, Security Council Establishes UN Supervision Mission in Syria, with 300 Observers to Monitor Cessation of Violence, Implementation of Special Envoy’s Plan, U.N. Press Release SC/10618 (Apr. 21, 2012) [hereinafter Security Council Establishes UN Supervision Mission in Syria].

153 Security Council Establishes UN Supervision Mission in Syria, *supra* note 152.

154 *Id.*

155 Cf. Letter dated 30 May 2012 from the Permanent Representatives of Denmark, Kuwait, Qatar, Saudi Arabia and Turkey, the Ambassador of the European Union to the United Nations Office at Geneva and the Ambassador of the United States of America to the Human Rights Council addressed to the President of the Human Rights Council, U.N. Doc. A/HRC/S-19/1 (June 1, 2012) (letter requesting the convening of the Human Rights Council’s special session that took place on June 1, 2012).

156 See Press Release, Human Rights Council, Human Rights Council Requests Commission of Inquiry to Conduct a Special Inquiry in the Events in El Houleh (June 1, 2012),

Special Envoy Annan and the Human Rights Council's Commission of Inquiry, while several delegations stressed that the Security Council must immediately refer the situation in Syria to the International Criminal Court (ICC).<sup>157</sup> However, some Member States stated that the events in El-Houleh must not be used as a pretext for foreign intervention, a condition that would hold serious consequences for world peace.<sup>158</sup> China called on the government of Syria to implement the plan of the Special Envoy and Security Council resolutions.<sup>159</sup> China, however, decisively opposed any form of international intervention and regime change.<sup>160</sup>

On June 7, 2012, Annan briefed the Security Council on the deteriorating situation in Syria, and, on June 15, 2012, UNSMIS suspended its activities.<sup>161</sup> Following Annan's briefing to the Security Council, Russia suggested a conference to establish a contact group on Syria.<sup>162</sup> On July 19, 2012, a draft resolution under Chapter VII of the UN Charter was introduced to the Security Council, cosponsored by France, Germany, Portugal, the United Kingdom, and the United States.<sup>163</sup> The resolution stressed the Syrian government's primary responsibility to protect its population and prevent atrocities.<sup>164</sup> It also authorized the Security Council to act under Chapter VII of the UN Charter to demand verifiable compliance within ten days of the resolution's adoption.<sup>165</sup> The resolution was once again vetoed by Russia and China, while Pakistan and South Africa abstained.<sup>166</sup> Russia reiterated its position that it would not accept any resolution containing a threat of sanctions.<sup>167</sup>

Given the continued failure of the Security Council to address the situation in Syria, the General Assembly adopted a resolution on August 3, 2012 deploring the Security Council's failure to act on Syria and calling for a peaceful political transition.<sup>168</sup> On August

---

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12215&LangID=E>  
 [https://web.archive.org/web/20150929093530/http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12215&LangID=E].

157 *See id.* (noting that France and New Zealand both called for the situation to be referred to the ICC).

158 *See id.* (noting that both the Democratic People's Republic of Korea and Cuba condemned the draft resolution as using human rights as a pretext to justify aggression).

159 *Id.*

160 *Id.*

161 Press Release, Kofi Annan Found., Remarks to the UN General Assembly by Joint Special Envoy for Syria Kofi Annan (June 7, 2012), <http://kofiannanfoundation.org/newsroom/press/2012/06/remarks-to-general-assembly-joint-special-envoy-syria-kofi-annan>

[https://web.archive.org/web/20120610012650/http://kofiannanfoundation.org/newsroom/press/2012/06/remarks-to-general-assembly-joint-special-envoy-syria-kofi-annan].

162 Going Global East Meets West, Blog (June 25, 2012),

<http://goingglobaleastmeetswest.blogspot.com/2012/06/tuesday-june-26th-syria-and-un-security.html/>.

163 S.C. Res. 538, U.N. Doc. S/2012/538 (July 19, 2012).

164 *Id.* at Annex ¶ 2.

165 *Id.* ¶ 15.

166 Press Release, Sec. Council, Security Council Fails to Adopt Draft Resolution on Syria That Would Have Threatened Sanctions, Due to Negative Votes of China, Russian Federation, U.N. Press Release SC/10714 (July 19, 2012).

167 *Id.*

168 G.A. Res. 66/253B, U.N. Doc. A/RES/66/253 B (Aug. 7, 2012).

2, 2012, Kofi Annan resigned as UN-Arab League mediator in Syria.<sup>169</sup> Annan pointed to the Syrian government's refusal to cooperate in reaching a peaceful resolution to the conflict, the escalating military campaign of the Syrian opposition, and the lack of unity in the Security Council as causes for the continued crisis in Syria.<sup>170</sup> On August 17, 2012, Lakhdar Brahimi was appointed as the Special Representative for Syria.<sup>171</sup> Brahimi proposed an Eid al-Adha ceasefire, a proposal not implemented because of the escalation of violence in Syria.<sup>172</sup>

During its next session, the Human Rights Council adopted Resolution 24/22 on the continuing grave deterioration of the human rights and humanitarian situation in Syria with forty in favor, one against, and six abstentions.<sup>173</sup> The resolution condemned the use of chemical weapons and the "gross, systematic and widespread violations of human rights" by the Syrian authorities.<sup>174</sup> The resolution, in less specific language, deplored "any human rights abuses and violations of international humanitarian law by armed opposition groups."<sup>175</sup>

Since the beginning of unrest in Syria, various UN bodies have continued to hold meetings and have informally considered many draft resolutions. As can be clearly seen, at least one Member State has voted against most of the resolutions. The key objection mainly emphasized non-intervention in internal affairs and the refusal to permit the use of force to achieve regime change. Both Russia and China have significant economic and military relations with Syria. As permanent members of the Security Council, each has vetoed three resolutions designed to isolate the Assad regime. Russia says it remains committed to finding a peaceful solution, but continues to provide the Assad regime with military support. Due to the substantial differences of opinion amongst the Member States, the Security Council could not take any significant preventive action on the Syrian crisis.

On September 19, 2013, in light of the newly proven charges of possession and use of chemical weapons by the Syrian regime, Russia and the United States transmitted to the Security Council their framework for the elimination of Syrian chemical weapons, agreed

---

<sup>169</sup> Kofi Annan, Joint Special Envoy for Syria, Opening Remarks (Aug. 2, 2012), UN NEWS CTR. (Aug. 2, 2012), <http://www.un.org/apps/news/infocus/Syria/press.asp?SID=41>.

