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**Assessing the viability of humanitarian intervention as the shield for
human rights: Case studies of Kosovo, Libya, and Iraq.**

By

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**A Dissertation Submitted in Partial Fulfilment of the Requirements for
Master of Social Science in the School of Social Science (Conflict
Transformation and Peace Studies) at the University of KwaZulu-Natal,
(Durban: South Africa).**

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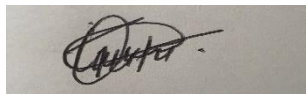
DECLARATION

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This work is dedicated to my grandparents, Dumisa Tutu and his late wife Nowezile Sidumo-Tutu. They are my fountain of inspiration and I want to thank them for shaping my life to be what it is today. Secondly, I would like to thank my parents for always motivating me to go for what I want in life. It is your guidance and your support that kept me going. Moreover, it will never be enough if I do not extend my deepest gratitude to my supervisor Dr. Siyabonga I. Dlamini for his dogged supervision and support throughout the completion of this dissertation. Lastly, I would like to extend my deepest gratitude to National Research Foundation (NRF) for providing one necessary resource for the completion of this study, as it has funded me.

Ultimately, giving all the praises to the Holy one of Israel, our anointed Lord and Savior, the ALMIGHTY, the CREATOR himself, QAMATA, UMVELINQANGE, the holy pryncedom, divine ministers, divine orders of the crowned brothers and sisters and all those striving for justice sake... Once more, all the thanks to God for making conditions favorable for the completion of this dissertation... Thank you God.

ABSTRACT

On one hand, the end of the Cold War hatched new forms of wars and conflicts. On the other, oppressive regimes intensified their unromantic treatment towards their citizens, in so doing, misusing their sovereignty as the curtain behind which they hide their nefarious actions. It is through those wars and malicious actions by certain regimes that human rights are gravely violated. In an attempt to end those human rights violations, the international community through the United Nations Security Council employs humanitarian military intervention. However, there are heavy criticisms levelled against the effectiveness of humanitarian intervention as the shield for human rights. Moreover, the international community is divided into two, as those with the military and economic capacity to intervene deem humanitarian intervention as an effective mechanism to bring about an end to human rights violations and ultimately human suffering. However, on the other hand, weak states contradict that view, advancing the position that humanitarian intervention is just a Trojan horse through which powerful states pursue their nefarious agendas in weak countries. This research aims to assess the viability of humanitarian intervention as the shield for human rights. In assessing that effectiveness, it acknowledges the fact that, humanitarian intervention entails the employment of force. Therefore, argues that the employment of force is synonymous to war, as it involves life taking risks inconsequential of its magnanimity. However, this study does not ignore the fact that human rights are being violated virtually on a daily basis and therefore, there is a compelling need for the mechanism through which human rights ought to be shielded and humanitarian intervention is that mechanism in current international politics. But factors that influence humanitarian intervention as the shield for human rights tend to determine the effectiveness of the intervention in protecting the rights of the vulnerable populations. This assessment is pursued through examining case studies where intervention for humanitarian reasons was exercised. Moreover, factors that influence the carrying out of humanitarian military intervention are also examined. Among these factors, national interest takes priority, as it influences intervention in the most negative fashion and leads to more human rights violations. Eventually, this study closes by offering possible recommendations on how humanitarian intervention as the tool to shield human rights can be improved.

KEY TERMS

HUMANITARIAN (MILITARY) INTERVENTION, HUMAN RIGHTS, INTERNATIONAL LAW, SOVEREIGNTY, VETO, RESPONSIBILITY TO PROTECT, WAR CRIMES, CRIMES AGAINST HUMANITY, COLLECTIVE ACTION, UNILATERAL ACTION, INTERNATIONAL COMMUNITY (INTERNATIONAL COMMUNITY OF STATES), NATIONAL INTEREST, MORAL OBLIGATION/RESPONSIBILITY (ETHICAL DUTY).

ACRONYMS

• AOHR	Arab Organization for Human Rights
• AU	African Union
• DRC	Democratic Republic of Congo
• FIC	Financial Intelligence Centre of South Africa
• FRY	Federal Republic of Yugoslavia
• GC	Genocide Convention
• HI	Humanitarian Intervention
• ICC	International Criminal Court
• ICJ	International Court of Justice
• ICISS	International Commission on Intervention and State Sovereignty
• ICRC	International Committee of Red Cross
• IDPs	Internally Displaced Persons
• IHL	International Humanitarian Law
• IICK	Independent International Commission on Kosovo
• ISIS	Islamic State Group
• ITNC	Interim Transitional National Council
• KLA	Kosovo Liberation Army
• LDK	Democratic League of Kosovo
• LN	League of Nations
• NATO	North Atlantic Treaty Organization
• P-5	Permanent Members of the Security Council
• NGOs	Non-Governmental Organizations
• R2P/(RtoP)	Responsibility to Protect
• SC	Security Council
• UDHR	Universal Declaration of Human Rights

• UHR	Universal Human Rights
• UN	United Nations
• UNC	United Nations Charter
• UNGA	United Nations General Assembly
• UNSC	United Nations Security Council
• UK	United Kingdom
• US	United States
• USA	United States of America
• USSR	Union of Soviet Socialist Republics
• WMD	Weapons of Mass Destructions
• WWI	World War One
• WWII	World War Two

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1. CHAPTER ONE: INTRODUCTION AND THE BACKGROUND OF THE STUDY.

1.1. Introduction and Background.

The end of Cold War in 1990 ushered in a new era of the humanitarian intervention (Desai, 2013). As it highlighted the end of bipolarity in terms of power distribution. The world witnessed a major drift from the bipolar system to a hegemonic system. The United States of America emerged as a hegemonic power after the collapse of the Cold War. This epoch did not only epitomize change in terms of distribution in global power, but also in terms of the wars that occurred. Interstate wars, which were prominent during the Cold War era, dwindled, and intrastate wars, acts of terrorism and tribal wars intensified immensely. In addition, governments assaulted their citizens for demanding improved political and economic rights. It is during these wars that human rights were grossly violated, however, this is not in any way to justify the injustices that transpired during the Cold War era. Moreover, things were worsened by regimes through engaging in activities (skirmishes) that exacerbated the human rights violations. These nefarious actions by the sovereign regimes caught the international eye, as human rights were flouted. This according to (Niezen, 2003), was a direct assault of the United Nations' Universal Declaration of Human Rights (UDHR) of 1948. In the process, ordinary civilians lost their property, got displaced from their homes, disunited from their families and subsequently lost their lives. Hence, the need for a mechanism through which human rights can be protected from such vicious violations, and humanitarian intervention became that apparatus.

Humanitarian intervention became prominent in the 1990s, as it took a more decisive shape. This was influenced by the discourse surrounding human rights and its elevation at international level. This elevation of human rights concurred with a rising propensity to grasp a bond between defilements of human rights and international security (Kardas, 2001). Hence, a number of humanitarian interventions occurred without the authorization of the United Nations Security Council (UNSC). This raised a more hearted discourse of humanitarian intervention and its appropriateness in protecting the human rights. However, such debates do not adjudicate whether humanitarian intervention is a progressive apparatus through which basic human rights can be protected. Furthermore, some scholars have labeled the humanitarian intervention as a Trojan horse for superpowers to hide their agendas to overthrow foreign governments, or a pretext to wage

war against sovereign states (Bellamy, 2005). Hence, the identification of the need to assess the effectiveness of humanitarian intervention as the apparatus through which human rights are shielded.

1.2. Significance/Rationale of the Study.

Humanitarian intervention has become one of the important projects of the United Nations (UN). Its (Humanitarian intervention) objectives are noble as Roff (2013) alludes. It is one among the tools of the United Nations used to entrench human rights. On the other hand, human rights are violated virtually on a daily basis, as that is reported on news with phantasmagorias that shock the conscience of humankind. Hence, there is a need of the assessment of the viability of humanitarian intervention as the tool to shield human rights. Conducting this study comes as an effort to promote human rights, as it intends to point out the loopholes in the process of humanitarian intervention. The assessment of humanitarian intervention is informed by the fact that humanitarian intervention is employed to avert dangers that pose threats to rights of the civilians. Assessing this mechanism of shielding human rights is tantamount to seeking ways through which human suffering can be minimized during the carrying out of humanitarian intervention.

Moreover, scholars from different fields have conducted research around the subject of humanitarian intervention, and most of the writings are centered on how humanitarian intervention has developed over the years. However, there is no much that has been written on how humanitarian intervention succeeds or miscarries in terms of shielding human rights. Hence, this study seeks to assess the viability of humanitarian intervention as a tool to shield human rights. The effectiveness of the humanitarian intervention has not been explored. This research will contribute immensely in terms of how the humanitarian intervention project should be improved. Its contribution will not only be confined in terms of how the international community should improve humanitarian intervention, but also it will add to the knowledge existing on the subject of humanitarian intervention and human rights.

1.3. Research Problem.

Humanitarian intervention should be provided in times of serious human rights defilements. When a government or leader(s) of a sovereign state fails to uphold its responsibility to protect its citizens and its territory, or uses its sovereignty as a shield to carry out heinous crimes or assault the rights of its persons. It is the responsibility of the international community to protect the rights of the

people of that particular state, as the abuse of human rights also poses a threat to the security of the globe as a whole. The powers are given to the members of the international community by the United Nations Charter (UNC) to intervene in the name of humanity. However, a resolution to intervene should be taken by the United Nations Security Council. Besides, a group of states can also decide outside the UN Security Council to intervene in a foreign state. Nevertheless, the intervention, whether authorized by the UNSC or not, if fails to adhere to the rules and intractable wars are perpetuated by the intervention (Sarooshi, 2001). It is those wars that result in a loss of many human lives, generates damage to property and undermines more human rights. Furthermore, Ayoob (2002), postulates that in cases where humanitarian intervention is undertaken human rights are violated, as territories where citizens reside are becoming the targets of war. Peoples' dignity and right to life are what Benedek (2006), sums up the 'fundamental rights' and these 'fundamental rights' are trampled upon as people lose their belongings and lives. Humanitarian intervention becomes a failure as the need for the protection of human rights is eclipsed by the parochial interest of the intervening countries. Nevertheless, there is no one held accountable for such despicable behaviour. In the international political arena, states have exhibited behaviour that seeks to advance their interests more than shielding human rights. Therefore, humanitarian intervention has become that tool of pushing the interests of the intervening states. Hence, the need to assess the viability of the humanitarian intervention as the shield of human rights.

1.4. Dissertation Statement.

As humanitarian intervention means an intercession in a sovereign state with the sole intention of shielding human rights which are assaulted. The power is ceded to the members of the international community by the United Nations Charter (UNC) to act in protection of humanity and fundamental human rights where are assaulted. The manner in which that power is utilized leaves a number of question marks. As in some cases the utter opposite of the intention of humanitarian intervention is achieved. Many lives suffer under the operation that is supposedly to protect people from suffering. The generating of the opposite of the objectives of humanitarian intervention is influenced by the host of factors, which at the apex of other things involves, the advancement of self-interest by the intervening parties. It is such situations that foster the requisite for the assessment of the humanitarian intervention in shielding the human rights. Such assessment cannot

be conducted independent of the examination of the case studies of the countries where humanitarian intervention was carried out.

1.5. Assumptions.

Humanitarian intervention is meant to protect human rights in times of war or humanitarian catastrophe and its success or failure in doing so is disputable. Its success is by and large measured by the very group of countries which undertake the intervention. Countries that intervene in most of the times are driven by their national interest, which clouds the reason of intervening in the first place. Hence, powerless or weak countries contradict the view that humanitarian intervention champions the protection of human rights. That position by the weak states is influenced by the suffering generated from the provision of humanitarian intervention. Moreover, influenced by the wars generated by intervention on humanitarian grounds. These wars range from invasion of attempts to replace (or overthrow) governments of alleged dictators and domination of one group by the other all in the name of humanitarian intervention. Therefore, this study argues from the point of view that seeks to say, the employment of humanitarian military intercession is synonymous to war, which in one way or another disrupts global order, extinguishes human life and inexorably generates human rights defilements and suffering. The afore-advanced argument suggests that it is virtually impossible to launch attacks in protection of the non-combatants without hurting some. Taking lives when saving lives is tantamount to human rights violation, which raises the question, which life matters the most? Moreover, human suffering that is generated from the employment of force during intervention is influenced by prioritizing of national interests of the intervening states more than the need to shield human rights.

1.6. Aim and Objectives.

This study aims to conduct an assessment of the humanitarian intervention as an apparatus to protect human rights, it will give the conceptualization of humanitarian intervention and explore what are the human rights violations in the context United Nations Charter. This assessment will be conducted by examining the case studies of Kosovo, Libya and Iraq.

The researcher will achieve the above-stated aim through the pursuit of the following objectives:

- To understand humanitarian intervention.
- To examine the process that leads to intervention for humanitarian reasons.

- To investigate the magnitude of humanitarian intervention that was needed in these three countries.
- To probe the magnitude of humanitarian intervention that was provided to these countries.
- To interrogate whether the due procedures were followed or not during intervention.

1.7. The Broader Question.

Is humanitarian intervention an effective apparatus to shield human rights in times of wars and other gross human rights violations?

1.8. Specific Questions.

- ❖ What is humanitarian intervention?
- ❖ What are the processes that lead to humanitarian intervention?
- ❖ What was the extent of humanitarian intervention that was needed in these three countries?
- ❖ What was the magnitude of the intervention that was given to these countries?
- ❖ Were due procedures observed before the provision of humanitarian intervention?

1.9. The Structure of the Dissertation.

- **Chapter One**

This chapter provides the introduction and the background of the entire study. The research aim, objectives and questions are also entailed here. Moreover, the justification for the why the researcher chose this topic is provided under this chapter. More importantly it discusses the core argument on which the entire study is premised. The outline of the fashion in which the entire dissertation is shaped also features under chapter one.

- **Chapter Two**

An intensive and extensive review of the existing literature on the subject of humanitarian intervention is entailed on this chapter. Moreover, the explanation of the concepts of humanitarian intervention and human rights are given as part of the literature review, and this chapter shares on when human rights were formally declared. The description of the conditions that beg for the protection of human rights through humanitarian intervention are discussed in this chapter. Finally,

applicable terms that one cannot discuss humanitarian intervention without touching on them, are explained in this chapter.

- **Chapter Three**

This chapter outlines the theoretical basis on which this study is premised. The two (Realism and Liberalism) theories, which inform this study are discussed in greater detail. An explanation as to why the study chose these two theories is also provided. The selection of realism theory is meant to provide an intensive and rigorous analysis of the state behavior. On the other hand, the employment of liberalism theory is the basis on which the need to protect human rights is explained. Moreover, the liberal theory provides a liberal perspective of humanitarian intervention.

- **Chapter Four**

This chapter encompasses the methodology through which the researcher managed to obtain and analyze the data. The explanation of the sources from which data for this study is collected. This study employed thematic analysis as the mechanism through which data is analyzed. Moreover, ethical considerations and limitations of the study as the imperative elements of the research are discussed under this critical section of research.

- **Chapter Five**

This is the most crucial chapter as it entails the presentation and analysis of the acquired data. However, it begins by providing the three cases, which were identified during the compilation of the proposal. Moreover, a critical and objective analysis of these case studies is entailed under this section of this particular research.

- **Chapter Six**

This is the final chapter where the entire contents of the study are summarized and applicable recommendations to identified problems are provided. This chapter provides the critical synopsis of the findings of the study. It ends by providing possible future research topics on the area of humanitarian intervention. However, some those topics might have been studied but further research is still need on those topics.

1.10. Chapter Summary.

This chapter introduced the study and provided the background, which is the most critical part of the research. The intention of the researcher is also outlined in this chapter in the form of aim, and objectives and research questions. The significance of the assessment of humanitarian intervention as the apparatus to shield human rights is also entailed in this chapter. More importantly, the core argument which is the center of the study is provided. Lastly, this chapter also makes it easy for the reader as it explains what the reader ought to expect in each chapter as the content of each chapter is provided.

2. CHAPTER TWO: REVIEW OF LITERATURE AND CONCEPTUALIZATION OF HUMANITARIAN INTERVENTION.

2.1. Introduction.

The demise of the Cold War changed a lot in international politics. It was literally a transition from the bipolar state of power to unipolar or hegemony, as the United States remained the only dominating superpower (Goh, 2013). Even in terms of wars that emerged, the world experienced new wars in various parts of the world. These wars were dominantly intrastate wars where in some instances, ethnic or racial groups fought against one another, terrorist attacks occurred and lastly, certain governments mistreated their citizens, and civilians suffered the most. Furthermore, in the first ten years after the Cold War people in different parts of the world suffered from gross human rights violations, resulting from war crimes and crimes against humanity. The Rwandan genocide, the ethnic cleansing of Muslims in Bosnia, the killings in Sudan and the ongoing conflict in the Democratic Republic of Congo (DRC) are the vivid indication of an elevated human rights violation in post-Cold War era (Bellamy, 2008). In certain cases, foreign countries had to intervene in protection of the citizens that are not of their own, and such interventions were military in nature (Finnemore, 1996). Moreover, the protection of citizens of a country by the foreign forces was an indication that human rights still assume center stage in international politics. However, that is not to assert that the apparatus that is employed to carry out that protection of human rights is suitable or in/effective. Humanitarian intervention assumed a different form and shape after the Cold War as it is purported to protect human rights however on the contrary it protects the interest of the superpowers in a foreign state. Be that as it may, the failure to intervene in countries where the authorities have manifestly failed to protect their citizens painted a different picture of the principle of intervention, which raised many questions in the minds of the skeptics. Humanitarian intervention as a tool to protect human rights shall be explored in this chapter. Be that as it may, that exploration shall depart by giving the workable definition(s) of the term humanitarian intervention and provide theoretical understanding as well as practical evidence of humanitarian intervention.