<sup>170</sup> *See id.*

<sup>171</sup> Press Release, Sec'y Gen., Secretary-General Announces Appointment of Lakhdar Brahimi as Joint Arab League-United Nations Special Representative for Syria, U.N. Press Release SG/SM/14471 (Aug. 17, 2012).

<sup>172</sup> *See* Karin Laub & Ben Hubbard, *Syria Agrees To Ceasefire During Eid Al-Adha Holiday, Peace Envoy Lakhdar Brahimi Says*, HUFFINGTON POST (Oct. 24, 2012, 5:33 AM EST), [http://www.huffingtonpost.com/2012/10/24/syria-ceasefire-eid\\_n\\_2008028.html](http://www.huffingtonpost.com/2012/10/24/syria-ceasefire-eid_n_2008028.html) [[https://web.archive.org/web/20150811224045/http://www.huffingtonpost.com/2012/10/24/syria-ceasefire-eid\\_n\\_2008028.html](https://web.archive.org/web/20150811224045/http://www.huffingtonpost.com/2012/10/24/syria-ceasefire-eid_n_2008028.html)].

<sup>173</sup> Human Rights Council Res. 24/22, U.N. Doc. A/HRC/RES/24/22, at 2 (Oct. 8, 2013).

<sup>174</sup> *Id.* ¶ 3.

<sup>175</sup> *Id.*

upon in Geneva on September 14, 2013.<sup>176</sup> On September 24, 2013, “Russian Foreign Minister Sergei Lavrov and the United States Secretary of State John Kerry met on the sidelines of the General Assembly to discuss a draft resolution on the destruction of the Syrian chemical weapons.”<sup>177</sup> On September 27, 2013, the Member States of the Security Council unanimously adopted Resolution 2118, demanding verification and destruction of the chemical weapons stockpiles in Syria.<sup>178</sup> The resolution stated that the use of chemical weapons anywhere “constitute[d] a threat to international peace and security.”<sup>179</sup> The resolution also called for the full implementation of the September 27, 2013 decision of the Organization for the Prohibition of Chemical Weapons (OPCW), which “contain[ed] special procedures for the expeditious and verifiable destruction of [Syria’s] chemical weapons program.”<sup>180</sup> Specifically, the resolution prohibited Syria from “us[ing], develop[ing], produc[ing], otherwise acquir[ing], stockpil[ing], or retain[ing] chemical weapons, or transfer[ring them] . . . to other States or non-State actors,”<sup>181</sup> and also underscored “that no party in Syria should use, develop, produce, acquire, stockpile, retain, or transfer such weapons.”<sup>182</sup> The resolution further called for the expeditious destruction of Syria’s chemical weapons program,<sup>183</sup> with inspections to begin by October 1, 2013.<sup>184</sup> The resolution also called for convening peace talks and endorsed “the establishment of a transitional governing body [in Syria] exercising full executive powers.”<sup>185</sup>

Resolution 2118 opened a path for a peaceful solution to the Syrian crisis under the patronage of the Security Council. It averted the threat of unilateral military strikes by the United States and the United Kingdom. The resolution referred to the option of imposing measures under Chapter VII of the UN Charter in the event Syria failed to implement the chemical weapons destruction plan.<sup>186</sup> However, this reference did not per se authorize the use of force. Therefore, any military action by the United States and its allies without the Security Council’s authorization would certainly not have been approved by the Security Council. Resolution 2118 did not provide for an automatic authorization to use force in the event that the disarmament process failed or the conflict in Syria escalated. A possible

---

<sup>176</sup> Letter dated 19 September 2013 from the Permanent Representatives of the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General, U.N. Doc. A/68/398-S/2013/565, at 1 (Sept. 24, 2013).

<sup>177</sup> *Chronology of Events: Syria*, *supra* note 77.

<sup>178</sup> See S.C. Res. 2118, at 2 (Sept. 27, 2013).

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* ¶ 3.

<sup>181</sup> *Id.* ¶ 4.

<sup>182</sup> *Id.* ¶ 5.

<sup>183</sup> *Id.* ¶ 3.

<sup>184</sup> *Id.* at Annex I.

<sup>185</sup> *Id.* ¶ 16.

<sup>186</sup> *Id.* ¶ 21.

intervention would require yet another compromise within the Security Council. Therefore, Resolution 2118 shifted the debate on the use of force against Syria to collective security action, which is in line with the R2P principle. However, Resolution 2118 does not mention the international community's responsibility to protect the Syrian population from mass atrocities but refers solely to the threat to international peace and security posed by Syria's possession and use of chemical weapons. Thus, the question of the international community's responsibility to respond to other atrocities in Syria—which do not emerge from chemical weapons—remains unanswered.

Although Resolution 2118 formed part of the diplomatic solution to the chemical weapons problem, as Professor Carsten Stahn points out, the resolution paid little attention to the accountability dimensions of the alleged use of chemical weapons.<sup>187</sup> The resolution addressed the use of chemical weapons primarily through disarmament obligations and enforcement measures under Chapter VII of the UN Charter.<sup>188</sup> The resolution did not include any concrete options for the exercise of criminal jurisdiction, which prevents any referral to the ICC.

Secretary-General Ban Ki-Moon hailed the resolution's passage as "the first hopeful news on Syria in a long time."<sup>189</sup> However, he noted that "even amid that important step, 'we must never forget that the catalogue of horrors in Syria continues with bombs and tanks, grenades and guns.' He said the plan to eliminate Syria's chemical weapons was 'not a license to kill with conventional weapons.'"<sup>190</sup> Ki-Moon also stressed that the perpetrators of the chemical attacks in Syria must be brought to justice and stated that a UN mission had returned to Syria to complete its fact-finding investigations.<sup>191</sup>

In the debate that followed Resolution 2118, Member States of the Security Council "praised the text for placing binding obligations on . . . al-Assad's regime, [by] requiring [the regime] to get rid of its 'tools of terror.'"<sup>192</sup> US Secretary of State Kerry said that the Assad regime "bore the burden of meeting the terms of the resolution."<sup>193</sup>

At the same time, Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation, emphasized that the responsibility for implementing the resolution did not lay with Syria alone. The text had not been passed under the [UN] Charter's Chapter VII, nor did it allow for coercive measures. It contained requirements for all countries, especially Syria's neighbours, which must report on moves by non-State actors to secure chemical weapons. .

---

<sup>187</sup> See Carsten Stahn, *Syria and the Semantics of Intervention, Aggression and Punishment*, 11 J. INT'L CRIM. JUST. 955, 957, 958–959 (2013).

<sup>188</sup> S.C. Res. 2118, *supra* note 178, ¶ 21.

<sup>189</sup> Press Release, Sec. Council, Security Council Requires Scheduled Destruction of Syria's Chemical Weapons, Unanimously Adopting Resolution 2118 (2013), UN Press Release SC/11135 (Sept. 27, 2013).

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

. . . Violations of its requirements and use of chemical weapons by anyone must be carefully investigated. . . . Violations must be 100 per cent proven.<sup>194</sup>

In October 2013, the Member States authorized the establishment of an OPCW-UN joint mission to support, monitor, and verify the destruction of the Syrian chemical weapons program by June 30, 2014.<sup>195</sup> The OPCW-UN joint mission initiated preliminary inspections of Syria's chemical weapons arsenal on October 1, 2013.<sup>196</sup> Under OPCW supervision, Syrian military personnel began destroying munitions. The destruction of the Syrian chemical production facilities was to be completed by October 31, 2013.<sup>197</sup>

However, the destruction of chemical weapons themselves could not be completed by December 31, 2013, as planned.<sup>198</sup> Yet, as international efforts continued to eliminate Syria's chemical weapons program, a first consignment of priority chemical materials was removed from Syria on January 7, 2014.<sup>199</sup> The chemicals were transported from two sites to the Syrian port of Latakia and were loaded onto a Danish cargo ship.<sup>200</sup> After loading the chemical weapons, the ship left for international waters and remained at sea, awaiting the arrival of further chemical materials at the Latakia port.<sup>201</sup> Sigrid Kaag, the head of the UN team charged with destroying Syria's chemical weapons, briefed the Security Council on the "progress as well as logistical and security challenges, confirming that the first quantity of chemical materials was loaded onto a Danish ship" on January 7, 2014 and would be destroyed outside Syria.<sup>202</sup> She highlighted this development as a first important step in an expected process of continued destruction of Syria's chemical weapons.<sup>203</sup>

Nevertheless, by end of January 2014, only about four percent of the chemical weapons declared by the Syrian government had been removed from Syria.<sup>204</sup> Under the

---

<sup>194</sup> *Id.*

<sup>195</sup> *About OPCW-UN Joint Mission: Mandates and Timelines*, ORG. FOR PROHIBITION CHEMICAL WEAPONS-UNITED NATIONS JOINT MISSION FOR ELIMINATION CHEMICAL WEAPON PROGRAMME SYRIAN ARAB REPUBLIC, <http://opcw.unmissions.org/AboutOPCWUNJointMission/MandateandTimelines.aspx> (last visited Apr. 3, 2016).

<sup>196</sup> *Id.*

<sup>197</sup> *About OPCW-UN Joint Mission: Chronology of Events*, 2, ORG. FOR PROHIBITION CHEMICAL WEAPONS-UNITED NATIONS JOINT MISSION FOR ELIMINATION CHEMICAL WEAPON PROGRAMME SYRIAN ARAB REPUBLIC, <http://opcw.unmissions.org/AboutOPCWUNJointMission/ChronologyofEvents/tabid/57/currentpage/2/Default.aspx> (last visited Apr. 3, 2016).

<sup>198</sup> *Syria Chemical Weapons: First Consignment Leaves Latakia*, BBC (Jan. 7, 2014), <http://www.bbc.co.uk/news/world-middle-east-25642463>.

<sup>199</sup> *About OPCW-UN Joint Mission: Chronology of Events*, 1, ORG. FOR PROHIBITION CHEMICAL WEAPONS-UNITED NATIONS JOINT MISSION FOR ELIMINATION CHEMICAL WEAPON PROGRAMME SYRIAN ARAB REPUBLIC, <http://opcw.unmissions.org/AboutOPCWUNJointMission/ChronologyofEvents.aspx> (last visited Apr. 3, 2016).

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> Margaret Besheer, *UN: Destruction of Syria's Chemical Weapons Moving Ahead*, VOICE AM. (Jan. 8, 2014, 5:03 PM), <http://www.voanews.com/content/un-official-says-destruction-of-syrias-chemical-weapons-moving-ahead/1826183.html>.

<sup>203</sup> *Id.*

<sup>204</sup> *Syria Chemical Weapons: Kerry Asks Russia to Hasten Removal*, BBC (Feb. 1, 2014), <http://www.bbc.co.uk/news/world-middle-east-25996135>.

UN-backed chemical weapons destruction plan, the Syrian authorities were responsible for packing and safely transporting them to Latakia. Syria's chemical weapons were to be completely removed and destroyed by June 30, 2014.<sup>205</sup> However, Syria had missed several deadlines to remove the chemical weapons, and claimed it would miss the June 30, 2014 deadline to destroy its chemical arsenal, possibly by several months.<sup>206</sup>

Despite efforts by the international community, violence continued across Syria. Bombing by helicopter gunships was reported in the town of Kafr Zeita in the central Hama province on February 2014.<sup>207</sup> "Shelling was also reported in the eastern Ghouta on the outskirts of Damascus, in the town of Mleiha."<sup>208</sup> By the end of 2014, hundreds of thousands of Syrian civilians had fled rebel-held parts of the city of Aleppo under heavy aerial bombardment by the Syrian government, which created one of the largest refugee flows of the entire civil war.<sup>209</sup> Even today, unrest in Syria continues. Thousands of civilians are fleeing from Syria. Some battle for their lives in the middle of seas while some die before reaching their destinations. The Syrian refugee crisis has been widely discussed in recent months and many countries have agreed and accepted many refugees. Nevertheless, questions remain as to whether merely accepting refugees into other nations could help stop the violence in Syria.