2.2. The Conceptualization of Humanitarian Intervention.

Gultang (2004), is of the view that concepts come and go, and the concept of humanitarian intervention is also that concept, which has been just invigorated in the conflict transformation

arena. Humanitarian intervention was incepted in the thoughts of the writers like Grotius, Gentili and Suárez who precede the Westphalian conference (Knudsen, 1996). It further draws its (Humanitarian Intervention) strength from the concept of human security, which was used more frequently in the period prior and during the Cold War. Moreover, human security is the protection of individuals that make up the group of people or a nation (Amouyel, 2006). In the post 1989 era, the world witnessed unjust activities and some of those activities were genocidal in nature, and they occurred in a very sporadic fashion. The response from the international bodies such as the United Nations (UN) had to be the development of new programs to counter attack the violent and gruesome events that occurred in some parts of the world and mostly shield human rights from violation. Hence, there were a number of interventions that occurred in the 1990s and were supposedly to protect human rights and avert human suffering. According to Dowell (2007), intervention in countries where the injustices occur was established and such interventions were aimed at humanitarian ends. Hence, the reinvention of the term ‘humanitarian intervention’ in global politics in the post-Cold War epoch. However, the humanitarian intervention had to be reconcilable with human basic needs, and such needs are informed by human rights such as the need to survive.

The progress of this study will be enabled by the provision of the working definition(s) of the term humanitarian intervention. In the general assertion by various scholars that it is increasingly difficult to provide a particular definition for the terms that are frequently used in the conflict transformation arena, the term humanitarian intervention is not an exception. Humanitarian intervention is defined differently by different scholars. Kordan (2001), defines humanitarian intervention as a military intercession in a state, without the endorsement of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants. Wilson-Roberts (2000), defines humanitarian intervention as an armed intervention in another state without the agreement of that state, to address (the threat of) a humanitarian disaster, in particular caused by grave and large-scale of violations of fundamental human rights. Knudsen (1997), postulated humanitarian intervention as a dictatorial, or coercive interference in the sphere of jurisdiction of a sovereign state motivated or legitimized by the humanitarian concerns. As this study cannot provide all or suffice definitions of the term humanitarian intervention, some definitions will be provided as the process of assessment progresses.

Nevertheless, Galtung (2004), prefers not to apportion a particular definition to humanitarian intervention, instead he describes it in accordance to its aspects. Firstly, humanitarian intervention encapsulates the element of humanity, which advocates that the eradication of human suffering in every space where it exists is a priority. Further to that, the eradication of human suffering should be circled by the protection of human dignity and the rights of the affected persons should be venerated. Secondly, humanitarian intervention should be impartial, meaning that the provision of humanitarian intervention should not have selective eyes to look at ethnic origins, gender, political views, race, religion or nationality of the affected individuals. Further to that, the intervening party should not assist one side in perpetrating human rights violations. Hence, the assisting of the suffering individuals should be informed by the necessities and cases of emergency. For instance, the need to protect the abused persons should assume the center stage of the intervention. Thirdly, the practice of humanitarian intervention has to be neutral, the intervening party is not supposed to assume sides by engaging in carrying out hostilities in an attempt to assist a side of a particular political or ideological nature. Fourthly, humanitarian intervention should not be imputed by any political, military or other related interests. An intervention that is informed by narrow interests do not end well as it prolongs the misery of the affected parties (Javanshiri, 2009). Lastly, humanitarian intervention should aim to empower, and the empowerment aspect of the humanitarian intervention should seek to recoup the local institutions, in so doing should enable them to respond to the needs of the impacted communities.

Moreover, humanitarian intervention cannot be performed haphazardly as the intervening bodies or states ought to have the plan to carry out their intervention. When a state or group of states take a decision to intervene in the internal affairs of a foreign state should have the authorization from the United Nation Security Council (UNSC) or permission from the regional body where the concerned state is a member. The principal objectives of the intervention should be to curb the injustices and human rights violations from befalling and eventually achieve the restoration of the rule of law and order (Pattison, 2010). Hence, the plan for when the war or violation of human rights ceases to happen the affected bodies should have their dignity restored. The local institutions, perpetrators of human rights violations and the victims of such gruesome acts should be rehabilitated. In terms of rehabilitating the local institutions helps to suppress any institutional discrimination, which might have led to the culmination of violence. The rehabilitation of the perpetrators and victims, assist in terms of cultivating peace, and in so doing avoids anything that

might regenerate violence between the two. Furthermore, the needs of the people should be addressed in a way that will not have the two previously antagonistic parties living in an incompatible manner and their goals should be reconciled.

2.2.1. The Qualification of Intervention as Humanitarian Intervention.

The foregoing definitions and descriptions of the term humanitarian intervention largely suggest that intervention should be inspired by humanitarian contemplations. According to Parekh (1997), for intervention to be qualified as humanitarian intervention a state to which intervention is directed should be recognized as a sovereign state. A sovereign state ought to be geographically defined with a population of people that has elected or recognize its government. In essence, that state enjoys self-governance and is free from control by external forces. However, according to the arguments advocated by the opponents of humanitarian intercession, intervention is a defilement of the of a country's self-governance. By and large, humanitarian intervention ought not to be a vehicle through which a state is annexed but must be piloted in a way that will influence the conduct of the state in ending human suffering. Hence, according to Booth (1994), it is imperative to distinguish between humanitarian intervention and conquest. Intervention can only be termed as humanitarian intervention when the state in question is opposed to it. Parekh (1997), opined that if intervention is on the basis of the invitation, then it is the provision of assistance to willing party. More importantly, the intervention is humanitarian if its principal objectives are shaped by humanity, empathy and solicitude. In cases where intervention is influenced by the three elements provided above is considered to be disinterested. Humanitarian intervention is not meant to harbour self-centered interests of the intervening parties. Intervention can be considered to be selfish if the intervening parties seek to gain control over resources or establish puppet governments. Intervention for humanitarian purposes is directed towards resolving or altering the situation that is characterized by the human rights violations.

Moreover, humanitarian intervention is carried out to address the situation in which citizens of a country are reduced to political orphans. For the state of political orphanism to exist is underscored by the spinning of the state to despotic and rapacious form. The intervening states ought to pacify warring parties and replace that situation by the conducive circumstances in which human rights are catered for (Badescu, 2010). However, in so doing the intervening parties must be neutral. The failure for the intervening states to be neutral disqualifies that intervention from being

humanitarian. Taking sides during the intervention is mostly characterized as the interested intervention that seeks to alter the situation for egocentric purposes. More often than not, egocentric and non-neutral interventions tend not to end anarchy and help the citizens of the concerned state to establish their legitimate government. On the contrary, selfish interventions only end by not addressing the human rights violations instead it perpetuates it.

2.2.2. Principles of Humanitarian Intervention.

The international system is governed by or based on certain principles that are regarded as the ‘international ethics’. The existence of the international law is one among the mechanisms that are put in place to maintain international order and peace. Humanitarian intervention is one of the things that feature in international politics and is guided by certain standards. Tesón (2006), sees humanitarian intervention as being justified on a host of propositions, among which, is the interests and rights of individuals, and international law. Rights and interests of individuals feature on the basis that humanitarian intervention itself is seen as the mechanism to avert humanitarian disaster. On the other hand, international law encompasses the body of principles that govern on the international platform. Moreover, the international law could be summarized as the mechanism to maintain order and tranquility between and within states, between individuals and other private entities. It is on that basis that the international law features, among other things, the grounds on which humanitarian intervention is justified, as humanitarian intervention is directed at averting human rights abuse or violations.

However, there are principles that also guide the execution of the humanitarian interventions but those principles do not necessarily legitimize the intervention. Moreover, these are principles that are by and large advanced by the philosophers like Tesón (2006), in advocating for humanitarian intervention. The advocating of such principles does not legitimize or delegitimize the undertaking of humanitarian military intervention. But seek to shape the principal reason for humanitarian intervention and invoke enthusiasm among the capable states to never hesitate to act when act of human rights violation shows its ugly head. The first principle deems regimes as the simple agents of people. In concise terms, the fact that governments have internationally recognized rights is premised on the basis that individuals within the states possesses rights and interests. Thus, the grounds to advocate for humanitarian intervention are that citizens of any country in cases of need must be protected by the foreign governments. The duty of ‘international community’ to intervene

when the necessity arises is by and large informed by the individuals within the state in question, who are in need of protection.

The second principle of humanitarian intervention is premised on the basis that each state and its government are accorded protection by the international law. Such protection, among other things, entails the international recognized independence of states. However, it is acknowledged by Tesón (2005), that governments can be tyrannical at times. It is such times that states that exhibit abusive behaviour towards their citizens must automatically lose the protection afforded to them by the international law. Moreover, the international community of states owns the right to intervene in protection of the citizens of the state in question. The third principle of intervention is directly linked to the first and second principle. The declaration that all persons have common human rights institute another principle of humanitarian intervention. Governments or regimes have the obligation to promote and protect human rights locally and abroad. That governments who are the members of the international community have the obligation to promote human rights globally. Furthermore, governments are obliged to act in an attempt to suppress human rights violations wherever they exist.

The fourth principle, when governments carry out intervention must be governed by the principle to suppress human rights violations and established new order. The new order must not be characterized by tyranny and anarchy. As in the words of Tesón (2006), the establishment of new rule is only possible when the interveners are not driven by their selfish interests. He goes on to say, interventions can be justified if they succeed in saving human rights from being further abused. The last principle, denotes the notion that humanitarian intervention like any war must be governed by the international doctrines of war. The conduct of the interveners is of paramount importance as it determines the cruelties that generate civilian casualties during the intervention. Hence, it is important that intervention must be pre-planned and executed in accordance to the plan. Moreover, the length of stay is significant, as more the interveners stay the more human rights are undermined in the in name of humanitarian intervention.

2.2.3. The Principal Purpose of Humanitarian Intervention.

The fundamental purpose of humanitarian intervention is to curb or stop horrendous crimes against humanity or war crimes (Wheeler, 2000a). Summarily, crime against humanity includes that which is defiling human rights, which among other things include genocide, murder, rape, ethical

cleansing and a threat to human autonomy. The humanitarian intervention as the predefined project should be directed toward altruistic purposes. Be that as it may, humanitarian intervention should occur within the ambits of the international legal framework. As outlined in the international customary law, humanitarian intervention has to meet the following criteria, which among other things includes right authority, just cause, right intention, last resort, proportional means and reasonable prospects. First and foremost, the authorization of the humanitarian intervention should be established or legalized by the right authority, which in the current form of things is the United Nations Security Council. The United Nations Security Council as the authoritative body to legalize intervention is expected to competently utilize the veto it has to vote in favour of averting or curbing any looming threat(s) that seek to undermine or position human rights at jeopardy.

Secondly, the justiceness of humanitarian intervention means that intervention should be authorized in cases where either huge scale loss of life or genocidal intentions are demonstrated. Humanitarian intervention can only be just or attributed to as the just cause when it is only directed to saving human rights, not to pursue narrow interests of the intervening parties. Thirdly, intervention should be largely if not wholly motivated by the right intention. According to Crawford (2002), the right intention is constituted with the aim to shield human rights, not to drive agendas, which among other things include, regime change and/or a pretext to wage war against sovereign states. Fourthly, humanitarian intervention should be the last resort after all amicable ways or options have been exhausted. Any dispute or quarrel that among others entails, elements that might pose a threat or danger to human rights should be resolved through peaceful means. However, the abysmal failure to resolve such disputes through negotiations or arbitration, and other means like economic and political sanctions underscores the necessity for military intervention. Fifthly, the proportionality of force should always be exercised. The force employed ought to be the minimum necessary to secure the humanitarian objective (Yoshida, 2013). The necessity to apply proportional force is aimed at preventing unnecessary damage from befalling. Lastly, the right authority should resort to intervention after having made the calculations. There must be at least a chance to succeed in terms of averting or preventing threats to human rights. The intervention should not aggravate the situation, and if there are high chances that intervention can aggravate the situation it should not be undertaken. As the aggravation of the situation would not justify intervention or would mean the furtherance of human rights violations.

Summarily, humanitarian intervention, according to Walzer (2004), is the project that is aimed at achieving good that is meant to benefit humanity. The foregoing claim buttresses the notion that humanitarian intervention should alter the precarious circumstances that constantly pose danger to human rights. Hence, Finnemore (1996), describes humanitarian intervention as the project or mission that does not only cease to happen after the abuse of human rights has ended, but there is a continuation of monitoring the situation to make sure that there is no recurrence of the injustices of the past. After humanitarian intervention has taken place there should be no perpetuation of war or other forms of human rights violations. If it happens that the situation (human suffering) that was the primary motive for the intervention does not cease to exist, that intervention would be deemed as unfruitful or unsuccessful as the abuse of human rights perpetuates. Where there was an intervention in the name of humanitarian purposes the previously aggrieved parties should be reconciled and human rights violations must be addressed. Consequently, the rule of law ought to be reestablished and restored. It is on that criteria that one can deem intervention as successful.

2.3. Factors causing Humanitarian Intervention.?

In accordance with the definition(s) and description(s) of the term humanitarian intervention provided above, humanitarian intervention is the tool or vehicle through which injustices that perpetually undermine the basic human rights of an individual are counter attacked. The activation of the humanitarian intervention depends on the United Nation Security Council. However, a state or groups of states can intervene without the authorization from the United Nations Security Council, but are required to report to the UNSC within few days before or after the intervention. The United Nations Charter provides guidelines as to how the intervention in a sovereign state should be conducted. The activation of humanitarian intervention is deemed as the mechanism through which the global peace is to be maintained or according to Walzer (1977), the process of averting that which shocks the moral conscience of mankind. Humanitarian intervention is carried out in cases where human rights are manifestly defiled. The committing of war crimes or crimes against humanity is regarded as the plight that begs for the activation or undertaking of humanitarian intervention. It is exercised in cases where states fail to protect their people or are the perpetrators of crimes against its people.

Fundamentally, every sovereign state has the duty to protect its inhabitants and guard against anything that seeks to tarnish their dignity, or tramples upon their citizens' human rights and

existence. For a number of years, humanitarian intervention has been regarded as the hiding tool for the powerful states to intervene in the affairs of other sovereign states with the sole aim of self-aggrandizement, or in some instances to put puppet governments in those powerless states (Ocran, 2002). However, that assertion cannot obliterate the fact that atrocities do befall within the boundaries of sovereign states. It is such time when a state fails to live up to its responsibility to protect its citizens, the international community shoulders or yields the responsibility to protect the inhabitants of that failing state. That responsibility to shield the rights of citizens of a foreign state is catered for by the international law, as the means to maintain international order and security. The international community has a moral duty to act in unison and provide security for the nationals of any country engulfed by war and human suffering which subsequently brings about gross human rights violations.

The United Nations Charter outlines the conditions that trigger or call for humanitarian intervention. According to White (1997), deciding on the matters that pose threat to global peace and security is the prerogative of the United Nations Security Council. Chapter six and seven of the United Nations Charter (UNC) outline the procedure that is ought to be followed before intervention takes place. Moreover, the application of the mandates or precepts under chapter six and seven of the United Nations Charter largely rest on how the five permanent members (P-5) of the Security Council (SC) vote on the matter brought before them. As far as the international legal framework is concerned, there is no state or government that has the prerogative to interfere with the territorial integrity and political liberty of another sovereign state (Atack, 2002). The interference of a foreign state in the matters of a sovereign state is regarded as an assault or violation of the tenets of international law. However, the international legal system caters for instances or circumstances that a foreign or group of states can intervene in the matters of an independent state. Moreover, that interference should not be to advance the national interest of the intervening states rather should be strictly directed towards achieving human rights protection and international peace and security. In terms that are more succinct it should be strictly defined as a project or an attempt to redeem the populace of that state from any looming malice or danger that might compromise or put their rights in peril of being violated.

Generally, there are two circumstances under which humanitarian intervention is permissible. The first condition that underscores humanitarian intervention is premised on the permissibility to self-

defense. Furthermore, that sort of humanitarian intervention relates to unilateral intervention or action. However, unilateral humanitarian intervention does not necessarily mean that there is a single state that decided to intervene (Kolb, 2003). It could be a group of states that collectively draw from their respective armies in order to intervene. That sort of humanitarian intervention is qualified as a unilateral humanitarian intervention on the basis that the decision to intervene is not arrived at by the United Nations Security Council, which in the current standing of the international body is the right authority to authorize humanitarian intervention. Be that as it may, the group of states which decided to intervene must have one purpose of shielding human rights that were/are exposed to defilement. Nonetheless, states that decided to intervene must immediately report to the United Nations Security Council and in their report, must outline the danger that they intervened to avert. Further to that, the scope of the intervention in terms of the magnitude and length of intervention, and lastly the plans after intervention ought to be set clear.

Nevertheless, Reinsman (2000), describes Unilateral Humanitarian intervention as an unlawful action that is not officially approved by the right body, but the participants (intervening parties) effectively preempt the formal decision that the designated structure was expected to take. Conversely, he further notes that to unilateral intervention there is an attached claim, which says that in a coarchical system unilateral intervention is perforce the means of decision, which to some degree qualifies it (Unilateral intervention) as the lawful action. Additionally, unilateral humanitarian intervention qualifies as a legitimate action under the following circumstances, firstly, the related legal framework permits unilateral intervention in specified circumstances and on the ticket that substantive tests of legitimacy are satisfied. Secondly, the conditions of the particular unilateral act are deemed to be suitable. Lastly, the action itself, in spite of its ritual indiscretions, has supposedly conformed to the relevant substantive requirements of lawfulness.

The second condition that underscores humanitarian intervention is largely premised on chapter seven of the United Nations Charter and it advocates for multilateral action or intervention. The authorization of such action is the prerogative of the five permanent members, which constitute the United Nation Security Council with the veto. As opposed to unilateral humanitarian intervention, multilateral humanitarian interventions are qualified as multilateral on the basis that the collection of states that are intervening are mandated by the decision taken by the United Nations Security Council. According to Kreps (2008), the UNSC authorization is the sine qua non

for intervention to be considered multilateral. The number of states does not matter in the sense that there are states that can be manipulated in pursuing the narrow interests of other states. States involved in that multilateral intervention should be able contribute material-wise and otherwise. The involvement of states that will not contribute in decision making or states that will be simply peppercorn political supporters is equal to unilateral intervention. Multilateral intervention, according to Lyons and Samatar (2010), is coupled with the advantages that reveal the primary aim of the intervention. Be that as it may, Kreps (2008), the prior disclosing of the intentions of intervention does not necessarily qualify that intervention as successful. Nevertheless, it is necessary that the intentions of intervening are outlined prior intervention takes place. Moreover, the magnitude and the intensity of the intervention is predefined, and the United Nations Security Council must manufacture the plan on how the state of things should be after intervention. However, that plan must not cater for a scenario whereby the intervened parties will directly influence the processes of government in that sovereign state.

The former (unilateral intervention) is succinctly articulated under article 51 of the UN Charter...

“Nothing in the contemporary Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”

However, the unilateral intervention does not enjoy much scope as the multilateral humanitarian intervention. As the multilateral humanitarian intervention in most cases is widely accepted. According to Western and Goldstein (2011), unilateral intervention has received an intensified criticism from the commentators in the field of humanitarian intervention. Unilateral action is easily manipulated by powerful states, as they can manipulate small states in joining them in pursuit of their parochial interests (Kreps, 2008). Manipulation of weak states can occur within the context of quid pro quo exchange, as strong states use their economic and political muscle in harnessing the weak to the direction they want them to go. Multilateral action enables both strong

and weak states to appreciate the recognition they gain in assisting in the protection of human rights.

The latter (multilateral intervention) is specifically expressed under Chapter VII (Article 39) of the United Nations...

“The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”

Subsequent articles of the UN Charter, article 41 and 42, further explain as to how the decision regarding the intervention ought to be conducted. Article 41, consist of the measures that should be taken before the use of force, and article 41 speaks to the steps that should be taken if all the fore taken measures fail to accomplish the intended results.

Article 41 and 42 respectively...

“The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations” (UN Charter, 1945).

“Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations” (UN Charter, 1945).

Furthermore, writers such as Ruggie (1992), assert that it should be harboured in mind that formal explanations of both unilateral and multilateral actions are just proper explanations not descriptions of real cases. Therefore, it is virtually impossible to anticipate empirical cases to precisely conform to formal definitions. However, that should not take away the sacrosanctity of humanitarian intervention in any way (Chopra and Weiss, 1992). An intervention that is purported to be conducted for humanitarian purposes should be benevolent in nature and seek to shield

human rights rather than covertly pursue the narrow interest of the intervening states. The UNSC as the body entrusted with maintaining universal peace and security should at all times maintain its integrity. Furthermore, in exercising its discretion UNSC at all times should be concerned about the elevation and protection of individual rights.

2.4. Conditions That Requires Humanitarian Intervention.

According to Gibbs (2009), the advocates of humanitarian intervention have always harboured qualms and distrust about the notion of interventionism. These suspicions and distrust were/are informed by the deleterious aftermath of the external intervention in the Vietnam War, and also the ousting of the democratically elected Allende government of Chile. Be that as it may, these suspicions and distrust toward humanitarian intervention do not seek to substitute or overcast the reality that in many parts of the world exist human suffering. Moreover, that human suffering is brought about by both natural and man-made events. It is during these events that intervention for humanitarian purposes is required. The atrocities that occur during war are ordinarily classified as war crimes and crime against humanity. It is those crimes that are deemed as dangers that need to be averted through humanitarian intervention before the unquantifiable and unnecessary sufferings, and damages which are most of the time qualified as ‘collateral damage’ occur.

Any sovereign state is trusted with the primary responsibility, which is to protect and provide for its citizens. This responsibility, inter alia, protection of human rights, preventing ethnic cleansing, curbing genocidal attempts, suppress any form of violence and refraining from using sovereignty as the veil to carry out killings of its own people. The foregoing responsibilities are anticipated from any sovereign state that is a member or non-member of the United Nations. The failure of any sovereign state to protect the fundamental rights of its citizens, or the act of the governing bodies that entails violations of human rights begs the international community to act for reasons that are altruistic or intervene for humanitarian reasons. Hence, Stahn (2007), postulates that the inability or unwillingness of sovereign state[s] to protect their own population from avertable cataclysm that responsibility ought to be borne by the broader community of states. Be that as it may, the carrying out of that responsibility should be facilitated by the right body, which in the case of humanitarian intervention is the United Nations Security Council.

Humanitarian intervention as the last resort after all other means, inter alia, political and economic sanctions have been exploited and failed to work, can be exercised. During armed conflicts, it

inevitable that human rights are trampled upon. Hence, the state as the custodian of these rights has to act in the interest of protecting them. The failure of the state to protect human rights as the primary custodian invites the international community to exercise this responsibility (Deng, Kimaro, Lyons, Rothchild and Zartman, 2010). Furthermore, that right is ceded to the international community by the precepts of the UN Charter. As the international legal framework outlines the forms of activities that threaten human rights and subsequently pose threat to the international peace and order. Various ways in which human rights violations are termed include war crimes or crimes against humanity, which ultimately pose danger to international peace and security. Additionally, either non-state actors or the state itself can commit these condemned acts or the government can perpetrate such crimes. In such cases where a government commits these crimes utilizes sovereignty as the veil. However, in differing instances human rights violations are perpetrated by small groups that rise against the authorities (insurgence) or it could be in instances where two or more groups are fighting over resource or drawn borders.

2.4.1. War Crimes and Crimes against Humanity.

The international law divides these crimes into two, namely crimes against humanity or war crimes. War crimes are classified as the global crimes perpetrated during armed conflicts (May, 2007). These crimes are deemed to be against the humanness rather than just defilement of justice or the rule of law. In contemporary conflicts people on a daily basis are witnessing the horrifying handiwork of torment, of slaughterers and of genocidaire. More often than, not such actions come from the poorly trained combatants. Furthermore, it is ordinary civilians who suffer from such unjust actions. The failure of belligerents to adhere to the principles of the just war doctrine (to be discussed later) has undermined human rights more than anything else. These unlawful acts are committed during the war and some are carried out deliberately, and as the means to achieve ends. It is such conditions that beg for humanitarian intervention, however, that intervention should be procedural in the sense that all other pacific means were exercised and proved to be abortive. It is the failure of pacific means and continuation of human suffering that gives the UNSC the authority to consent humanitarian military intervention. War crimes and crimes against humanity are a classification of the conditions that underscores humanitarian intervention. According to Scheffer (1999), theories of war and other relevant international treaties appear to mean very little to the perpetrators of barbarism if they are cognizant of them at all. Their behaviour seems to suggest that belligerents and their commanders target ordinary civilians and apply disproportional force.

a) War Crimes

War crimes refer to deeds or blunders that are perpetrated in the progression of an armed conflict and during the perpetration of such acts international customary law was contravened (Paust, Scharf, Sadat, Bassiouni, Gurulé, Zagaris and Williams, 2000). For these atrocious acts to be qualified as war crimes should consist among other things, the breach of the international customary law and entail grave consequences for the victims. The perpetrators of war crimes intentionally contravene the values that constitute international treaties on war. While people carry out war crimes individuals suffer and their human rights are flouted. The acts that constitute war crimes among other things include, murder, atrocious treatment of individuals, deliberately attacking civilians as the primary targets of war, rape, arbitrary detainment and pillage. The perpetual continuation of such acts infringes on the rights of individuals. It is the responsibility of the concerned states to protect their citizens and the failure to do that or if the crimes are carried out by the governments the international community yields the responsibility to protect. However, that responsibility to protect should be preceded by other means that are not inclusive of force. The employment of humanitarian military intervention should be the last resort (Walzer, 2004).

b) Crimes against Humanity

Crimes against humanity, under Rome statute, Article 7, are qualified as the actions deliberately perpetrated as the part of extensive or methodical assaults aimed at noncombatant population (Burns, 2007). Similar to war crimes, carrying out of crimes against humanity is the contravention of the international treaties and eventually the international law. Moreover, crimes against humanity are categorized as the inhumane acts or persecutions carried out premised on the basis of religious, racial or political grounds (Lippman, 1997). These crimes involve among other things murder or extermination of a large group of people, enslavement, deportation, torture, and sexual violence such as rape, prostitution and forced pregnancy. In cases where a large number of people are killed, it could be genocide or ethnic cleansing. International law makes provisions for the wider community of states to act in unison without hesitation to rout out such actions where they exist or when there are elements that exhibit signs of such acts. Human rights are the core drivers for the international community to protect. The categorization of atrocious acts the crimes against humanity constitutes the effort by the UN and all other relevant bodies to preclude human rights

violations. Humanitarian intervention is one mechanism employed to achieve the protection of human rights.

2.5. Legal Rationalizations of Humanitarian Intervention and Just War Tradition.

International legal institutions, which among other things involve, courts recognize the importance of human rights. Such recognition of human rights is acknowledged by Rodley (1989), when he advances that the law lords have unequivocally permitted that the duty to venerate human rights is a duty that is based on the universal international law. Moreover, it is the veneration of human rights that gave momentum to the reconsideration of the principle of non-intervention. The declaration of the universality of human rights came as the game changer of international politics. States shifted from the position of elevating state rights to the position that prioritizes human rights. Such shift is greatly influenced by the notion that states derive their rights from the inherently rights of the individuals that reside within the borders of a particular state. On the other hand, humanitarian intervention was deemed as the necessary tool to shield those human rights where the necessity ascends. Hence, the principle of non-intervention had to be respected in a way that does not undermine the endeavors to shield human rights.

However, the international legal system does not provide a clear justification of humanitarian intervention. Such failure by the international legal framework to provide a window for humanitarian intervention is born out of the poor development of international law. In addition, the absence of the main authoritative legislator or enforcer of the international law has hindered progress in terms of widening the grounds for humanitarian intervention. As it is acknowledged by scholars like Hadebe (2012), that international law is derived from the international treaties, covenants and agreements. Gelb and Rosental (2003), in the list of the sources of the international law mentions that it is also derived the international customary law. Moreover, the international law came as the vehicle through which wars between states could be lessened and resolution of disputes to be through the employment of negotiations and arbitration. Fundamentally, that idea of resolving disputes through pacific means was meant to prevent the intervention of states in domestic affairs of another state. That notion of non-intervention was bolstered by the inception of the Article 2(4) of the UN Charter.

UN Charter Article 2(4) ... *“All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purpose of United Nations.”*

This afore-stated stipulation of the UN charter seeks to maintain peace between and within states. Be that as it may, the occurrence of the Second World War became the turning point in international politics, as its aftermath mandated for the signing of new treaties and agreements. Those treaties and covenants, among other things involve, the Genocide Convention (GC) and the adoption of Universal Human Rights (UHR). The protection of individual rights from being physical and otherwise abused was invoked in global politics. The non-intervention principle came to be interpreted in a way that allows intervention in certain circumstances. As according to Hadebe (2012), the legal justification of intervention for humanitarian purposes is equivalent to an interpretation of law in manner that permits the violation of the principle of non-intervention. That violation of the law on non-intervention is first and foremost influenced by the obligation to the legal assurance of individual rights and principal liberties (Evans, 2005).

International law and international customary law allow humanitarian interventions on the basis that the action is necessary for the obliteration of human suffering (Buchanan, 2003). The conduct of states within borders should be at all the times to promote and protect human rights. As each state is recognized on the basis that it has permanent population and that population should be shielded all the times. Collective action by the international community to act in protection of human rights of people in another state is permissible in the international law, as that action is regarded as tantamount to maintaining international peace and order. The maintenance of international peace and order is permissible in the UN Charter under Chapter VII Article 41 and 42. Article 42, permits the UNSC to violate the non-intervention principle through the consideration of the employment of force if all else did not succeed in averting threat to international peace and order. In the view of Juss (2016), international order and peace is, by and large, threatened by that which threatens human rights.

Secondly, humanitarian intervention is permissible on the grounds that the action itself is solely for humanitarian purposes. Hurd (2011), starts by explaining reasons for the impermissibility of the use force, which is catered for under Article 2(4) of the UN Charter. The prohibition of the employment of force by the UN Charter is on the fundamentals that states possess the rights to

self-independence and sovereignty. However, the sovereignty of each state exists on the condition that the government or the authorities of the state respect and are capable of shielding its people. The manifestly failure of the state in question to protect its citizens, or the engagement of that state in actions that abuse the rights of its citizens corrodes or erodes the right of sovereignty of that state. As Hurd (2011), further stipulates that the protection of the state's independence by the larger international community stops to be existent if the state has betrothed in worst sorts of violation of its citizens. The afore-discussed situation forces the international community to act in protection of the citizens of the state in question. It is on those ground that the international law permits intervention for humanitarian purposes. Byrne (2016), deems that the ban of the use of force is rescinded on the basis that the states are involved in activities that seek to threaten or disturb international peace and order. Therefore, international law and UN Charter provides a room for the use of force or intervention for humanitarian purposes.

Thirdly, the permissibility of intervention for the reasons related to humanitarianism is premised on the principle of the responsibility to protect. As Phakathi (2013), advances that the adoption of the responsibility to protect (R2P or RtoP) was the move to legalize intervention for humanitarian purposes. As the R2P doctrine itself, exerts pressure on the wider international community to act in protection of human rights. After the endorsement of the R2P doctrine in the 2005 world summit, states agreed that the protection of those who cannot protect themselves will save many lives. The justification of humanitarian intervention through the R2P doctrine is based on morality. States have moral obligation apportioned to them by the international legal system that states ought to act in a manner that promotes peace and halt suffering from occurring. Thus, the issue of the host state to protect its people is prioritized all the time and its failure to do so must not underscore the ascendance of suffering. Hence, the international community shoulders the moral responsibility to intervention in protection of the victims.

2.6. Non-intervention Principle.

The principle of non-intervention is stipulated under the UN Charter. The UN Charter illegalizes the action by a state trying to meddle in the internal affairs of another independent or sovereign state. As the meddling of one state in the affairs of another might be an ingredient for war between those two states. Thus, the prohibition of intervention by the UN Charter and the international law is the strategy to maintain peace. That is also buttressed by Kinacioglu (2005: 15), when he

advanced that “the adoption of the non-intervention principle is considered as the mechanism to cope with the ‘logic of anarchy’ that characterizes the international politics. In addition, to a certain degree the principle of non-intervention is the regime that governs relations between states. As it allows states to deal with each other in a manner that no state undermines the internal process of other states. Moreover, this principle halts states from imposing their economic and political system to another state. As Geissler (2000), postulates that the non-intervention doctrine or principle serves the protection of weaker states from being bullied and dictated to by the powerful states.

Furthermore, the non-intervention principle is premised on the assumption that sovereign states are capable of maintaining peace within their borders and can protect their populace. Moreover, if states are capable of maintaining order within their borders international peace and security could be achieved (Vincent, 2015). He further sees it (principle of non-intervention) as the rule of conduct, which means that states must conduct themselves in a manner that does not disturb domestic affairs of other states. Less interference by a foreign state in domestic matters of a sovereign state means less war and heightened peace in international politics. Moreover, peace in international politics and less disturbance of states from conducting their domestic affairs by other states translates to a situation in which human rights are protected. According to Kinacioglu (2005), the respect of the non-intervention principle is of paramount importance as it also derives from international treaties that also constitute international law. All states that are signatories to these international treaties are obliged to conduct themselves in a way that is consistent with the precepts of the international law and the international treaties.

2.6.1. Breaching the Non-intervention Rule as the Means to Protect Human Rights.

The endorsement of the non-intervention principle by the members of the wider international community of states was meant to achieve peace among themselves and within states. However, in the recent years the abuse of human rights is no longer generated by the conflict that transpires between states but generated by the state authorities themselves. It is cases like those that forced states to reconsider the non-intervention principle. According to Ayoob (2002), the principle of non-intervention is porous as it is dependent on the conduct of the regimes presiding over state. The international jurists and essayists have reached a consensus that the non-intervention rule must be the subject to interpretation. As any state must enjoy the principle of non-intervention on the

basis that it is capable of maintaining peace within its borders and further protects the rights of its citizens. However, the failure to maintain that peace and protect its populace or in cases where it is the state itself that carries out the human rights violations that must serve as the invitation of the international community to intervene. Moreover, the state must lose its protection by the international law, as it is the very protection that immunize sovereign states from intervention. All in all, the principle of non-intervention only applies to states are capable of protecting human rights. Hence, humanitarian intervention is regarded by Jamnejad and Wood (2009), as the means through which the non-intervention principle is contravened. However, Ayoob (2002), does not see it as being the contravention of the non-intervention principle but as the confirmation that non-intervention principle is premised on certain conditions. Those conditions, inter alia, the capability to protect human rights and refrain from aggression directed to other international recognized states.