### B. *Responsibility to React*

Part of the motivation behind the R2P principle was to shift the legal debate from a right of humanitarian intervention to the international community's collective responsibility to protect civilians when a state has manifestly failed to protect its population. It is clear that Assad's regime had failed in this responsibility to prevent and, in fact, refuses to protect the civilian population in Syria. Preventive diplomatic measures taken by the international community in Syria have not produced results. Russia and China have repeatedly argued that the Syrian crisis was an internal matter and that the civil war could be resolved only if the Assad regime is part of the negotiations. Both Russia and China

---

<sup>205</sup> Anthony Deutsch, *Syria Has Relinquished About a Third of Its Chemical Weapons: OPCW*, REUTERS (Mar. 4, 2014, 8:22 AM EST),

<http://www.reuters.com/article/2014/03/04/us-syria-crisis-chemical-idUSBREA230W120140304>.

<sup>206</sup> *Syria May Miss Chemical Destruction Deadline*, NEWS24.COM (Feb. 20, 2014, 9:27 PM),

<http://www.news24.com/World/News/Syria-may-miss-chemical-destruction-deadline-20140220>.

<sup>207</sup> *Syria Army Captures Village in Hama Province*, AL JAZEERA (Feb. 18, 2014),

<http://www.aljazeera.com/news/middleeast/2014/02/syria-army-captures-village-hama-province-201421843521885341.html>.

<sup>208</sup> *Amateur Video Said to Show Syrian Army Tank Attacked*, TELEGRAPH (Feb. 17, 2014, 10:47 PM GMT),

<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10645233/Amateur-video-said-to-show-Syrian-Army-tank-attacked.html>.

<sup>209</sup> Ben Hubbard, *Bombings in Syria Force Wave of Civilians to Flee*, N.Y. TIMES (Feb. 17, 2014),

<http://www.nytimes.com/2014/02/18/world/middleeast/bombings-in-syria-force-wave-of-civilians-to-flee.html?ref=syria>.

rejected any military solutions for the Syrian crisis. The United States, United Kingdom, and France have constantly considered Assad to be the principal cause for the atrocities in Syria, and these countries believe any political resolution, with or without coercive measures, should eventually lead to regime change.

Soon after the Syrian uprising in 2011, China's policy on Syria was outlined by a Chinese foreign ministry spokesperson, stating that the future of Syria should be independently decided by the Syrian people themselves, free from external interference.<sup>210</sup> Chinese policy towards the Syrian crisis remained consistent since early 2012.<sup>211</sup> Throughout the Syrian crisis, China has not been amenable to any type of foreign intervention in Syria.<sup>212</sup> China firmly called for a peaceful solution to the crisis through political dialogue and has constantly exercised its veto against UN resolutions on Syria. China requested the international community to respect the independence, sovereignty, and territorial integrity of Syria.<sup>213</sup> China insists that, even to implement non-military measures, the principles of the UN Charter and the basic norms of international relations should be strictly observed.<sup>214</sup> The Chinese perspective on intervening in internal affairs of other states has been reiterated during the Syrian crisis, which in turn undermined the effective implementation of responsibility to react as part of protecting civilian population in Syria from mass atrocities.<sup>215</sup>

From the beginning of the Syrian crisis, Russia has appeared reluctant to directly criticize the Syrian regime and, in fact, has opposed the application of international sanctions through the Security Council. As Syria's traditional partner, Russia has actively extended political and weapons support to the Assad regime.<sup>216</sup> During the crisis, Russia has maintained regular, direct contact with the Assad regime. Throughout the Syrian crisis, Russia has maintained the desire to avoid a repeat of the Libyan situation, where it believed the UN mandate was used for regime change. Russia Foreign Minister Sergei Lavrov stated that "[i]t is not in the interests of anyone to send messages to the opposition in Syria or elsewhere that if you reject all reasonable offers we will come and help you as we did in

---

<sup>210</sup> Press Release, Chinese Ministry of Foreign Affairs, Foreign Ministry Spokesperson Jiang Yu's Regular Press Conference (May 24, 2011), <http://ch.china-embassy.org/ger/fyrth/t825290.htm>.

<sup>211</sup> Press Release, Chinese Ministry of Foreign Affairs, A Leading Official of the Foreign Ministry Makes Remarks to Further Elaborate on China's Position on the Political Resolution of the Syrian Issue (Mar. 5, 2012), <http://www.chinaembassy.bg/eng/dtxw/t910765.htm>.

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> Jim Craven, *A Chinese Position on the Syria Issue: The UN Charter and the "Responsibility to Protect" (R2P)*, 4THMEDIA.ORG (July 21, 2012), <http://www.4thmedia.org/2012/07/a-chinese-position-on-syria-issue-the-un-charter-and-the-responsibility-to-protect-r2p/>.

<sup>215</sup> *Id.*

<sup>216</sup> Marek Menkiszak, *Responsibility to Protect . . . Itself?: Russia's Strategy Towards the Crisis in Syria* 2-35 (The Finnish Inst. of Int'l Affairs, Briefing Paper No. 131) (May 28, 2013), <http://www.fiia.fi/assets/publications/bp131.pdf>.

Libya. It's a very dangerous position."<sup>217</sup> Russia continuously maintained that the situation in Syria must be resolved by the Syrians themselves without outside interference. Russia categorically opposed any unilateral sanctions or use of force against Syria, stating that any such action against the Assad regime would reduce the opportunities for solving the Syrian crisis.<sup>218</sup>

While China and Russia were against any sanctions or intervention against the Syrian regime, the United Kingdom, the United States, and their allies favored the use of force in Syria. The United States, the United Kingdom and France threatened Syria with the use of unilateral force only after the Syrian chemical weapons attack in August 2013. Although the United States and the United Kingdom threatened Syria with possible unilateral force, neither country justified their intervention claims in Syria on R2P. Both countries justified their push for use of unilateral military force against Syria on the basis of the use of chemical weapons by Syria. Thus, the threat to use unilateral military force was mainly about enforcing the prohibition on use of chemical weapons rather than fulfilling R2P.

The United Kingdom has threatened the Assad regime with the use of unilateral force in order to halt the use and production of chemical weapons, and to protect civilian population. They justified their decision on the ground of humanitarian intervention without referring to R2P.<sup>219</sup> The legal position on military action by the United Kingdom against Syria is set out in a government note dated August 29, 2013: under the doctrine of humanitarian intervention it would be lawful for the United Kingdom to use force against another state without a Security Council resolution authorizing the use of force, if the Security Council cannot agree to authorize the use force, and if other conditions are met.<sup>220</sup> The document goes on to list three conditions that would have to be met:

- (i) there is convincing evidence, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief;
- (ii) it must be objectively clear that there is no practicable alternative to the use of force if lives are to be saved;
- (iii) the proposed use of force must be necessary and proportionate to the aim of relief of humanitarian need and must be strictly limited in time and scope to this aim.<sup>221</sup>

---

<sup>217</sup> Henry Meyer, Brad Cook & Ilya Arhipov, *Russia Warns U.S., EU Not to Aid Syria Protests After Libya*, BLOOMBERG, (June 3, 2011, 11:44 AM EDT), <http://www.bloomberg.com/news/2011-06-01/russia-warns-u-s-nato-against-military-aid-to-syria-protests-after-libya.html>.