2.7. United Nations Security Council and its Powers.

After the Second World War, the League of Nations (LN) was dismantled and replaced by the new structure referred to as the United Nations (UN). This replacement was effected by the reality that the League of Nations failed abysmally to curb the Second World War from occurring (Weiss, Forsythe, Coate, and Pease, 2016). The face of earth witnessed another war in which human rights were undermined as nobody's business. In the absence of the international body the UN was established and eventually other related subordinate bodies were established. Be that as it may, the victors of the war driven by distrust towards each other decided to apportion themselves more power. They organized themselves in the fashion that no one among themselves direct aggression to one another. It is that power that made them to appear as the governors of the world. These five victors became the first five permanent members of the UN and labeled as the Security Council. According to Hurd (2008), the five victors of WWII took a decision whereby they allocated themselves a prerogative to take decisions on behalf of other member states and act decisively in cases where the threat to global peace and security crops up. The Security Council holds the veto (to be unpacked later), which is the only thing that makes them have more powers than other member states. The amendment of the UN charter meant the introduction of chapter III, V and VII. These chapters of the United Nations Charter speak to the organs of the United Nations and their powers to perform certain duties. The UNSC is empowered by the UN Charter to act as the watchdog of international peace and security. The flouting and defilement of human rights are

equal to the disturbance of the international peace and security. It is on that basis that the UNSC is expected to utilize its veto power to prevent and stop human rights violations.

UN Charter, chapter three, deals straightforwardly with the presentation or introduction of the organs of the UN, which in addition to other things incorporate, the General Assembly (GA) and United Nations Security Council.

Chapter four, manages the UNSC, which in many instances has the muscles to enact or approve some obligatory decisions or resolutions. The UNSC is made up fifteen member states, five of which are permanent members and the other ten states are chosen in the UN General Assembly at regular intervals. This organ (UNSC) of the UN undertake actions that by and large seek to rid out the danger that tries to undermine human rights and at last the global serenity. In any case, in releasing that duty the UNSC ought to be guided by the standards of the United Nations.

Chapter VII: this part of the charter is exclusively committed to issues that are characterized as the risk to universal peace. It is the Security Council that is committed with the obligation to distinguish such acts or matters. A tranquil association among the states when they lead their dealings and furthermore, dealings among people as characters in the worldwide stage (UN Charter, 1945).

The United Nations Security Council possesses the veto to vote in favour of decisions that are pertinent to maintaining world peace and security. The permanent five members of the Security Council have to vote together for the decision to stand. The failure of the P-5 to concur in voting for certain decisions translate to the continuity of human rights violations. Even if state or group of states decide to intervene independently of the authorization of the UN Security Council that intervention is deemed as an illegitimate call. In addition, interventions that are not authorized by the UN Security Council tend to be driven by narrow interests.

2.8. What are Human Rights?

Human rights according to Donnelly (2013), derive from the inherent dignity and freedom of the person. Furthermore, human rights are regarded as being universal, incontrovertible and subjective. The universality of human rights epitomizes that every individual immaterial of their ethnicity, citizenship, race, sex, age, religious conviction, political affiliation or form of government possesses these rights. Human rights are further regarded as absolute and innate

(O'Byrne, 2014). As they are not provisions of the state and therefore can never be taken away or refused by any political authority. Moreover, human rights cannot be negated on the basis that one failed to undertake any duty or responsibility, hence they are incontrovertible. Lastly, human rights are seen as subjective, as they are the ownership of individual subjects who own them based on their aptitude for rationality, agency and authority. It is through those individual rights that the state has rights too.

In the post Second World War era, the newly established United Nations declared universal human rights as the way of guarding against any element that seeks to disrupt peace. The victors of the Second World War made the declaration of human rights as that gave them an opportunity to be able to monitor that there is no regime that violates them. However, Sen (2004), sees human rights as not a new phenomenon, but a formalization and expansion of what French parliament declared as the rights of man and citizens in 1789. The 1948 Declaration of Universal Human Rights was the affirmation that across the globe people are born free and with dignity. Hence, torture, science experiments and arbitrary incarceration are nullified as far as the international legal framework is concerned. Moreover, those that are entrusted with the responsibility to run states as with territorial defined borders shoulder a mammoth duty of ensuring these human rights are not suppressed. Every living individual being is guaranteed a right to live free without any interruptions and equally that individual shoulders the responsibility not to infringe other peoples' rights.

Donnelly (2013), refuses to argue that human rights are static, or absolute. However, he (Donnelly, 2013) acknowledges that there are fundamental human rights, which among those he includes human dignity and a right to life. Human dignity and a right to life form the basis of all other rights and further justifies the rejection of any maltreatment, as mentioned in the preceding paragraphs. It is on those two (dignity and right to life) that human rights are universal, as every human being is born with dignity and life. Moreover, it is such rights that create a platform on which one can stand on to say was born free and with life that no other person has the right to disturb him or her on such. O'Byrne (2014), buttresses the foregoing sentence when he opined that human rights are actually the rights that a person owns on the basis that one is a human being. Thus, the protagonists of human rights advance an argument that fundamental human rights are static and every born human being are subject to those human rights.

It is through the misconduct or mischievous behaviour that human suffering exists and that suffering draws attention of the entire world. People from all corners of the world read about violations of human rights. According to Evans (2001: 15), “newspapers and other newscast mass media are filled with explicit reports and images of human rights defilements.” Moreover, such acts are widely qualified as being prohibited beneath the international law. That qualification of human rights violations as not within the ambit of the international legal framework epitomizes the elevation of the human rights at the center of the international politics. Hence, Evans (2001), deems the invoking of the concept of human rights in global politics as the gargantuan stride that inspires enthusiasm among the international and regional bodies to act assertively in occasions where human rights are destabilized. Hence, the introduction of humanitarian intervention as one among other mechanisms through which human rights are shielded. The undertaking of humanitarian intervention is in the UN Charter as the tool to prevent and cease human rights violations. According to Ayoob (2002), humanitarian intervention should be altruistic and sacrosanct in nature.

2.8.1. How Humanitarian Intervention Shields Human Rights?

Under no illusion that people must think that the rights of the state are less important. As it is pointed out under the preceding sub-heading that states have rights because people living within them have rights. Biersteker and Weber (1996), opined that the recognition of state sovereignty is one step toward ensuring that people found within that state should not be interrupted in enjoying their freedom by any foreign force or the non-derogable rights must be always protected. All internationally recognized states ought to enjoy freedom within their defined geographic borders. Among other things, that freedom should entail economic, political and organization’s independence. However, each state in enjoying its freedom should, among other things, protect its people, must not abuse the rights of its people and must not disturb the freedom of other states. The establishment of the international and regional bodies came as the emphasis that there is a real concern regarding global peace and security (Chesterman, 2004). Hence, after the First World War in Switzerland in 1920 there was an establishment of the League of Nations. The fiasco to curb the occurrence of the Second World War, which happened from 1939 to 1945, could be largely blamed on the failure of the then existed body namely the League of Nations. It is that failure, which subsequently landed the necessity for the establishment of a new structure, namely the United Nations. It is during the Second World War that a huge number of people lost their lives and their

property was damaged in a very unexplainable fashion (Kesternich, Siflinger, Smith and Winter, 2014). The introduction of the United Nations came with the declaration of the universal human rights. Be that as it may, philosophers and commentators as far as the peace arena is concerned feel that the universality of human rights exist only on paper.

The United Nations introduced humanitarian intervention as one of its prominent projects. This was regarded the mammoth move by the United Nations to achieve international peace and security, which ultimately guarantees the safeness of human rights. It is again imperative for this study to provide a definition for the word humanitarian intervention just to avoid the situation where the reader will have to go back to the introduction and revise on the definition of the term (Humanitarian intervention). Humanitarian intervention as defined by Vincent (1974: 13), is “the action embarked on by a state, a collection within a state, a collection of states or an international body which interferes coercively in the internal dealings of another state... It is not necessarily illegitimate or legitimate, and nevertheless it does break a conventional pattern of international relations.” Without deviating from the sub-heading, humanitarian intervention is primarily a tool of the United Nations to end human rights defilement wherever it shows its ugly head. Nevertheless, many in the field of conflict and peace have subjected the foregoing statement to a heightened criticism. As the antagonists of humanitarian intervention deems that it is not the appropriate vehicle through which human rights could be protected. According to Goodman (2006), humanitarian intervention criticizers advance the argument that taking lives when saving lives is tantamount to human rights defilements.

However, humanitarian intervention as the last resort of restoring the rule of law is used by the international community. Tesón (2001), qualifies it as not the way to enforce liberal reforms in non-liberal states but as the means to end the mass atrocity that is faced by the citizens of any state. Humanitarian intervention is the response to brutal regimes in defense of the constituency of that state and also a response to anarchic situations, which also violates human rights. The international community as the bearer of responsibility to protect in cases where states or governments manifestly failed to curb human rights violations must act decisively. The agreement to intervene should be authorized by the UN Security Council. Humanitarian intervention in a sovereign state should be aimed at protecting human rights. Intervention according to Scott (2014), should be clearly defined and pre-planned. The proper planning of the interventions assists in terms of

determining the scope and magnitude of the intervention that is required in each case scenario. In addition, states as the members of the UN General Assembly are obliged to use their own armies in protection of the citizens of the concerned state. The actions by the soldiers coming from other countries should not exhibit more of political decision rather their behaviour must be illustrative of the fact that they are trained combatants. The use of force by the intervening parties should be piloted towards ending the grave atrocities that result to gross human rights violations.

Furthermore, the effectiveness of the intervention is largely determined by the conduct of the interveners. Humanitarian intervention as the shield for human rights is meant to target the agents and factors that are identified to be the perpetrators of human rights violations. The conduct of an intervener according to Pattison (2010), should be guided by the principles that are provided under the just war doctrine, *Jus in Bello* in particular. The intervened belligerents are obliged to direct their attacks and airstrikes to the identified camps of human rights violators. Areas where civilian reside should be immunized from any sort of attack. The combatants who are meant to protect human rights from the identified humanitarian crises must not subject women and girl children to rape and other forms of abuse. The employment of airstrikes and cluster bombs should be used in a manner that will keep the human suffering at minimum. The keeping of the human suffering at minimum is subject to clear identification of targets before launching attacks. Ultimately, the protection of people from atrocities must not directly or indirectly hinder them from accessing basic services, inter alia, access to health care facilities. The hindrance of citizens to access health care services by the intervening forces is tantamount to violation of their fundamental rights in an indirect fashion.

2.9. Applicable Concepts

The following terms (State Sovereignty, International Law, International Community, Responsibility to Protect and Veto) are deemed to be applicable, as one cannot discuss humanitarian intervention without making mention of them. Moreover, these terms are at the center of humanitarian intervention in the sense that humanitarian intervention is the protection and carrying out of what is meant by these terms. As some are subjects and others are objects of humanitarian intervention. Therefore, the explanation and exploration of these are necessary for the proper undertaking of the assessment of the viability of humanitarian intervention as shield for human rights.

2.9.1. State Sovereignty.

For a number of years, theorists in the field of international relations have been debating and writing about state sovereignty. This discourse is between the mainstream theories, which is liberalism interdependence and realism. It is such a debate that has equally salvaged the thought of state sovereignty from its esoteric, intangible and sterile treatment in the scope of global law and political philosophy. It is these theorists that imbued the concept of state sovereignty with new meaning and applied applicability. The new arena of peace studies adopted the concept of state sovereignty because of its operation and application within the international platform. Thomson (1995), opined that liberal interdependence theorists see state sovereignty in accordance with the ability of the state to act as the regulator of actors, subjects and dealings within and across its defined territorial borders. Conversely, realists qualify state sovereignty as an aptitude that a state possesses to be able to make authoritative verdicts in the final instance and also the decision to declare war (Philpott, 1995).

It is imperative for this study to provide a neutral definition of the term state sovereignty. According to Benoist (1999), state sovereignty is the independence that is attributed to the state, which means non-intrusion by the external forces in the domestic undertakings of another state. The foregoing definition of the term state sovereignty sees the term in two ways. Firstly, sovereignty applies to superlative civic authority, which is allocated with the prerogative and theoretically, the aptitude to foist its authority in the last instance. The second one, points to the holder of authentic power who is recognized to have power. The sovereignty of the state is guaranteed in the international law, which will be defined later. Historically, according to Spiro (1997), the sovereignty of the state emanates from the fact that individuals who possess innate rights constitute a state and thus sovereignty of the state is meant to protect those individual rights. That is buttressed by the claim that without the population of individuals, there can be no state. The sovereignty of the state equally means the sovereignty of the persons who inhabit that territorial defined land. However, a sovereign state has to be capable to discharge its responsibilities as outlined in the international legal framework. Be that as it may, the main idea behind the concept of state sovereignty is the supposition that global harmony can be truly sustained if states adhere to the notion of non-intrusion by respecting the sovereignty of one another (Ayoob, 2002).

Furthermore, the international law allocates obligations of sovereign states and among other things those obligations include, the protection of human rights in times of war. The failure of the state to protect those rights the international community is obliged to take a stance to protect the rights of the citizens of the state in question. However, that stance should be to intervene for the humanitarian purposes not in pursuit of their parochial interests. In essence, state sovereignty is the right of the state that protects it (state) against the provocation by the superpowers of this world. Hence, the international law protects each state in exercising its freedom in terms of what governmental system, its practices and economic systems adopted by each state. The system must be adopted in favour of the inhabitants of that state. On the other hand, states tend to use sovereignty as the veil to assault the rights of its very citizens. It is such times the sovereignty of the state is tempered with and external forces intervene to halt the horrendous actions discharged by the state upon its populace.

2.9.1.1. The Erodibility of State Sovereignty.

In the international platform where there is absence of the authoritative body, powerful states tend to intervene in the internal affairs of the small states in what is claimed to be humanitarian intervention (Ayoob, 2002). The veneration of each state's sovereignty by the other states has been the primary basis on which the foundation of the tenets and establishments governing the global community, involving global law, diplomacy and global bodies has been customary established. Moreover, it is the very reverence for the sovereignty of the state, which shapes the crux of what is referred to by Jackson (2000), as the 'global covenant'. The global covenant also arranges the basis for global serenity and order. Admiration of the above-mentioned covenant is of paramount importance in the modern context in which membership of the international society has grown exponentially. Contrariwise, humanitarian intervention, which has been exercised many times in the past two decades to shield the persons of the target countries from barefaced defilements of their basic human rights, ordinarily by state agents. It is this humanitarian intervention that has assaulted the 'global covenant' which underscores sovereignty and non-intrusion.

As significantly as states are the signatories of the major global human rights agreements or covenants equally render themselves to be answerable to truce bodies that regulate the compliance to these tools. Hence, according to Ayoob (2002), state sovereignty encompasses both internal and external lengths. Such description of state sovereignty is informed by the fact that both control and

autonomy of states undergo alternately increases and decreases in global politics. Hence, others prefer to define sovereignty as the authority, meaning that is the freedom to govern over the established territory and the inhabitants within it. Such definition to a larger extent qualifies state sovereignty as not absolute. Hence, the intervention has frequently occurred in the past two decades. Moreover, sovereignty is not only an internal attribute of states. As the sovereignty of the state is recognized by the society of peers (other states).

In endeavors of the international community to protect human rights as permitted by the international legal framework state sovereignty is rescinded. The rescindment of the state sovereignty is a stride taken towards the preparation of intervention or is tantamount to tampering with non-intervention principle. Such interventions occur in instances where a state is not capable or is disinclined to shield human rights of its own inhabitants. Moreover, such intercession is activated in times where a state utilizes its sovereignty as the veil while carrying out human rights violations. The protagonists of humanitarian intervention deem that it is increasingly acknowledged that the law of non-intervention, with the necessary internal dominion of the state cannot be esteemed as the defensive curtain beyond which individual rights could be seriously and methodically defiled with latitude. In addition, it was reverberating in the words of Annan (1998) that the era of unqualified and exclusive sovereignty is history and theory behind absolute sovereignty was never equaled with reality. The foregoing statements were epitomized by the number of interventions that occurred and those interventions were a vivid depiction of the fact that state sovereignty can be eroded and was indeed eroded in most cases. It is the very erodibility of state sovereignty, which led to the emergence of the term the responsibility to protect, which will be dealt with later. The erosion of the value of complete state sovereignty meant that states and state agents have nothing to hide behind when perpetrating gross human rights violations and presume freedom.

2.9.1.2. State Sovereignty and Human Rights.

It is imperative to commence by noting the assertion by Kirchner (2004), that state sovereignty is the shield to protect the rights of the state. The rights of the state, among other things involve freedom, deciding on policies, political system and internal organization without an imposed interference from external forces. Nevertheless, the rights of the state exist because a state is formed or constituted by individuals who live within it and those individuals happen to have rights

that come naturally to them. Hence, Ferreira-Snyman (2006), asserted that state sovereignty is an umbrella concept of state rights, which derive from the human rights. It is those human rights that are protected through sovereignty, as people have to decide how they want to run their daily lives without any imposition by the external forces. In the post-Cold War era people have suffered the most humiliating violations of their rights. While on the other hand, state governments hid behind state sovereignty as the veil to perpetrate war crimes and crimes against humanity. On the other side, pressure was mounting on the international community to act in unison to protect human rights defilements. On the face of the endeavors of the wider society of states to halt human suffering sovereignty appeared to be an impediment. Hence, according to Bourke and Skinner (2016), sovereignty seemed to be an anachronism. In clear terms, they do not see sovereignty as relevant anymore, since it is abused by other governments to execute human rights violations. The strongest sensation that sovereignty is playing a mammoth role in allowing the perpetrators of human rights violations impunity. The international community, through the UN was deep in search of the means to assist in averting human suffering. Hence, it was reverberated in the words of Boutros Boutros-Ghali and Kofi Annan during their tenures as the Secretary Generals of the UN that state sovereignty is non-exclusive and non-absolute, and can be overruled, even confined, in certain states of affairs. Be that as it may, the statements were meant to address cases of human rights violations, not to feed the inexorable egoistic and hegemonic interest of the powerful states. In addition, the pursuit of these statements concisely speaks to the actions authorized by the relevant bodies (UNSC) and carried out by the transnational alliances.

2.9.1.3. Humanitarian Intervention against State Sovereignty.

Humanitarian intervention is often considered as the greatest assault on the sovereignty of the state and that consideration renders attempts to avert human rights violations redundant (Annan, 1998). The afore-mentioned claim chiefly advocates for both the proponents and protagonists of humanitarian intervention to advance their inferences in relation to humanitarian intervention. Intervention as an assault on state sovereignty stems from the principle of the UN Charter, which prohibits intervention, but not in absolute terms. The UN Charter was established in an attempt to settle international disputes in a pacific manner. However, the debate on state sovereignty dates back to the Westphalian treaty of 1648. It is in that treaty that states have sovereignty, which according to Tunkin (1956), as cited in Gevorgyan (nd), means the innate authority of the state in terrain and independence in global dealings. Further to that, that state sovereignty qualifies each

state to have an authority in terms of cherry-picking which political system, it wishes to adopt, and also the economic system that it feels it is appropriate for its people. Be that as it may, such chosen systems in relation to politics and the economy must not in one way or the other be in contravention of human rights of people of that particular state. In the adopted UN Charter of 1945 the principle of non-intervention is embossed as follows:

Article 2 (7) stipulates that “the United Nations has no authority to intervene in matters which are within the domestic jurisdiction of any state, while this principle shall not prejudice the application of enforcement measures under Chapter VII of the Charter.” (UN Charter, 1945)

The above-quoted article of the UN Charter esteems the precept of non-intervention as the fertile condition for peace and order in international dealings. Despite the fact that the principle of non-intervention ends by stipulating that, Article 2 (7) should not be an impediment to the implementation of the stipulations under VI and VII of the UN Charter. It is under article 37 where it is stipulated that the UN Security Council in determining the presence of the occurrence that puts peace under threat or breaches peace agreement, shall not shillyshally in advancing recommendations. Occurrences that are deemed to be (posing threat to) violating international order and peace do not occur between states only but also within states. Moreover, the recommendations made by the UNSC must by and large include means that are pacific in nature. However, the failure of the pacific means lands UNSC in a position to employ force and the employment of force means intervening by force to end the occurrences of human rights violations. Hence, proponents of humanitarian intervention deem it as the means to shield human rights if all else fail.

The contenders of humanitarian intervention like O'Connell (2010), deems that it is the use of force that further defile human rights as there are perceived side effects of military intervention. Therefore, human rights cannot be protected through means that will to some extent undermine the very same human rights. The opponents of humanitarian intervention like Atack (2002), are of the opinion that human rights can only be shielded through the employment of mechanisms that are considered to be pacific in nature. On the other hand, another group of opponents of humanitarian intervention opposes intervention on the grounds that relate to the advancement of national interests of the intervening states and that intervention is an assault of state sovereignty.

Despite the argument by Tesón (2001), that humanitarian intervention is permissible only on the condition that it is directed towards halting human rights violation.

On the other hand, the proponents of humanitarian intervention deem the principle of non-intervention as the only curtain beyond which human rights abusers hide. According to Levy and Sznajder (2006), if state sovereignty is absolute and intervention is a serious attack on it, human rights can never be defended by the international community. The international community of states have the responsibility to prevent and halt human right violations, which are classified under the international law and other treaties as crimes against humanity and war crimes. It is in the words of Chesterman (2004) that, it is the political will that drives the society of states to intervene and therefore sovereignty cannot be blamed for the failure of the international society to protect imperiled people. Crimes against humanity and war crimes can only be stopped if the international community intervenes and apply proportional force where it is necessary. However, in reality states only intervene when they feel obliged to intervene and their obligation is to a larger degree informed by their interests.

2.9.2. International Law.

International law is constituted by the networks of commandments and ethics that rule the relationships between states that are independent and also universal bodies like the United Nations, African Union and the Arab League (Dixon, 2013). However, international law is not only preoccupied by states and governmental bodies, but it extends to regulate dealings among individuals and non-state actors like non-governmental organizations (NGOs). The commandments or precepts of the universal law touch virtually on every aspect of intra- and inter-state undertakings or dealings. The scope of international law extends to regulate the marine, outer space and Antarctica. In simple terms, Yoo and Ho (2003), typify international law as the set of commandments and orders that superintends the conduct of states in their affairs and dealings among themselves, and administer the manner in which each state has to treat its people and recognize their individual rights. It is after the Second World War, where heads of states and people in general spoke eloquently about human rights. In the foregoing definitions, there is one standard element that aggregates up that which comprises the global law, it is the superintending of the occurrences between and within states. Further to that, the treatment each sovereign state accords

to its natives. The inclusion of human rights further depicts the mammoth anticipation for international law to uphold harmony even within countries.

Furthermore, international law could be seen as the monarch of orders which seek to manage international serenity and security. International law assumes the headship role in the territory of counter-fighting elements that seek to disturb universal serenity. There are various marvelous facets of the international law, which jurists and the general population must know. Moreover, according to Weeramantry and Buroughts (2005), qualify international law as the necessary mechanism through which war and human suffering, which subsequently qualified as gross human rights violations are ought to be obliterated. Wars have been known to have encompassed human nature since time immemorial and has given birth to human rights defilements, hence it is a necessity to obliterate it. In addition, the creation of Weapons of Mass Destructions (WMD) and their easy accessibility has perpetrated gross human rights violations. These weapons are available to both state agents and non-state actors who direct their usage towards genocidal intentions. It is the international law that prohibits such usage of the Weapons of Mass Destructions.

2.9.2.1. International Law on Human Rights.

The occurrence of the Second World War brought about the prominent human rights violations which the face of earth has ever witnessed (Chinkin, 1998). The end of the World War Two gave birth to the commitment and tying of human rights to the international legal system. The human rights bodies were established and were mostly concerned about conscripting of the Universal Human Rights, which was alongside coupled with Genocide Convention, which later were adopted by the UN General Assembly in 1948. Since from then, new treaties and conventions on human rights were signed and bodies that act as the watchdogs of human rights were established. The international law, according to Evans (2001), comes from the international conventions, therefore states that are signatories in those treaties and statutes are obligated to observe and accord veneration to individual rights within and across their defined borders.

Furthermore, the international law prohibits all sorts of actions that are directed towards incitement of ill-treatment of people, which among other things involve genocide, ethnic cleansing, incitement of war and arbitrary detention. The above-mentioned crimes can be committed by both state agents and non-state actors. The international law calls for the punishments of states and non-state actors who have been found to be have committed gross human rights defilements. International

institutions such as the International Court of Justice (ICJ), International Criminal Court (ICC) and other relevant Tribunals sit in adjudication of the crimes committed during armed conflicts. Hence, the international legal framework legitimizes the intervention for humanitarian purposes in sovereign states where human rights are being violated in a gross fashion. According to Ayoob (2001), international institutions like the UN Security Council shoulders the responsibility to apply international law when the need ascends. The punishment of actions that perpetually undermine human rights is qualified as necessary under the international law, as such punishment would mean the accomplishment of the international peace and security.

2.9.2.2. International Law on Humanitarian Intervention.

The undertaking of action by individual state or organizations from those states or the international community with the primary intention of shielding population in another country from the cruelty is qualified as the humanitarian intervention (Savić, 2007). In terms of the international law the employment of force as the means of averting humanitarian danger or threat is permissible. It is under chapter VI and VII of the Charter of the United Nations, where it is articulated that the powers to maintain international security and order are vested in the UN Security Council. However, the international law continues to guarantee the independence of states, but intervention is permissible only in circumstances where human rights are violated in a gross manner. Be that as it may, the international legal framework provides an ideal situation during which intervention is permissible. Among other things, those situations include, blatant human rights violations, genocidal actions and ethnic cleansing. It is clear on the United Nations Charter that the Security Council may decide on the measures to be employed when intervening, but those measures should not include the use of force. However, the failure of those measures in achieving desired outcomes the UN Security Council must decide to apply force.

Furthermore, the application of force should be the last resort and be decided upon by the relevant bodies. The force applied should be proportionate to the good intended and areas where civilians reside should be not the main military target. Hence, Chesterman (2001), asserted humanitarian intervention should epitomize the principles of the just war doctrine. Intervening parties are expected to do justice during the war. The manner in which combatants conduct themselves is important as it determines the success or failure of the intervention. Moreover, the weapons that are used should not be the weapons prohibited by the international law such as the biological

weapons. More importantly the principle of immunizing non-combatants should be applied all the times of intervention. As Savić (2007), posits that humanitarian intervention is meant to relieve people from the cruelty they are subjected to by their regimes or any other actor that is a non-state actor.

2.9.3. International Community.

In today's international politics, there is a strong use of the term 'international community'. According to Brice (2011), when people think about international community come to think about what it has done, what it continues to do and largely about what it should do. In most cases, if not all, the international community is habitually scrutinized in a state centric point of view. The modern international community has its origins emanating from the agreement of 1648 in Westphalia. The Westphalian agreement brought to an end the thirty years of hostilities in Europe. Moreover, it was a gigantic stride towards the creation of independent states, which appreciate the power to seek after their interests without decimating one another or the worldwide arrangement of which each state is part of. Hence, Brice (2011), asserts that the international system was constructed premised on the notion that states were the primary actors and each state's sovereignty was esteemed absolute. This created the notion that all states were juridically equivalent, despite the fact that, in true reality they were definitely not. Moreover, this was more of a decentralized system, which was premised on the elements that prevention of the dominance of powerful states through balance of power, settlement of differences through pacific means and the encouragement of diplomatic practices. With the existence of the afore-alluded principles the system of states was transmogrified into an international society. Hence, there was a League of Nations after the First World War and the United Nations after the Second World War.

United Nations, as the international body that is entrusted with the responsibility of maintaining international peace and order, is the body through which the international community is supposed to operate. Decisions to avert any action or undertaking that seeks to undermine human rights or brings about human suffering are taken within the United Nations. However, if a decision to intervene in any sovereign state is taken outside the United Nations, the group of states that took the decision are anticipated to report to the Security Council within the designed timeframe. Hence, according to Annan (1998), the international community bears the responsibility to act in unison and decisiveness in eradicating any situation that seeks to undermine human rights. Moreover, the

action taken by the international community should not have selective eyes in tackling such matters, as they pose a direct threat to international order and serenity.

2.9.3.1. International Community and Humanitarian Intervention.

Dowell (2007), argues that during a grave and far reaching infringement of human rights the international society has an ethical duty to intercede, utilizing the force if all else fail. The international law permits intervention by the international community to end or prevent widespread of human rights violations, but that intervention should be authorized by the relevant body, which is the United Nations Security Council. The intervention to prevent genocide or the widespread human rights infringements became the ethos of the United Nations. That ethos was informed by the outcomes of the Holocaust after which the international community made a promise that such actions would never be witnessed again on the face of earth. However, the Rwandan genocide proved that the international society lacked the political will to prevent actions of that nature (Annan, 1998). The inaction towards the Rwandan genocide was a direct disregard of the legislations that include the UN Charter of 1945, the Universal Rights Declaration of 1948 and the UN Convention on the Prevention and Punishment of Crime of Genocide of 1948. Despite the failure to prevent such an occurrence in Rwanda still there is an ethical duty that is borne by the international community to sojourn (the menace of) a humanitarian catastrophe. However, it is categorically asserted under international law that the legitimate authorization of such action is a prerogative imputed to the UN Security Council. Furthermore, the coalition to intervene should be drawn from the armies of the states that are signatories of the UN Charter and those are the states that ultimately form what came to be termed the international community.

Nonetheless, it does not only end by the political will of the international community to intervene, but it also extends to the how these intervening countries conduct themselves. The conduct during the intervention is of uttermost importance as it is through the behaviour of belligerents that human suffering is halted. The principles of how combatants should conduct their operations are enshrined under the international customary law, which largely originate from the just war doctrine. The just war doctrine is divided into three branches the first one being *Jus ad Bellum*, the second one being *Jus in bello* and lastly being *Jus Post Bellum*. The three mentioned principles of war are closely linked to humanitarian intervention because it involves the usage of force. The first branch *Jus ad Bellum*, which means the right to resort to war. According to Walzer (2004), states should have

the moral just reason to resort to war. In the case of humanitarian intervention, the international community should be able to justify intervention on the basis of the widespread of human rights violations. The UN Security Council should use its veto to vote in favour of halting the identified human suffering. Moreover, if the intervention is authorized by the UN Security Council is justifiable as the UN Security Council is the legitimate body to do so.

Furthermore, the intention of the intervention by the international community should be nothing but to save human rights from being defiled. According to Finnemore (1996), no hidden agendas that should cloud the sacrosanctity of humanitarian intervention. The international community can only resort to humanitarian military intervention after all other pacific means have failed to yield positive results. Secondly, *Jus in Bello* is chiefly concerned with the right or just conduct of war and the conduct of soldiers during the war. This branch is described by many as the branch that sets out the criteria or provide standards of conduct for armies, individual soldiers and nations at war. The international community should at all times monitor the behaviour of the combatants during intervention, as the very conduct determines the success or the otherwise of humanitarian intervention (Fortna, 2004). The principles that govern combatants during intervention are proportionality, discrimination and responsibility.

The principle of proportionality should be determined before the intervention by the international community as they are the ones who take the decision to intervene. The force used should not bring about more human suffering than it intends to stop it. The generation of escalated human suffering would defeat the purpose of the intervention. The weapons used should not among others involve the biological weapons as these weapons (WMD) are prohibited by the international customary law. The second principle, namely discrimination chiefly speaks to the targets of war. That areas occupied by the civilians should not be targeted by the intervening countries or armies. The number of dying civilians should not supersede that of the militias. The principle of responsibility is best summarized by Crawford (2007), when he says, it is the responsibility of belligerents to direct attacks to those who pose danger to them. Moreover, it is their (soldiers') duty to immunize those qualified as non-combatants. However, this principle does not ignore the fact that there are possibilities of non-combatants being caught in the crossfire. Nevertheless, trained soldiers are encouraged to minimize that by properly identifying targets before launching attacks.

Lastly, the *Jus post Bellum* is the most critical branch of the just war theory, which also applies to humanitarian intervention. This branch is largely concerned about what happens after the intervention or war. As a humanitarian intervention is the responsibility of the international community that means the ethical duty to end the suffering of the people of the state concerned. The end of human suffering is equally to the success of the intervention (Seybolt, 2008). The international community has the duty to halt a humanitarian catastrophe. An intervention should not only end by the deployment of soldiers, but it must extend to addressing the root cause of the problem. If the widespread of human violations was coming from the government of the concerned state must be addressed in such a way that people of that state must be given an opportunity to elect a new government that they can trust. However, if the suffering was discharged by the non-state actors, new policies that are accommodating all the parties concerned should be established and implemented. Be that as it may, the process of electing new representatives, formulating new policies, and adopting economic and political system in that state should not be directly influenced by outsiders but their arbitrating is required. As the direct involvement of the external forces would amount to the breaking of the standards of the UN Charter or amount to what Dolan and Hovil (2006), allude to as the misuse of humanitarian intervention as the Trojan horse through which the superpowers of this world hide their agenda for regime change. Most important in the post intervention era the rule of law should be restored.

The international community is the bearer of the moral responsibility to save human lives using force. That ethical duty is activated by the actions or atrocities that shock human conscience (Walzer, 1977; and Kolb, 2003). That moral responsibility should be exercised to protect the human rights of the population of the world willy-nilly of their nationality, political association, religious line, race, gender and age. The intervention by the international society should be authorized by the UN Security Council as that body is allocated with the responsibility to maintain international order and security. However, the intervention could also be practiced by the bodies like NATO or coalition by states on the condition that they have the approval of the UN Security Council and their actions will be closely monitored. The action by bodies like NATO to intervene are considered to be undertaken at the behest of the international community. But such actions should be undertaken in instances where there are prominent human rights violations. In cases where intervention is performed by organizations like NATO certain submissions should be made to the UN Security Council. Those submissions should involve the reason for intervention and

what is hoped to be achieved after the intervention. However, the international society cannot be reduced to the bodies like NATO. The international community should not place their own narrow interests ahead of the victims of bloodshed and stand aside in the face of conscience-shocking violence, but must instead demonstrate a political willingness to step in and put an end to human suffering (Bellamy, 2009).

2.9.4. Responsibility to Protect.

After the Jews Holocaust, the United Nations or the international community made a pledge that such acts of human rights violation would never occur again. However, the occurrence of the Rwandan genocide which left more than 800 000 people dead was more of a repetition of the Jews holocaust. The widespread of human suffering was not only confined in Rwanda but also in other parts of the world, inter alia, Democratic Republic of Congo, Burundi, Bosnia, West Africa and Sudan. The international community made no attempts to intervene in Rwanda as people's rights were flouted. In 1999, NATO after noticing the unwillingness of the international society to act assertively to end the sufferings which occurred in Kosovo, intervened without the authorization of the UN Security Council (Sperling and Webber, 2009). The atrocities that claimed many lives and brought about human suffering occurred and the absence of the political will of the international society costed many lives in both Europe and Africa. It was in 2005 during the world summit where the resolution was taken by ICISS to adopt the responsibility to protect (RtoP or R2P). In the words of Stahn (2007), the responsibility to protect means sovereign governments shoulder the principal responsibility to shield their populace from avoidable disasters, when they fail or are unwilling to do so that duty should be assumed by the greater community of states. The R2P does not only respond to violence, but is equally the mechanism through which the devastated societies are built.