<sup>218</sup> *See id.*

<sup>219</sup> Prime Minister's Office, *Chemical Weapon Use by Syrian Regime: UK Government Legal Position*, Gov.UK (Aug. 29, 2013), <https://www.gov.uk/government/publications/chemical-weapon-use-by-syrian-regime-uk-government-legal-position/chemical-weapon-use-by-syrian-regime-uk-government-legal-position-html-version>.

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

On January 14, 2014, the British Foreign and Commonwealth Office submitted an official response to questions posed by the House of Commons Foreign Affairs Committee on the legality of humanitarian intervention without Security Council authorization.<sup>222</sup> This document reconciled the British legal position with R2P as reflected in the 2005 World Summit Outcome Document.<sup>223</sup> As Goodman noted, the document highlighted three related positions:

1. R2P and the 2005 World Outcome Document involve political commitments aimed at the Security Council taking action;
2. R2P as set out in the 2005 World Summit Outcome Document does not address the question of unilateral State action in the face of an overwhelming humanitarian catastrophe; and
3. Unilateral humanitarian intervention is a lawful option when the Security Council fails to take action to stop an overwhelming humanitarian catastrophe.<sup>224</sup>

When the Security Council failed to authorize the use of force, the United Kingdom tried to argue that R2P and forceful humanitarian intervention complement each other.<sup>225</sup> In such situations, the United Kingdom's position is that international law permits states to use force. Harold Koh agrees with former British Legal Advisor Sir Daniel Bethlehem, who stated that “[i]n the case of the law on humanitarian intervention, an analysis that simply relies on the prohibition of the threat or use of force in Article 2(4) of the U.N. Charter, and its related principles on non-intervention and sovereignty, is . . . overly simplistic.”<sup>226</sup> According to Koh, international law has not progressed since Kosovo.<sup>227</sup> Koh criticizes the Russian and Chinese vetoes “as an absolute bar to lawful action.”<sup>228</sup> Koh justifies humanitarian intervention in Syria even without Security Council authorization because of the “catastrophic humanitarian situation” in the country.<sup>229</sup> For Koh, the “per se illegal” rule, or the illegality of humanitarian intervention without Security Council authorization, “is plainly overbroad.”<sup>230</sup> Koh does not agree with humanitarian intervention

---

222 Hugh Robertson, *Further Supplementary Written Evidence from the Rt. Hon. Robertson MP, Minister of State, Foreign and Commonwealth Office: Humanitarian Intervention and the Responsibility to Protect*, JUSTSECURITY.ORG (Jan. 14, 2014), <http://justsecurity.org/wp-content/uploads/2014/01/Letter-from-UK-Foreign-Commonwealth-Office-to-the-House-of-Commons-Foreign-Affairs-Committee-on-Humanitarian-Intervention-and-the-Responsibility-to-Protect.pdf>.

223 *Id.*; Ryan Goodman, *UK Government Issues Major Statement on Legality of Humanitarian Intervention*, JUSTSECURITY.ORG (Jan. 30, 2014, 8:44 PM), <https://www.justsecurity.org/6583/uk-government-issues-major-statement-legality-humanitarian-intervention/>.

224 *Id.*

225 Prime Minister's Office, *supra* note 219.

226 Harold Hongju Koh, *Syria and the Law of Humanitarian Intervention (Part II: International Law and the Way Forward)*, JUSTSECURITY.ORG (Oct. 2, 2013, 9:00 AM), <https://www.justsecurity.org/1506/koh-syria-part2/>.

227 *Id.*

228 *Id.*

229 *Id.*

230 *Id.*

as being treated as illegal under international law, except for self-defense. For Koh, “a nation could lawfully use or threaten [the use of] force for genuinely humanitarian purposes, even absent [Security Council authorization].”<sup>231</sup>

However, although articles 2(4) and 24(1) of the UN Charter give the Security Council a responsibility to act in cases where acts are a threat to international peace and security, it does not make that an exclusive responsibility of the Security Council. Under this view, the UN Charter does not answer the question whether a group of states with genuine humanitarian motives can act collectively with military force to protect civilian populations in cases where the Security Council fails to take an effective action in protecting civilian populations from mass atrocities. The United States, United Kingdom, and France kept open the option of the use of force for humanitarian purposes without the Security Council approval. After the Syrian chemical weapons attack in August 2013, these countries took a similar approach towards the Syrian crisis as well. Thus, in the face of the use of chemical weapons by Syria and the Security Council’s failure to take action to protect the civilian population in Syria, the United States, United Kingdom, and France openly declared their readiness to take military action against the Assad regime, even without a Security Council resolution.<sup>232</sup>

The United States did not use humanitarian intervention or R2P as its justification for intended military action against Syria. Instead, the United States cited the Syrian government’s use of chemical weapons as a justification for its use of force.<sup>233</sup> The legal position of the United States on the use of force without Security Council approval was seen in President Obama’s speech at the UN General Assembly in September 2013.<sup>234</sup>

Obama administration officials have said they would take action against the Syrian government, even without the backing of other countries or the UN, because diplomatic paralysis must not prevent a response to the alleged chemical weapons attack outside the Syrian capital.<sup>235</sup> Before the chemical weapons destruction plan, the United States justified the use of force as a response to the Syrian government’s use of chemical weapons.<sup>236</sup>

---

<sup>231</sup> *Id.*

<sup>232</sup> *US Ready to Launch Syria Strike Says Chuck Hagel*, BBC (Aug. 27, 2013), <http://www.bbc.com/news/world-us-canada-23847839>; Tim Ross & Ben Farmer, *Navy Ready to Launch First Strike on Syria*, TELEGRAPH (Aug. 25, 2013, 10:00 PM EST), <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10265765/Navy-ready-to-launch-first-strike-on-Syria.html>.