The adoption of the R2P is alluded to as the greatest accomplishment among the few of the United Nations (Ballamy, 2005). It was during the 2005 world summit when global leaders took a congruent decision to pronounce that all countries bear the ethical duty which is the responsibility to protect their respective populace. Such protections should be demonstrated against anything that epitomizes crimes, inter alia, ethnic cleansing, war crimes, genocide and crimes against humanity. This action illustrated the preparedness and determination by the world leaders to assume joint action in contradiction of situations where state authorities patently fail to shield their own

populace from the afore-mentioned crimes. Bellamy (2009), sees the resolution 1674 taken on 24 April 2006 as the further affirmation of the responsibility to protect. The resolution indicated the preparedness of the international society to employ appropriate measures towards the attempt to shield human rights. In addition, the principle of RtoP is rooted in the logic that sovereignty is the responsibility, as states have to protect their citizens (Annan, 1998). This logic coerces states to reconcile human rights with sovereignty and such reconciliation presupposes that states will prioritize the protection of human rights.

2.9.4.1. From Humanitarian intervention to R2P.

The era of 1990s inspired a vigorous debate among the world leaders. The debate stemmed from the notion of sovereignty as responsibility. It is the words of the former secretary general of the UN Kofi Annan, which inspired thoughts around finding mechanisms through which human suffering can be averted without hesitation. Evans (2009), quotes Kofi Annan's words as the foundations of the principle of the responsibility to protect. Annan (2000), raised a very critical question "if humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violations of human rights that offend every precept of our common humanity." The foregoing questions advanced the race of thoughts among scholars and world leaders. Those thoughts further found expression within the AU in 2002, when the emphasis of the African leaders shifted from noninterference to non-indifference, which aimed at addressing catastrophic internal human rights defilements.

2.9.4.2. The Core Principles of the Responsibility to Protect.

The responsibility to protect came to be conceptualized in a more comprehensive manner than the responsibility to intervene. Humanitarian intervention under the umbrella of the concept the responsibility to protect encompassed more humanitarian centered principles. According to Evans (2009), the basic principles of the responsibility to protect elevates the sovereignty of the state by qualifying sovereign states as the primary protectors of the people residing within its borders. War crimes or crimes against humanity occurring within a sovereign state must be internally dealt with. However, the incapability or the fragrant failure of the state in question to act resolutely in shielding its people from the insurgency, internal war and repression or in instances where the state itself is the perpetrator of a blatant human rights violation the R2P falls in the hands of the international community. According to Scheffer (2007), the ethical duty to protect yields to the

hands of the international society of states. The intervening states ought to place the interest of the victims ahead of their own interests.

The responsibility to protect was founded on the basis of the UN Charter article 24, that the UNSC has the primary responsibility to act in maintaining international peace and security. According to Evans (2009), the achievement of the global order and security lies squarely with the maintenance of peace within the boundaries of a sovereign state. International community, as it has been asserted earlier, comes to picture in the failure of the state to protect its population from threats and dangers directed to violating their rights. However, the UN Charter article 41 expresses clearly that the intervention using force should be the last resort after the exhaustion of all other pacific options have been exhausted. The priority of the R2P as the advancement of humanitarian intervention is to shield human rights at all cost. However, the antagonists of humanitarian intervention harbor their qualms about the responsibility to protect. Amongst others O'Connell (2010), sees the responsibility as just an excuse of waging war for the so called right reasons. Military intervention to achieve peace is a shortcut for stopping violence by threatening the perpetrators of violence. According to her (O'Connell, 2010), peace can only be achieved through peaceful means.

2.9.5. Veto.

The occurrence of the Second World War was another game changer in the global politics. The emergence of the UN as an international body, adoption of the UN charter and subsequently the Declaration of Universal Human Rights, all were influenced by the occurrence of the WWII. According to Fassbender (1998), the drafting of the UN Charter started before the end of the war because it was easy to detect the possible victors of the war. The then superpowers drafted the UN Charter with the idea that they as the superpowers should provide leadership in the chaotic international politics and system. The meeting that gave birth to the United Nations was held at the Dumbarton Oaks Mansion in Washington DC. The victors of the World War Two were the Great Britain, Russia (formerly known as the Soviet Union), China, France and the United States of America. Their decision to form the United Nations was by and large informed by the failure of the League of Nations to curb the occurrence of the Second World War. The primary aim for the formation of the United Nations was to have an international organization that will maintain international order and security (Sloan, 1989).

Moreover, in the conference that was subsequent to the Dumbarton Oaks meeting, in San Francisco it was arrived at a decision that the first permanent members of the United Nations should have the responsibility in assisting in matters that relate to maintaining global security and peace. Hence, the United Nations Security Council came about. The UNSC is currently constituted with fifteen member states, five of which being permanent members and the rest are holding revolving voted seats. The five permanent member states also known as the 'P-5' allocated themselves a power to vote on matters that are discussed in the Security Council. That power to vote is referred to as a veto. There was a great distrust among the victors of the Second World War. According to Okhovat (2012), veto was established on the basis that superpowers wanted to prevent each among themselves from attacking one another rather than as the way to maintain peace and order.

Furthermore, the veto power was allocated to the P-5 through the UN Charter. The veto power enables the P-5 to decide on the establishment of peacekeeping missions, establish tribunals to try individuals accused of war crimes and vote on situations that need intervention. This prerogative was allocated to the P-5 through the UN Charter article 37 and 39 (Okhovat, 2012). The two aforementioned articles allow the Security Council permanent members to settle disputes among international community members and make accords that are compelling on all parties involved. It is this power that makes the five permanent members of the Security Council the authority to discharge the powers from the existing international legal framework by establishing obligatory resolutions.

2.9.5.1. Veto and Humanitarian intervention.

In matters of intervention, the Security Council has to vote and all the five permanent members ought to vote in favour of the decision to intervene. For the intervention to be qualified as the 'just cause' should be authorized by the UNSC. The Security Council has the responsibility to employ its veto in maintaining international peace and order of which human rights are not an exception. In terms of voting within the Security Council for the decision to hold, nine of fifteen members should agree, in that nine the P-5 must also be the part. The failure of the Security Council permanent members to concur in terms of voting, the intervention is considered as illegitimate. The failure of the P-5 to agree could be influenced by the mistrust between them or each state is identified as wanting to pursue its national interest instead of intervening on altruistic grounds. Disagreeing between the P-5 is equal to the continuation of human rights violations in the country

in question. The veto is meant to be used in favour of maintaining international peace and order. Humanitarian intervention must not be undertaken in satisfying the narrow egoistic and hegemonic interests of the permanent five members of the UNSC. Equally, the veto is not the mechanism through which P-5 members should bulldoze decisions and policies to other weak states (Ayoob, 2004). However, Newslandry (5/08/2014) is of the view that the veto has been used and it is still used to take decisions that seek to achieve national interests of some among the P-5.

2.10. The Practical Nature of Humanitarian intervention in the Post-Cold War Era.

The demise of the Cold War has ushered in a new configuration of international politics (Fukuyama, 2006; Desai, 2013; Buzan, 2008; and Fox, 1995). The afore-noted era witnessed the decrease in terms of armed conflicts between states, which in most of the times is referred to as inter-state wars. However, people suffered heavily from occurrences that include(d) civil wars, political instability, terrorism, repression by their regimes and insurgency groups among other things. The outcomes that were and are still hatched by the above-listed events among other things involve displacement, forced migration, mass murders, ethnic cleansing, genocide and sexual violence. It is such events, which heightened the need and necessity for intervention for humanitarian purposes (Weiss, 2001). Humanitarian intervention as the last resort to protect human rights has received criticisms from all angles. Such criticisms were and are generated by the processes engaged before carrying out the intervention, which in the words of Walzer (1977) as cited in Tesón (2001), largely constitute the *Jus ad Bellum*. However, the constantly pouring criticisms are also largely informed by the events that occur during intervention and the consequences that are generated by the intervention. The failure to abide by the *Jus Ad Bellum* and *Jus in Bello* principles has generated political and economic cataclysms, which meant that the *Jus Post Bellum* principles are not gratified. The failure of humanitarian intervention to meet the just war doctrine principles is equivalent to the failure to shield human rights. In addition, it is that failure that attains the unintended outcomes as human rights are perpetually violated. This section shall explore the blunders that are committed by combatants and other officials during intervention.

In the post-Cold War era, the international community through the UN has provided humanitarian intervention in cases where human rights are defiled. Hence, Väyrynen (1996), referred to this period as the era of humanitarian emergencies. However, in instances where humanitarian

intervention is provided the consequences on the ground are a reflection of something that is at variance with what is envisaged on the paper. The nitpickers or critics of humanitarian intervention have always focused on the negatives or side-effects that are engendered by the intervention. In the words of Rauchhaus (2009), the adversity of the side-effects that result from humanitarian intervention are deemed as being counter-productive when it comes to shielding human rights. Humanitarian intervention antagonists tend to disapprove intervention on three grounds namely, its failure to recognize self-governance, as the cause of international instability and rarely succeeds. Such counter-productiveness is imputed to a number of factors. The assessment conducted by this study will focus more on the third one (rarely succeeds), however, that is not to suggest that the other two are trivial.

2.10.1. Discrimination between Combatants and Non-combatants.

Humanitarian intervention as the mechanism provided during (a threat of) humanitarian disaster or what Carter (2006) and Walzer (1977), refer to as the ‘shocking of human conscience’, seeks to protect civilians. The principal aim of humanitarian intervention is to protect human rights from violation or rid out suffering that is caused by their repressive authorities. It is imperative for the intervening parties to employ the *Jus in Bello* principles. The *Jus in Bello* principles advocate for discrimination between combatants and non-combatants during armed conflicts. Moreover, that discrimination is not only confined to human beings but it is also extended to military targets. Airstrikes and cluster bombings must be directed to military targets not civilian camps or locations. Military intervention for humanitarian purposes is to a larger degree different from other armed conflicts, as it involves the use of force to protect the abused human rights. Hence, it is imperative for the intervening brigades to have undergone the necessary training on the principles of war. The success of humanitarian intervention is measured on how it has managed to save civilians from gross human rights violations.

Furthermore, the international law succinctly states the importance of the ‘principle of discrimination’ or ‘principle of distinction’ as the international scholars and jurists would say. However, according to Cronin (2014), almost in all cases, humanitarian intervention operations have left a large quantity of non-combatant population wounded, or dead and their property severely damaged. Such deaths and injuries are a direct outcome of ill-planned interventions as civilian population has become the target for military intervention. Hence, during humanitarian intervention, the principle of distinction assists in terms of generating the positive intended results,

which should be to protect the civilian population from suffering or axiomatic human rights violations. The international legal framework goes on to mention the weapons that should not be employed during armed conflicts because of their nature. The use of indiscriminate weapons is not allowed under international humanitarian law. As the indiscriminate arms pose more threat to non-combatants who are supposed to be spared. The failure to spare the lives of non-combatants defeats the purpose of the intervention in the first place. Despite that, such principle is from the just war theory, which is now to a larger extent incorporated into the international law, civilians continue to suffer and perish at the hands of interveners who are supposedly to protect them.

In addition, reports received from international newspapers, Non-Governmental Organizations (NGOs) and scholars indicate that the number of civilians that incur injuries during military intervention is high. Places where civilian population reside has turned into the primary targets of the interveners. This is further exacerbated by the increasing trend of using airstrikes when carrying out intervention. During intervention in Somalia it is reported that more civilians were displaced, some incurred severe injuries, children were subjected to orphanage and many good civilians died (May, 2007). Collateral damage in the recent operations of humanitarian intervention does not come as an accident but comes as the deliberate intention of the interveners. That is embossed in the words of Kiernan (2003), when he quotes Rumsfeld Donald the then US Secretary of Defense saying, “US did not run out of targets, Afghanistan is.” It was epitomized in those words that the interveners at times do not seek to quell human suffering instead they target the very objects that should be protected. Moreover, people suffer unnecessary deaths during humanitarian intervention as those deaths could be avoided (Janzekovic, 2006). The failure of discriminating between combatants and non-combatants result to further human rights defilements than halting or preventing such from happening.

Moreover, at times the carrying out of humanitarian intervention places human life at danger in an indirect manner. The failure to identify correct targets, which in this case are the ‘military targets’ has exacerbated the risks entailed by the intervention. According to Slim (2001), the bombing of curative institutions and thwarting civilian access to hospitals took away many lives, which could have been saved. Additionally, the bombardments that occurred in Somalia during the 1994 intervention meant the demolition of civilian assets and that left people in economic quagmire as their businesses were destroyed. Slim (2001), further qualifies such acts as the means through

which military camps are saved instead of civilian habitations. Destroying of civilian belongings and killing them during the pursuit of humanitarian intervention defeats the primary purpose of shielding human rights. Moreover, it is such a conduct that validates claims of humanitarian intervention antagonists such as O'Connell (2010), that human rights cannot be protected through means that inexorably take away lives.

2.10.2. Personal Behaviour of Belligerents.

The conduct of belligerents during military interventions is imperative as it determines the maximum protection of human rights. However, in many cases it is reported that combatants at most of the times engage in abuse of civilians who they ought to protect. Such complaints about the behaviour of UN forces are related to two offences that are associated with violating human rights. The first offence includes that of selling drugs and corruption, and the second offence includes sexual related behaviour (Slim, 2001). The latter has raised many eyebrows as it directly defeats the purpose of intervention in the first place. More than 30 cases of sexual abuse have been reported during humanitarian intervention in Central African Republic (Al Jazeera, 2015/06/05). The abuse of non-combatants by the combatants is tantamount to human rights violations. Such conduct of abusing the civilian population illustrates how the dismal failure of determining the responsibility of interveners before intervening leads to or shapes such abuse.

Furthermore, determining responsibility of the interveners according to Janzekovic (2006), refers to the process by the international community to establish who is responsible for the human rights violations that are ongoing. In addition, determining the responsibility helps the international community to have a clear map of the intervention as they would with ease identify their targets. The identification of targets is assistive in terms of establishing areas that are occupied by non-combatants as opposed to perpetrators' camps. The wrong way round, the interventionists have done very little with regards to avoiding human suffering that is born out of their actions (Roth, 2005). Combatants misuse the power to infuse fear on the civilians and further employ force that does not only destroy counterpart's camps but also destroy properties of the civilian population. Such damages do not only bring about momentary suffering but they have long term implications as the civilians are left in constant suffering. Cruelties hatching from the combatants conduct during the intervention entail long-lasting consequences and such actions are synonymous to human rights abuse. In addition, unjustified conduct by the combatants qualifies intervention as

ineffective to shield human rights. Such qualification stems from the fact that human rights are not saved instead the suffering is perpetuated to last even beyond military intervention. All that is the outcome of the utter disregard of the rules of conduct during intervention for humanitarian purposes. However, in the thoughts of the majority of scholars, such perpetuation of human rights violations by interveners is propelled by the hidden agendas of the intervening parties. The pursuit of narrow interests during humanitarian intervention produced undesirable outcomes.

2.10.3. Weapons Used.

Humanitarian military intervention is loosely defined as the protection of human rights from a humanitarian disaster that in most of the times is caused by their governments or armed groups within defined boundaries of an independent state. The undertaking of humanitarian intervention campaigns theoretical is aimed at protecting human rights from gross violations. Military intervention for humanitarian reasons entails the employment arms to quell the perpetrators of human rights violations. Hence, according to May (2007), it is important that the weapons that are used should not be autonomous in nature. The expert meeting, which sat in Geneva 2014, defined the autonomous weapons as weapons that independently select and attack the targets. These weapons do not qualify under the *Jus in Bello* principles. In most cases, these weapons are incendiary and in their selection of the target can mistakenly hit areas inhabited by civilians. In addition, the dropping of the conventional bombs over areas without establishing if the area is occupied by civilians.

It is the responsibility of international community to intervene militarily in situations where human rights are being flouted. Equally, the weapons that are used during intervention should be determined by the international community through the leadership of the UN Security Council. The importance of determining which weapons to be used would save more lives. However, according to Cornwell (2005), the results of the humanitarian intervention campaigns indicates that the forms of weapons that are used are not permissible under the international law. The usage of airstrikes and conventional bombs in Kosovo placed more civilians in danger and many others got killed as others lost their belongings. It is in the western tradition or principle that during intervention for humanitarian purposes they aim to achieve the safety of their soldiers first. According to Slim (2001), that principle or tradition is termed as zero-causality strategy. Among other things, the zero-causality strategy include the employment airstrikes and dropping of conventional bombs. However, that zero-causality strategy appears to accept non-combatant

causalities more than military combatants. Despite the fact that humanitarian intervention is an apparatus to shield human rights.

Moreover, the international law forbids the employment of biological or chemical weapons during armed conflicts, and humanitarian military intervention is not an exception. Ali (2001) opined, chemical or biological weapons perpetrate massive human cost as some people lose their lives and others become severely wounded. Hence, biological weapons are also qualified as the weapons of mass destruction (WMD). The WMD do not only entail dangers that harm human life but also entail economic implications as the abolition of the infrastructure becomes high. In addition, the employment of biological weapons defeats the purpose of proportionality, as these WMD cannot justify any cause. Such failure to justify the cause would be illustrated by the harm achieved more than the good that was meant to be accomplished. Careful studying the bad generated during intervention is not meant to vilify humanitarian intervention but driven by the sole intention of determining whether intervention on humanitarian grounds is the perfect mechanism to take the imperiled civilians out of danger. Hence, the selection of weapons assists in terms of lessening the chances of intervention to fail its primary purpose. However, the failure of humanitarian intervention to shield human rights cannot only be imputed to the employment of impermissible weapons but there are other factors. Some of those factors have been discussed in this study and others are to be discussed as the assessment progresses.

All in all, the prohibition of certain weapons serves as the attempt to sanctify humanitarian intervention. Humanitarian intervention is the remedy employed to cure humanitarian disaster. It is in the words of Gibbs (2009), that any remedy used to cure a particular situation should do more good than harm. It is the employment of WMD, airstrikes and conventional bombs that put the effectiveness of humanitarian intervention in disrepute. Moreover, the usage of weapons that are harmful in nature undermines the principles of war, which also apply in humanitarian intervention on the basis that it employs coercion. The principle of proportionality that force employed must be proportional to good that is intended to be accomplished. The failure to adhere to that principle is tantamount to perpetuation of human rights violations, as more civilians are bound to suffer due to the unnecessary amount of force that is applied. Hence, May (2007), deems that it is necessary that during humanitarian intervention the principles of the just war doctrine or theory are respected. The veneration of the Just War Doctrine amounts to the better observation of the international law

precepts on the armed conflicts and humanitarian military intervention. Moreover, it saves non-combatants from being the victims due to the nature of weapons employed during intervention.

2.10.4. Targets during Humanitarian Intervention.

The issue of targets is highlighted under the foregoing sub-headings, however, here will be discussed in a greater detail. The principle of selecting targets is imperative during humanitarian interventions. In the pursuit of saving human lives, of civilians in particular, targets that need to be terminated should be clearly identified (Hoffman, 2004). The identification of targets becomes helpful as it lessens the probability of civilian population being harmed and killed unnecessarily. Be that as it may, it is inescapable that civilians will be affected negatively, but that impact on civilians should come as an accident not intentionally. Hence, the just war doctrine, which was later incorporated into international humanitarian law stipulates vividly on how combatants ought to select targets. The move of incorporating the just war doctrine into the international humanitarian law was to ensure the proper execution of the war that is conducted on the grounds of saving human lives (civilians).

However, the execution of military intervention campaigns in the post 1990 period has exhibited some characteristics that are at variance with the standards of international humanitarian law. It is on that basis that humanitarian intervention received harsh criticisms as being the shield of human rights. On the contrary to shielding the rights of the civilians, human rights are flouted more during the times of military intervention. As Hoffman (2004), points out that the involvement of humanitarian forces and other related peacekeeping forces in conflicts that are rampant in West Africa has produced more civilian casualties. Those civilian casualties are born out of the failure to identify correct targets that should be terminated. Moreover, the augmented attacks on civilians overcasts the principal aim of protecting human rights. Such heightened attacks are due to a number of factors but that does not justify why civilian population is turned to refugees and homeless people. The intervention in West Africa has seen people fleeing their homes as they were systematical attacked by their supposedly protectors.

Furthermore, the intentionally targeting of civilian population is due to the attempt of belligerents to extract resources from non-combatants (Wood, Kathman and Gent, 2012). Such actions by the foreign humanitarian forces influence the neutrality of the intervention, as in the process, one of the warring parties gain advantages. That is exacerbated by the fact that in the process

intervention, intervening forces are bound to work with local groups that claim to be acting in the interest of civilians. However, on the contrary it is such groups that perpetuates human rights violations. Moreover, the orchestration of human rights violations becomes worse as these groups receive special training from intervened forces. It is the words of Valentino (2011), that the involvement of the US-led NATO in Bosnia was not objective as it backed Croatian and Bosnian Muslim Forces in resisting the attack by Slobodan Milosevic. In the attempts of the former forces to block the Serbs from attacking them, civilians became victims as it was easy for the backed groups to launch attacks on the Serbs. Such attacks hatched hundreds of deaths and thousands of refugees. Non-combatants suffered more humiliation and attacks compared to combatants. Such suffering was worsened by the employment of airstrikes launched by the US-led NATO forces.

2.10.5. Pursuit of National Interests under the Guise of Intervention.

The UN Charter (1948), clearly stipulates that military intervention in a foreign country must be driven by the necessity to avert what threatens international peace and order. International peace and order is by and large threatened by that which violates human rights. Thus, maintaining international peace and order is tantamount to shielding human rights from being violated. In the opinion of Parekh (1997), only disinterested humanitarian intervention that can assist in bringing about genuine human rights protection. In the words of Krieg (2013), disinterested or objective humanitarian intervention is the undertaking of the actions that seek to suppress warring parties or blocking brutal regimes from suppressing its populace, intervening forces ought not to aid any side but stand with civilians. However, the definition of disinterested humanitarian intervention cannot be confined to suppressing antagonistic parties but also must not encapsulate any intentions by the interveners of eventually gaining either economically or otherwise. In addition, humanitarian intervention is the mechanism through which human rights violations should be averted not perpetuated. Intervening in a sovereign state for humanitarian reasons should not be in pursuit of national interests or informed by some state-egoism. The principal driver of any military intervention must be to save humans from suffering and assist a country in question to establish the rule of law.

However, it has always been known that states enter into international dealings with the sole aim of pursuing their self-interest or egoistic goals. Krieg (2013), handsomely defines national interests as the material and economic gains that each country intends to attain when dealing with other countries. However, in the words of Pham (2015), national interest is defined as the security and

material goals of the state, which ordinarily alters over the time, as foreign policy architects temper with the existing policies. It is in the views of realists that humanitarian military intervention is the vehicle through which states are afforded an opportunity to seek after their self-interest. The undertaking of humanitarian intervention towards the end of the 20th century and the beginning of the 21st century has hinted some elements of interest pursuit by the interveners Jakobsen (1996). It is that conduct during intervention that has raised many eyebrows when it concerns the protection of human rights by interveners. The likes of essayists like Krieg (2013), deem that the noble cause of saving human lives is compromised by the unending desire of states to gratify their egoistic ends. Moreover, the overriding of the primary objective of humanitarian intervention by the prioritization of national interests has led to many civilians being the casualties of the intervention.

Be that as it may, Valentino (2011), cites the then president of US Barak Obama saying “There will be times . . . when our safety is not directly threatened, but our interests and values are. . . In such cases, we should not be afraid to act.” Such arrogant and light-heated utterances cloud the noble intentions of intervention for humanitarian purposes. Intervening in pursuit of national interests jeopardizes the situation by worsening human suffering instead of alleviating it. Such humanitarian actions became evident in the era after the Cold War. As in the post 1990 epoch, humanitarian intervention has been pursued in the name of protecting civilians and maintaining international peace and order. The existence of human rights, which at times are being threatened, warranted military forces to intervene for humanitarian purposes. However, according to Annan (2013), military intervention in Somalia by the US forces, which were later withdrawn proved that where there are no material or economic gains human rights do not matter. Furthermore, the inaction by the ‘international community’ towards saving the Rwandan situation from getting worse became the confirmation that where there are no vested interests by capable states human rights can be violated. However, when it comes to areas regarded as the geostrategic regions coalitions like NATO intervene with or without the authorization from the UN Security Council (Lobel and Ratner, 1999). They further argue that the pursuit of self-interested during humanitarian intervention is underscored by the fact that the UN at times fails to oversee operations led by coalitions that are not authorized the by UN Security Council. It is on those grounds that states or coalition prioritize self-interest above the rights of the citizens, which are at jeopardy. Moreover, the pursuit of national interests is also demonstrated when the P-5 is confronted with the decision

to vote on matters that relate to humanitarian intervention. The disagreement within the Security Council is always drawn along the lines of ideologies, which is in most of, if not all the times, influenced by the history of Cold War. As a result, states intervene and take sides and in so doing further endanger human rights. According to (Williams and Bellamy, 2012) Syria is the perfect example of suffering of civilians due to the disagreement of the permanent members of the Security Council to take a decisive action in that country.

2.11. A Successful Intervention.

Firstly, the principal aim of exercising humanitarian intervention is to protect human rights and more importantly is to save lives of the citizens of a foreign state. Hence, according to Seybolt (2008), a successful humanitarian intervention is the one that managed to save lives. However, according to some scholars the measuring of lives saved cannot be the precise measuring cup because no one knows how many lives would have been taken in the absence of intervention. Contrary to the foregoing claim, the measuring of lives saved can be determined by looking at the number of lives that are saved against the number of lives that would have been taken in the absence of the intervention. The conclusion could be reached by determining the number of survivors in the areas that were targeted.

Furthermore, saving of lives is further indorsed by Chesterman (2011), when he sees humanitarian intervention as the mechanism through which mass atrocity should be ended. The ending of mass or grave atrocity is equal to restoring order. Moreover, the notion of saving lives has always been the sought end goal of humanitarian intervention (Mccall, 2017). However, people need not to turn the blind eye on the fact that there are many dialectical materialisms that determine the intervention. As it is reverberated in the words of Yodisha (2013), that an intervention that save lives is an intervention that is utterly disinterested. The intervening countries should be largely concerned about the redeeming the rights of the civilians that are faced with peril. Moreover, rescuing lives is informed by the methods and strategies applied by the interveners.

Secondly, the proponents of humanitarian intervention qualify intervention as successful on the basis that the interveners managed to quell the on-going violent conflict. The intervening forces should have the capacity to end violence, which is the primary reason for the human rights violations (Regan, 1996). However, the quelling of the on-going violence by the interveners must not come through assisting one side in perpetrating violence. As taking sides might be an ingredient

for the prolonging of the fighting. The prolonging of the violence would mean more human rights violations as people will continue to suffer and die. However, the obliteration of the on-going overt violence does not solely depend on the employment of force but also the presence of the foreign soldiers would assist in terms of exacting fear on the warring parties. Regan (1996), adds that the efforts that are strongly directed toward ending the overt violence bring about peace in that region. As the restoring of peace in regions where there is conflict is a step toward achieving international peace and order.

Thirdly, the impairment generated by the carrying out of the intervention should not outweigh the good achieved. This according to Pingeot and Obenland (2014), speaks to one of the six points of the criteria of humanitarian intervention, which is the principle of ‘proportionality’. The issue of balancing between the good and the bad generated mainly depends on the strategy(ies) employed by the intervening brigades. However, the balancing of the good and bad does not necessarily mean that these should be equally but it denotes to the reality that good must outweigh the bad generated. In more concise terms, that balance or outweighing of bad by the good accomplished is determined by the weapons used. As the usage of explosives that independently select targets could mean a severe damage of the infrastructure and an increased number of deaths among non-combatants. Moreover, the saving of infrastructure and sparing lives of the civilians justifies the killing of the combatants from the other end. Be that as it may, the killing of the perpetrators of grave human rights violations should not be encouraged but it is accepted in the circumstances where they pose danger. It is in the words of May (2007), that if they pose no danger they should be captured and treated as the prisoners of war. Such approach assists in terms of lessening the fatalities that occur during the intervention.

Lastly, it is known that humanitarian intervention is required where the rule of law no longer holds, as a result conflict erupts and people suffer. Suffering among other things involves the gross violations of non-derogable rights, which, inter alia, right to life, immunity from torment and/or any other derogatory actions or punishments. As it has been echoed by a number of scholars that among other things, humanitarian intervention must be directed at restoring the rule of law (Kolb, 2003). The restoration of the rule of law means that the intervening states managed to end anarchy that resulted to humanitarian disaster and subsequently to human rights violations. In cases where the rule of law is re-established the non-derogable rights are safe and civilians are able to continue

with their day to day businesses. Moreover, Wetugi (2007), suggests that the restoration of the rule of law is equal to the smooth running of the country and proper functioning of the other departments of the country that was once reduced to violence. However, such cannot be accomplished without allowing space for the people of that country to participate in terms of bringing about the new order. The role of the interveners is not to dictate but to assist in terms of the progress.

2.12. Chapter Summary.

This chapter provided an intensive and rigorous review of the literature. As it gave the conceptualization and the brief history of the humanitarian intervention. It further discussed the significant players who partake in taking decision relating to humanitarian intervention. Moreover, it provided the conditions under which humanitarian intervention should be undertaken. The importance of human rights and their history is discussed. It closes by giving a detailed explanation of the concepts that cannot be ignored when one is discussing humanitarian intervention. The true reflection of the humanitarian intervention toward the end of the 20th century and the beginning of the 21st century is provided in this chapter. It closes by providing the description of what successful intervention would be.

3. CHAPTER THREE: THE PRINCIPAL ACADEMIC THEORIES AND THEORETICAL FRAMEWORK.

3.1. Introduction.

This chapter looks at the theoretical frameworks. It provides the theoretical foundations on which this study is founded. It will explain the meaning and the importance of theoretical framework. Furthermore, this chapter encompasses the two different theories that are employed in this study. One theory (realism) is meant to explain the behaviour of states as the intervening agents, and the other theory (liberalism) is employed to explain the importance of human rights and the need for humanitarian intervention.

3.2. Theoretical Framework.

Theoretical framework is among the most imperative features of the research procedure (Grant and Osanloo, 2014). It is frequently a struggle for many to choose and prepare theoretical framework for their studies. The preparation of theoretical framework is one of those tasks that begs for commitment, understanding of what it (theoretical framework) is and how it is going to assist in terms of constructing the entire study. The understanding of theoretical framework helps the researcher to be able to employ it throughout the dissertation or study. The theoretical framework is described as the basis on which all the knowledge is assembled, be it in literal or metaphorical terms, for a research. Further to that it plays a pivotal role as the configuration that buttresses the rationale, problem statement, the purpose, the significance and the questions of the study.

In addition, it provides a solid foundation, or an anchor, for the rigor review of the literature, and more significantly, the techniques and analysis (Lysaght, 2011). This study employed realism and liberalism as the viewing telescope through which humanitarian intervention as the doctrine is examined. In more concise terms realism and liberalism are utilized as the theoretical frameworks on which this study is premised. The fundamental reason for selecting realism for this assessment of the viability of the humanitarian intervention as the shield for human rights is informed by the fact that the study involves the behaviour of the states. It is states that, more often than not, undertake humanitarian intervention. Realism will assist in describing and examining the behaviour of the state when it comes to the international platform and carrying out humanitarian intervention. It is the behaviour of the state that leads to the success (or fiasco) of an intervention

directed at humanitarian ends. The following section shall unpack the realism theory and the manner in which it describes the conduct of each state on the international platform. On the other hand, the employment of the liberal perspective (liberalism) is driven by the intention of the study to reveal the necessity for human rights protection. Moreover, to provide the fundamentals on which humanitarian intervention is justified and founded. As liberalism is postured as the theory that is humanitarian centered or driven.

3.3. Realism.

Realism is one amongst the theories employed in international politics however, among other theories is the only theory concerned about reality. The core assumption by the realists is premised on the fundamentals that the international political platform is characterized by the state of anarchy. That state of anarchy is born out of the reality that the international arena does not have a legitimate or recognized central authority that is entrusted with the responsibility to govern what is happening. In succinct terms, states are, to a greater degree, law unto themselves. Realism deems states as the principal actors. States as the sovereign and rational actors do what they have to do for their own security and survival. Hence, essayists like Glaser (1994); Wendt (1995); Waltz (2000a) and Hyde-Brice (2006), resorted to qualifying the international system as the ‘self-help system’, which requires each state to act solely in pursuit of its own narrow interests. However, such assertion is not to obliterate the fact that states as the main actors on the international arena are not equal in terms of powers, be it soft or hard power.

Moreover, at times states are bound to test their hard power, also known as the military muscle, against other states. It is on those fundamentals that the relationships between states are characterized by the sense of mistrust. That sense of mistrust compels each state to focus on amassing power that is relative to or surpasses that of their counterparts on the international arena. Moreover, some states have opted to test their power through engaging in war with other states. Hence, realism theory is of the view that going into international affairs each state has to leave morality back at home and the failure to do so would be an invitation for that state to be mercilessly exploited by other states.

Furthermore, realism’s core concepts interpret power, the state, state behaviour, and the nature of the international system. Realists define ‘power’ in terms of military capabilities possessed by the state; states will always wish to maximize their ‘power’ relative to other states (Hyde-Price,

2008). Realism is a 'state-centric' theory, because realists view sovereign nation-states as the only legitimate monopolists over the use of force, which direct their attention solely on state behaviour. Realism's proposes the ideas of 'self-help' and 'survival', which imply that states must fend for themselves, and cannot rely on others for protection and that statesmen seek to preserve the existence of the state. Realists believe states strive to exist within a system characterized by 'anarchy', which means there is no 'overarching central authority' presiding over international politics. Realism predicts that 'anarchy' fosters hostile conditions in which states must inevitably merge into alliances with or against each other in order to balance asymmetrical power. This key concept is known as the 'balance of power' and is fundamental to Realism as a theory. These elements of Realism are at the root of its logic and are key to understanding realist's theory.

Realism regard state as the main actor in international politics and states like human beings have needs. Hence, the authorities or the governments that are entrusted to run the state bear the responsibility to identify the needs of the state and act towards fulfilling those needs (Riley, 2005). That responsibility is demonstrated through the definition of self-interest and formulation of foreign policy as the mechanism to pursue their national interests. International platform or arena forms part of the stages on which states pursue their national interests. Be that as it may, in the process of seeking after that interest some states become the victims, as those that are more powerful take an advantage of the weaker states. According to Griveaud (2011), the exploitation of fragile states happens with or without their agreement to it. The process of exploitation of fragile states by strong states is born out of the fact that states are not equal in terms of power. Hence, at times states may be co-opted through persuasion to agree to do the will of others.