<sup>233</sup> Julian Pace, *U.S. Readies Possible Solo Action Against Syria*, HUFFINGTON POST (Oct. 29, 2013, 8:40 PM), [http://www.huffingtonpost.com/2013/08/29/obama-syria\\_n\\_3839936.html](http://www.huffingtonpost.com/2013/08/29/obama-syria_n_3839936.html); see also Matt Smith, Chelsea J. Carter & Frederik Pleitgen, *Official: U.S. May Take Unilateral Action Against Syria*, CNN (Aug. 29, 2013, 11:58 PM), <http://www.cnn.com/2013/08/29/world/europe/syria-civil-war/index.html>.

<sup>234</sup> Press Release, President Barack Obama, Remarks by President Obama in Address to the United Nations General Assembly, (Sept. 24, 2013, 10:10 AM EDT), <http://www.whitehouse.gov/the-press-office/2013/09/24/remarks-president-obama-address-united-nations-general-assembly>.

<sup>235</sup> *Syria Military Action Momentum Building: U.S., France in Position for a Strike*, SYRACUSE POST STANDARD (Aug. 27, 2013, 9:51 PM), [http://www.syracuse.com/news/index.ssf/2013/08/syria\\_military\\_action\\_us\\_france\\_in\\_position\\_for\\_a\\_strike.html](http://www.syracuse.com/news/index.ssf/2013/08/syria_military_action_us_france_in_position_for_a_strike.html).

<sup>236</sup> Smith et al., *supra* note 233.

However, even with the Syrian chemical weapons destruction plan underway, the United States has not retreated from the possibility of using force without Security Council authorization.

However, whether or not Security Council authorization was required to intervene and protect the civilian population in Syria, the use of chemical weapons should not have been the deciding factor. The international community's focus was on chemical weapons, and this approach has undermined responding to the other serious crimes that have continued in Syria. However, with the Russian proposal to eliminate Syria's chemical arsenal, the United States withdrew the threat of unilateral military intervention against Syria. On September 27, 2013, the Security Council was able to obtain consensus on Resolution 2118, which addressed the framework for the elimination of Syrian chemical weapons.<sup>237</sup> Nevertheless, as stated by U.S. Senator John McCain, by drawing a "red line" on chemical weapons, President Obama gave the Assad regime a green light to use every other weapon in his arsenal with impunity.<sup>238</sup>

### C. *Responsibility to Rebuild*

Of course, at this point, trying to predict rebuilding efforts in Syria may be imprudent. The international community remains dedicated to saving Syrians from further chemical weapon attacks. However, it is unlikely that chemical weapon removal alone will solve the underlying issues of this conflict. In fact, the international community has so far failed to protect the Syrian civilian population from the atrocities of the Assad regime. The conflict in Syria is ongoing and is likely to continue for some time.<sup>239</sup>

The Syrian crisis has resulted in a tragic impact on development performance in Syria through destroying economic, social, and human capital, with unbearable losses for the Syrian population. As a result of continued fighting, Syria's economy has taken a devastating blow. About seventy-five percent of the manufacturing facilities in Aleppo are no longer operating.<sup>240</sup> The total loss to the Syrian economy from the crisis by the end of 2012 is estimated at \$48.4 billion.<sup>241</sup> Public and private investments were adversely affected

---

<sup>237</sup> See S.C. Res. 2118, *supra* note 178.

<sup>238</sup> Matt Williams, *John McCain: Obama's 'Red Line' on Syria Written in Disappearing Ink*, GUARDIAN (May 5, 2013, 1:24 PM EDT), <http://www.theguardian.com/world/2013/may/05/john-mccain-obama-syria-red-line>.

<sup>239</sup> See *Syria: Failure to Uphold UN Resolution Requires Decisive Council Action*, AMNESTY INT'L (Apr. 30, 2014), <https://www.amnesty.org/en/latest/news/2014/04/syria-failure-uphold-un-resolution-requires-decisive-council-action>.

<sup>240</sup> Matthew J. Harker, *Economic Rebuilding Essential to R2P in Syria*, GLOBALRISKINSIGHTS.COM (Sept. 20, 2013), <http://globalriskinsights.com/2013/09/20/economic-rebuilding-essential-to-r2p-in-syria/>.

<sup>241</sup> Rabie Nasser, Zaki Mehchy & Khalid Abu Ismail, *Socioeconomic Roots and Impact of the Syrian Crisis*, SYRIAN CTR. FOR POL'Y RES. 10 (Jan. 2013), <http://scpr-syria.org/download/1363/?v=1365>.

by the crisis. The unemployment rate is also on the rise. By end of 2012, the unemployment rate had increased by 24.3 percent.<sup>242</sup>

In addition to the economic impact, the Syrian crisis affected the lives of over 9 million people since the start of the crisis in 2011, including 6.5 million people who are now displaced.<sup>243</sup> According to UN reports, “[a]s many as 2.5 million people are stranded in hard-to-reach areas, including in besieged towns, where access to aid has been limited or non-existent. Some 2 million people have fled the country, and are now living with host families and in refugee sites in Lebanon, Jordan, Iraq, Turkey and Egypt.”<sup>244</sup> The UN Humanitarian Chief Valerie Amos, who visited displaced families in Syria in January 2014, stated that Syria is the biggest humanitarian crisis the world faces.<sup>245</sup>

Although the Syrian crisis has been ongoing for years, the UN Peacebuilding Commission has not discussed any post-conflict rebuilding strategies in Syria. In fact, no Member States have raised that issue in any serious way. If Assad prevails and remains in power, UN-backed rebuilding efforts would confront a number of obstacles, including lack of support from important Member States. In such a case, contributions from traditional donors, such as the United States, the United Kingdom, and the EU, would be highly unlikely. However, since the conflict is not over, and in light of how the conflict has unfolded, serious doubts have been raised about the likelihood of effective rebuilding efforts that will eventually take place in Syria.

## CONCLUSION

The Syrian crisis, now recognized as one of the worst humanitarian tragedies of the twenty-first century, has also been accepted as the most recent R2P controversy.<sup>246</sup> The situation in Syria has not changed even after the implementation of the destruction of chemical weapons in the country. All discussions on confidence-building measures and allowing aid to affected areas ended without any success. The Geneva talks on a political resolution to the conflict and improving humanitarian conditions resumed on January 22, 2014, but ended without any agreement.<sup>247</sup> This failure was due to the Syrian opposition groups and the international community’s pressure to oust Assad from power. The Syrian

---

<sup>242</sup> *Id.* at 11.

<sup>243</sup> *Syria: Pledges Prove that the People Devastated by Conflict in Syria are Not Forgotten, Says UN Chief Ban Ki-moon*, UNITED NATIONS OFF. FOR COORDINATION HUMANITARIAN Affairs (Jan. 15, 2014), <http://www.unocha.org/top-stories/all-stories/syria-pledges-prove-people-devastated-conflict-syria-are-not-forgotten-says>.

<sup>244</sup> *Id.*

<sup>245</sup> *Id.*

<sup>246</sup> Jackie Northam, *Syrian Conflict a Haunting Reminder of Bosnia*, NPR (June 23, 2012, 11:07 AM EST), <http://www.npr.org/2012/06/23/155622562/syrian-conflict-a-haunting-reminder-of-bosnia>.

<sup>247</sup> See George Baghdadi, *Syria Peace Talks in Geneva End in Failure*, CBS (Feb. 14, 2014, 10:44 AM), <http://www.cbsnews.com/news/syria-peace-talks-in-geneva-end-in-failure/>.

government refused to engage in any discussions on transition plans and emphasized the need to fight against terrorism.<sup>248</sup> The Syrian government continued its suppression of opposition groups and civilian populations living in rebel-held areas.<sup>249</sup> Clashes intensified between the rebel groups and made the situation even worse. In addition to the escalating violence in the country, Syria could not abide by the deadlines of the chemical weapons destruction plan.<sup>250</sup> After missing the February 5, 2014 deadline for handing over all chemical weapons stockpiles, Syria accepted a new April 10 deadline.<sup>251</sup>

While violence and human rights deterioration continued in Syria, the UN also took a number of measures to support the imperiled civilian population. On February 22, 2014, the Security Council unanimously adopted Resolution 2139 and demanded that Syrian authorities and rebel factions allow unhindered support for UN humanitarian agencies.<sup>252</sup> Importantly, Syria announced its readiness to cooperate with the Security Council resolution if Syria's state sovereignty was respected.<sup>253</sup> Following this resolution, UN aid trucks gained authorization to enter Syria on March 19, 2014.<sup>254</sup> In the meantime, with increased political and military confidence, the Assad regime announced its decision to hold presidential elections in June 2014 and declared Assad a presidential candidate.<sup>255</sup> Despite this major political step, violence in the country continued to mount and human rights conditions continued to deteriorate. Against this background, the UN Syrian envoy Brahimi resigned on May 13, 2014.<sup>256</sup> Although the humanitarian situation in the country had deteriorated, Russia and China vetoed the Security Council Resolution calling for the

---

<sup>248</sup> *Id.*

<sup>249</sup> See Lauren Williams, *Civilians Become Weapons in Syria's Civil War*, MIDDLEEASTEYE.NET (Feb. 12, 2015, 1:45 PM UTC), <http://www.middleeasteye.net/news/civilians-become-weapons-syrias-civil-war-1138296255>.

<sup>250</sup> See Alexander Drechsel, *Syrian Chemical Weapons Plan Behind Schedule*, DEUTSCHE WELLE (Feb. 2, 2014), <http://www.dw.de/syrian-chemical-weapons-plan-behind-schedule/a-17419001>.

<sup>251</sup> Tim Witcher, *Syria Accepts April 10 Deadline for Peace Plan*, NAT'L POST (Apr. 2, 2012, 11:31 PM), <http://news.nationalpost.com/2012/04/02/syria-has-accepted-april-10-peace-plan-deadline-annan-says/>.

<sup>252</sup> *Unanimously Approved, Security Council Resolution Demands Aid Access in Syria*, U.N. NEWS CTR. (Feb. 22, 2014), <http://www.un.org/apps/news/story.asp?NewsID=47204#.UgEEcMtOVdg>.

<sup>253</sup> *Syria Agrees to UN Aid Resolution if 'State Sovereignty' Respected*, FRANCE 24 (Feb. 24, 2014), <http://www.france24.com/en/20140222-syria-un-security-council-unanimously-humanitarian-resolution/>.

<sup>254</sup> See *U.N. Aid Convoy to Enter Syria for First Time*, DAILY STAR (Mar. 20, 2014), <http://www.dailystar.com.lb/News/Middle-East/2014/Mar-20/250783-un-aid-convoy-to-enter-syria-for-first-time.ashx#axzz38frDcvGY>.

<sup>255</sup> *Bashar Assad Declares Candidacy for June 3 Elections, Syrian Parliament Speaker Says*, WORLD POST (Apr. 28, 2014, 5:26 AM EST), [http://www.huffingtonpost.com/2014/04/28/bashar-assad-declares-candidacy\\_n\\_5224920.html](http://www.huffingtonpost.com/2014/04/28/bashar-assad-declares-candidacy_n_5224920.html) [[https://web.archive.org/web/20140430091333/http://www.huffingtonpost.com/2014/04/28/bashar-assad-declares-candidacy\\_n\\_5224920.html](https://web.archive.org/web/20140430091333/http://www.huffingtonpost.com/2014/04/28/bashar-assad-declares-candidacy_n_5224920.html)].

<sup>256</sup> *Syria: UN-Arab League Envoy Brahimi Resigns*, U.N. NEWS CTR. (May 13, 2014), <http://www.un.org/apps/news/story.asp?NewsID=47780#.UgUWX8toxdg>.

Syrian crisis to be referred to the ICC.<sup>257</sup> Although these states agreed to refer the Darfur, Libya, and Côte d'Ivoire crises to the ICC, they refused such a reference in the Syrian case.

Despite the development and use of R2P in Libya and Côte d'Ivoire, the Syrian crisis has so far demonstrated that R2P is still burdened by many unresolved problems. In fact, the R2P principle seems to have mattered very little in how this crisis has unfolded. Years have passed since the Syrian crisis began and reactions to this crisis have been mixed. The reaction has certainly been far from anything resembling a consensus, let alone a clear international legal situation.

Analysis of the state practice during the Syrian crisis revealed disagreements on whether Syria had fulfilled its responsibility to protect its civilian population. The ongoing mass atrocities against civilians in Syria warrant the application of the R2P principle. However, China, Russia and other like-minded countries took the position that the Syrian crisis was an internal matter, which the Syrian government was capable of handling. Meanwhile, other members of the BRICS (Brazil, South Africa, and India) were also skeptical whether R2P had been triggered in Syria. It seems that these Member States were upholding the sovereignty and territorial integrity of Syria, despite well-reported mass atrocities. On the other hand, the United States, the United Kingdom, and like-minded countries demanded that the Syrian government stop atrocities against civilians.<sup>258</sup> This same situation occurred during the Darfur crisis, where Member States could not agree whether Sudan had failed to protect its population. However, during the Libyan and Côte d'Ivoire crises, Member States eventually agreed that these respective states failed to protect their populations. Similar to the Darfur crisis, state practice during the Syrian crisis thus revealed a greater recognition of sovereignty, territorial integrity, and non-intervention principles rather than R2P. However, in light of chemical weapons possessed and used by the Syrian regime, Evans stated that the proven use of chemical weapons would be a profound breach of Syria's responsibility to protect.<sup>259</sup>

Nevertheless, throughout the Syrian crisis, the Security Council made a number of efforts to implement different preventive measures to protect civilians. Despite all such efforts, however, three Security Council resolutions were vetoed by Russia and China. Neither country was willing to impose any direct preventive measures, such as sanctions or air travel bans, claiming that such measures violated territorial integrity and state sovereignty. Member States objected to adopting the R2P framing in UN decisions, and not

---

257 Ian Black, *Russia and China Veto UN Move to Refer Syria to International Criminal Court*, GUARDIAN (May 22, 2014, 11:07 AM EDT), <http://www.theguardian.com/world/2014/may/22/russia-china-veto-un-draft-resolution-refer-syria-international-criminal-court>.

258 Press Release, Sec. Council, Security Council Unanimously Adopts Resolution 2254 (2015), Endorsing Road Map for Peace Process in Syria, Setting Timetable for Talks, U.N. Press Release SC/12171 (Dec. 18, 2015).

259 Gareth Evans, *The Moral Case on Syria When the Law is Lacking*, GLOBAL CTR. RESP. TO PROTECT (Aug. 29, 2013), <http://www.globalr2p.org/media/files/afrsyriaevans.pdf>.

even a condemnatory statement could be agreed upon in the Syrian crisis.<sup>260</sup> Although state practice in the Libyan and Côte d'Ivoire crises indicated that R2P influenced how states think and talk about humanitarian intervention, the state practice in the Syrian crisis did not reflect this influence. State practice of important countries during the Syrian crisis emphasized sovereignty, territorial integrity, and non-intervention even in the face of mass atrocities.

All preventive efforts by regional and international actors failed to stop Syrian atrocities, and in the light of Syria's use of chemical weapons, the United States, the United Kingdom, and France favored the use of military force in Syria. However, neither the United States nor the United Kingdom justified their intervention claims in Syria on R2P. The United States justified its claim on the basis of the use of chemical weapons by Syria. This state practice, in fact, is a departure from the R2P framing. On the other hand, these countries were ready to use military force against Syria even without Security Council authorization. However, India, China, Russia and like-minded countries opposed such unilateral military actions against Syria on the basis of non-intervention, sovereignty and the territorial integrity of Syria. This controversy also marked a return to the traditional controversy in international law on whether Security Council authorization is required to use force for humanitarian intervention purposes. During the crises in Darfur, Libya, and Côte d'Ivoire, this controversy did not arise. The re-emergence of this traditional controversy in international law is a failure of R2P, especially to resolve this long-standing controversy in international law on the use of force.

Chinese and Russian vetoes suggested that these countries were working to protect an important regional ally. Although China and Russia did not block the use of force in Libya or Côte d'Ivoire, their vetoes on resolutions against Syria demonstrated their suspicion about a possible misuse of Security Council authority based on what happened in the Libyan and Côte d'Ivoire episodes. Despite the fact that many other countries favored such stronger international intervention, the Security Council failed to take any action because of Chinese and Russian vetoes, and this outcome suggests that R2P's close association with the Security Council needs to be rethought.

However, the Security Council's unanimous adoption of Resolution 2118—demanding verification and destruction of chemical weapon stockpiles in Syria—demonstrated a positive sign of agreement among the UN members, at least regarding the production and usage of chemical weapons by Syria. Although UN members were united in acting to eliminate Syria's chemical weapons, they were not ready to provide robust humanitarian assistance for victims in Syria. In fact, the UN reportedly failed to collect the targeted budget for much-needed humanitarian assistance for thousands of Syrians. Although the UN and many other non-governmental organizations have issued periodic

---

<sup>260</sup> U.N. SCOR, 66th Sess., 6498th mtg., U.N. Doc. S/PV.6498, at 8–10 (Mar. 17, 2011).

reports on the crisis, none has provided a sustainable solution to the humanitarian crisis or relief efforts in Syria. The Security Council has not wielded real effort to address the needs of the trapped civilian population in Syria. The majority of the Syrian population outside of government-controlled areas has remained in urgent need of medical and humanitarian assistance. Even the main humanitarian relief providers, such as OXFAM, Red Cross and Red Crescent, and Save the Children, are not present in areas of urgent need, particularly because of the security, safety, and access issues. The international relief efforts are delayed not only because of the bureaucratic hurdles but also because of inaccurate needs assessment and the absence of an effective Security Council mandate for cross-border relief. On the other hand, although states may support humanitarian relief efforts, how the Security Council might impactfully act without the consent of the Syrian regime is not clear.

The ongoing humanitarian crisis in Syria poses major challenges to the R2P principle. As the Syrian crisis demonstrates, instances of mass atrocities and human rights violations, similar to historical atrocities in both Bosnia and Rwanda, still persist. One of the main reasons for the continuation of mass atrocities in Syria is inaction by the Security Council. Apart from the R2P principle's own uncertainties regarding its scope, the lack of real consensus between some Member States has further hindered decisive action under R2P to halt ongoing atrocities in Syria. The international community, thus, confronted the very familiar controversies about sovereignty and non-intervention and the need to protect civilian populations from human rights violations. Simply stated, no consensus could be reached among the Member States on what response should be implemented to protect civilians in Syria. Similar uncertainties confronted the pre-R2P humanitarian intervention context as well. Thus, state practice throughout the Syrian crisis revealed that R2P has not changed existing international law.