However, in some cases where some of the fragile states may refuse to accept the will of the powerful states, those powerful states normally resort to employing hard power to coerce fragile ones to agree to their will. It is such behaviour that according realists like Selden (2010), divulges that actions undertaken by any state on the international platform are not aimed at achieving good for their counterparts but it is with regard to their egotism. Hence, scholars like Kaldor (2003), deems that no action taken by the state in dealing with other states is meant to achieve common good but is meant to advance that state's goals or interests. That action is the confirmation that there is a lack of trust between states hence, states are always on the mission to amass power and at times test that power against each other. However, the testing of power by each state is aligned

with the pursuit of economic gains or parochial interests. Hence, states do not just pick wars against those that do not have what they desire. Such action of not interfering where your interest is not invested is illustrative of the fact that anything done by states in the international platform is an extension of their foreign policy.

3.3.1. Realism on Human Rights.

Realism as the mainstream theory of international relations esteems states as the only rational actors in the international platform (Dunne and Hanson, 2009). As it has been stated before that states seek to maximize their power and test it against others. The point of departure for realists in viewing human rights is that international politics will be forever inhospitable for human rights. As this is informed by their imagined world where agreements and rules are mere papers that are always transgressed. Such imagination of the world is influenced by the philosophy of Hobbes that all the agreements that states enter into are mere words and talks and there is no central power to enforce them. Therefore, states are law unto themselves. The realism theory sees human rights as a tool introduced by the great powers to have a way to control the weaker states. As Dunne and Hanson (2009), see it (introduction of human rights) as the mechanism through which tough states seek to control other states and pursue their interests beyond their political drawn borders. Therefore, humanitarian intervention according to Smith and Light (2001), is the continuation or an extension of foreign policy through other means.

Realism sees the diplomacy of human rights as just talks. That is embedded in their analysis of the foreign policy, that human rights do not feature anywhere in the formulation of foreign policy. The realists are strongly opposed to the notion of ‘universal morality’. According to Kardas (2005: 8), “the realist vision of morality calls for the statesmen to protect and promote the interest and lives of their citizens, rather than seeking the realization of some obscure and abstract notions of human right.” Such perception of universal morality by the realists suggests that human rights are not at the center of international politics. The only thing that keeps interaction between states is the motive among states to seek after their national interests. Hence, the placement of human rights at center of international politics. As the international politics remain unfriendly to human rights.

3.3.2. Realism on Humanitarian intervention.

There are various ways through which states pursue their interests, inter alia, diplomacy and coercion. According to Goodman (2006), humanitarian intervention is one among those

mechanisms employed by states in pursuit of their national interest. Realists describe international relations or the international political arena as the only opportunity for states to pursue their national interests beyond their borders. In pursuit of their national interest each state is bound to identify opportunities that might in the process assist it in securing its goals and objectives beyond its defined territorial borders. Realism views the anarchic international system as the system that can never be altered, and states need to devise mechanisms of survival within that anarchic system. Moreover, the anarchic nature of the system enables states to covertly pursue their interests in the name of humanitarian intervention. Riley (2005), mentions the failure to intervene in Rwanda as an indication that countries when it comes to humanitarian intervention they are selective. Only lives of the people where their vested interest is, are purported to matter.

Humanitarian military intervention is designed to protect human rights against any form of defilement. However, in the eyes of realist theorists when state agents are entrusted with the responsibility to intervene always advance their self-interests. Hence, in the words of Kaldor (2003), humanitarian intervention is just a veil to conceal the real intentions of the interveners. Waltz (1979) cited in Hadebe (2012), advances the opinion that “even if states embark into alliances they do so to further pursue their interests even within those alliances.” Moreover, states are not obliged to act in the interest of the citizens that are not of their own. Any action undertaken by the state is meant to advance the interests of its own citizens. Hence, in the eyes of Riley (2005), humanitarian military intervention whether it succeeds or not in protecting strangers, interveners by that time they would have achieved their interest. It is for those reasons that, realists like Griveaud (2011), move to say humanitarian intervention is driven by the desire of each state for power and dominion.

3.3.3. States in NATO Coalition and Their Business in Humanitarian Intervention.

NATO as an alliance of states was formed to advance the interests of the member states. However, the NATO alliance is comprised by members that have unequal power. It is in the view of Waltz (1979), that some states within their alliances use it to advance their parochial interests. According to Brown (1995), NATO alliance itself is the mechanism used by the likes of US to lobby other members to do what is deemed fit and necessary by the US. In the case of Libya, US was the first member of the NATO alliance to identify the need for intervention. In the words of Mackay (2002) reporting for the Sunday Herald, Scottish newspaper, wrote “in the case of Iraq Bush had the

intentions to intervene in Iraq even before becoming the president of US.” Moreover, the US became the first state to identify the humanitarian cataclysm that required intervention in Iraq. According to Waltz (2000b), such actions by the US to persuade it fellows in the alliance to intervene in Iraq was driven by the unquenchable thirsty of US for oil. However, according to Brown (2004), sees that move as the move that was beneficial even for other members of the alliance, as it ensured the conservation of NATO’s authority in the Middle East region. Humanitarian interventions undertaken by NATO exhibit the power of the alliance more than the agent need to save human rights or stop humanitarian cataclysm.

Furthermore, it is in the opinion of Kuperman (2013), that NATO as the coalition was established to protect and enhance the interest of its members. It is in the founding document of the NATO alliance that an (attempt to) assault one of its members is a direct aggression towards all members. However, due to change, which occurred in the beginning of the last decade of the 20th century in global politics, NATO had to alter its objectives. In an effort to alter its objectives it was assisted by the upsurge in human rights violations, which occurred in the last decade of the 20th and beginning of the 21st century. Such human rights violations were either a result of the regimes abuse directed to the citizens or ethnic wars. NATO saw itself as the fit force to act in protection of human rights. However, such action to protect human rights is not triggered by the intentions to create a peaceful world, but by the esteem to the interests of the alliance (Brown, 2002).

The kind of behaviour that is exhibited by NATO during it interventions can be best explained by the realism theory. Realism does not qualify actions taken by states in international affairs as magnanimous but as the way for each state to advance her interest. Hence, Clarke and Herbst (1996), deem that there is no military intervention that is apolitical. States only intervene where their interest lies. According to realist like Morgenthau states formulate their foreign policies and act on international affairs in the manner that will assist them in accomplishing their national goals. Hence, Hadebe (2012) emphasizes that states always seek ways through which they can advance their interests and such is the case even within the coalitions or alliances that states enter. Before serving the primary goal of the alliance state pursue their interests.

3.4. Liberalism.

Liberalism is one among the theories that are considered to be the mainstream theories of international relations. According to Heywood (2014), liberalism became prominent after the

Second World War and was seen as the substitute to realism. Liberalism as the theory advocates for individualism and human rights. It is in the words of Fixdal and Smith (1998), that liberalism has conventionally cherished autonomy, civic and shared history however, it has a more universalist conception of human rights. It is such conception of human rights that according to liberals renders the sovereignty of state secondary and with a restrictive value. It is on the aforementioned conditions that liberals deem humanitarian intervention morally and legally justifiable. The notion of protecting human rights is endorsed by liberals, which means that one's liberty must not be destructed. Such notion stems from the belief that protection or minimized disturbance of human rights could lead to or is the perfect ingredient for global order and peace. Liberalism advocates that states have rights because individuals residing with them have rights. Hence, according to Nardin and Williams (2006), it is the principal responsibility of any state or state authorities to protect human rights at all costs.

Moreover, liberalism is unswervingly opposed to the position advanced by realists that human rights do not exist, or only exist when a state or a group of states want to advance their narrow interest (Seay, 2007). Instead liberals advocate for the protection of human rights by the state and measure state sovereignty by the ability of the state to protect the rights of the individuals residing within defined territory of that state. Hence, it is the belief among the core assumptions of liberalism that state sovereignty is limited and conditional. In cases where the state or state officials commit heinous crimes that result to human rights defilements that state forfeits its sovereignty. The forfeiting of sovereignty means that the principle of non-intervention no longer applies to that particular state. The responsibility to protect, in cases where a state fails to shield its persons from human rights defilements, lies with the international community, or in some cases with the coalition of the willing states. Hence, liberalism advocates for intervention directed to humanitarian goals.

Furthermore, it is in the view of Tesón (2001), that humanitarian intervention is ethically and morally permissible in suitable scenarios. Such argument is premised on the fundamentals that states and governments solely exist to protect human rights. He further states that the failure to protect human rights immunizes the state from the protection of international law. Thus, according to the liberal perspective international setting does not set states up for failure when it comes to protecting its persons. Such assumption further links to the provision of the international law that

stipulates that individuals have rights and ought to respect one another's rights. It is on that basis that liberal argument or justification for humanitarian intervention has two facets. The first argument stipulates that the behaviour of regimes that exhibits tyrannical tendencies or catastrophic scenarios that play out during the times of anarchy pose grave genera of injustices against humans. The afore-advanced argument opens the way for the international community to undertake humanitarian intervention in times marked by serious human crimes. The advocates of humanitarian intervention believe that in the times of crimes against humanity, it is foreigners who can save the situation (Tesón, 2001). Hence, interventions in times of human rights violations is always conducted by other sovereign states and their actions should benefit the suffering individuals.

The second argument advanced by the liberals in defense of humanitarian intervention is that the external intervention is ethically permitted to end the injustice. Liberals advance that argument despite the criticism that is levelled to it. Humanitarian intervention is seen as the solution to ending the injustices directed to citizens of a particular state. Moreover, external intervention according to liberals could be utilized as the tool to deliver political freedom for some individuals. However, they do not dispute the possibility that that freedom might come at the highest price. Hence, liberals like Fixdal and Smith (1998), emphasize that the success of humanitarian intervention can only materialize when there are no hidden agendas. Be that as it may, the suspicion of hidden agendas should not stop external forces from exercising the right allocated to them by the international legal framework... that the manifestly failure of a particular state to protect its people should cede the right to protect to the international community of states. Therefore, liberals deem humanitarian intervention as the necessary mechanism through which human rights can be protected. However, that position does not necessarily disqualifies the fact that humanitarian intervention can be used for certain agendas. But the uttermost importance of humanitarian intervention should be to shield human rights against cruelties perpetuated by either regimes or a group of people that wants accomplish certain ends.

3.4.1. Liberalism on Humanitarian Intervention.

Liberalism disapproves the realist perspective that the world is the same as the wilderness where the fittest survives (Doyle, 1997). Contrary to the realist's jungle description of the international system, liberals believe that it all depends on the ability and action of man. It is in man's ability to change the anarchic nature of the world through the establishment of the global law that

reconfigures domestic and international system in the manner that will obliterate threats to order and ultimately to individual rights. Liberalism as the theory that advocates for peace qualifies war as necessary if directed at bringing about peace. It is on those grounds that liberals see humanitarian intervention as the necessary vehicle through which human suffering can be obliterated. Hence, according to Fernandes (2013), humanitarian intervention is premised on the liberal grounds and piloted towards ushering in liberal core values in states presided over by autocratic regimes. Those liberal grounds promote individuals' autonomy as their supreme importance. Humanitarian intervention is the mechanism that entails the employment of force to achieve the desired end result. Despite, the fact that liberals are advancing peace as their consequential objective. That does not encourage liberals to refrain from using force to achieve their envisaged end goal. Liberalism justifies that usage of force only if is directed at bringing about peace and to entrench liberal values. Hence, the liberal view humanitarian intervention as the necessary tool to enforce liberal democracy in non-democratic states. Such view is informed by the openly asserted position of liberal with regards to individualism. The position that says that liberal societies and states do not engage in war among themselves and values human rights in itself campaigns for democratization. As in their view democratic states consider the consent of the people and do not enforce rules and policies that undermine human rights and freedom.

3.4.2. Liberalism on Human Rights.

Liberalism since from its inception assumes that democratic societies or states are less likely to engage in war against each other (Howard, 1995). In addition, democratic societies do not commit undertakings that put the rights and lives of its people under jeopardy. It is those assumptions that compel liberals to advocate for human rights. The advocating of democracy by the liberals is informed by the fact that in democratic states human rights are venerated. The veneration of human rights in liberal societies is anchored by the favoritism bestowed to individualism. In the words of Fernandes (2013), that liberal states in nature they are illustrative of consent to individual consent. Such individual consent is exercised through offering people the opportunity to elect their preferred governor. Above all that people's governor is bound to advance the interest of the people more than anything else. It is in the interest of the liberal democratic states to foster and protect human rights as the cornerstone of their democracy. Such views qualify other regimes that are not democratic in nature, like tyrannical regimes as the assaulters of individual freedom as individual rights in such states are repressed.

Hence, liberals are compelled by their values to advocate for humanitarian intervention as the tool to enforce human rights. The enforcement of human rights is pursued through intervention in other states for humanitarian reasons. Moreover, that advocating of human rights has shaped a view that humanitarian intervention should be a tool to usher in democracy in states that were previously not democratic. The liberal view of human rights cannot be divorced from democracy. However, such view is not in line with the principles of international law on humanitarian intervention. The international law and the UN Charter hinders any state or group of states from imposing political system upon a foreign state as that is deemed as a direct intervention in the internal affairs of another state. As it has been discussed above, liberals divorce their strong belief in peace and qualify the use of force as correct in cases where it is directed at freeing the oppressed. In making such efforts liberals propel individualism to be the central factor in international politics as they believe that it is the seed to cultivate peace and culture of human rights (Welsh, 2004).

3.5. Chapter Summary.

This chapter discussed the theoretical basis on which this study is founded. It departs by articulating how theoretical framework is an important aspect of the research. This study employed two theories, which are realism and liberalism. The former is employed with the aim of explaining the behaviour of states during intervention. The latter is used as the basis on which the importance of human rights is premised and why they (human rights) should be protected. It further takes a defensive stance in favour of humanitarian intervention as the shield for human rights.

4. CHAPTER FOUR: METHODOLOGY AND RESEARCH DESIGN

4.1. Introduction.

This chapter entails the methods and techniques engaged in this study. These methodologies assisted the researcher in seeking answers to questions that were proposed to be answered. In addition, this chapter outlines the qualitative paradigm which is chosen by the researcher in assessing the viability of humanitarian intervention in protecting human rights in times of humanitarian catastrophe.

4.2. Methodology.

Research is typically defined as the practice of obtaining or acquiring data with the sole aim of providing answers to unanswered questions. Be that as it may, conducting a research cannot be equated to any form of obtaining knowledge, but it is a systematic form of collecting knowledge that seeks to answer unanswered questions (Goddard and Melville, 2004). Baker (2000), describes research as a methodical quest for knowledge on a particular subject. Thus, it is imperative for any study to employ a certain methodology as it will enable the researcher to reach a particular conclusion. Furthermore, selecting a research methodology guides a researcher to bow to the requirements of research, which among other things involve reliability, validity, and feasibility (Spaulding and Rockinson-Szapkiw, 2012). It further ensures the generation of the best possible results. Strauss and Corbin (1990), defined research methodology as the fashion in which a social scientist contemplates about and examine social actualities. Moreover, the afore-provided definition of research methodology seeks to suggest that there are methods involved in research methodology. Research methods involve the techniques employed by the researcher to collect, arrange and analyze data (Strauss and Corbin, 1990). This assessment of the viability of humanitarian intervention as the shield for human rights, employed qualitative design. It is that qualitative design that allowed the researcher to respond adequately to the research questions. As the trends in cases of humanitarian intervention were identified.

4.2.1 Study Pattern.

Study pattern is categorically qualified as the manner in which the researcher opts to conduct his or her study. Such a decision is to a greater extent influenced by the questions that the researcher seeks responses to. Study patterns are normally categorized into three namely quantitative, qualitative pattern and mixed-method (Vosloo, 2014). Mixed-methods denotes to the employment of both qualitative and quantitative methods. The two (Quantitative and Qualitative) afore-

mentioned patterns are different in the sense that the former is best described by Creswell and Clark (2007), as the research pattern that is premised on the basis that it manufactures results in form of quantities or numerical with the sole aim of dispelling or confirming the phenomenon. The latter is appropriately qualified by Liamputtong (2013), as the flexible pattern, which seeks to describe and define the phenomenon through the means that are not arithmetical, and further to that its benefits are greatly enjoyed by the social scientists. However, there is no method that is more important than the other but the importance of any method is determined the questions the researcher seeks to answer. Hence, the importance of employment of a particular method is influenced by the objective to achieve a particular end. This study employed qualitative pattern, which will be delved into bellow.

4.2.1.1. Qualitative Study.

This study employed qualitative method to conduct an assessment of the viability of humanitarian intervention as the shield for human rights. Qualitative research is a system employed when the researcher seeks to describe the phenomenon or comprehend the developments, dealings and affairs in the setting of social situation. Qualitative research as opposed to quantitative design does not seek to confirm the problem by manufacturing the arithmetical data to disprove the hypothesis (Bassat, 2002). This research design is largely used in the field of social sciences such preference given to this method by the social scientists is informed by its elasticity. Due to its flexibility, it provides an opportunity for the researcher to respond to research questions sufficiently. The qualitative method produces results after examining the meanings, definitions, characteristics, metaphors, symbolic and description of things.

Moreover, qualitative study is basically explained as the kind of study to simple result in nominal rather than arithmetical type of data, as it is well-known that research is not just an activity conducted to produce data, but that data must provide answers through the employment of methodical formula. Qualitative research suitably prowls responses to questions through the careful examination or observation of social settings and the people who happen to be inhabitants of those social settings. According to Berg (2001), qualitative scholars are keener in exploring the fashion in which individuals allocate and organize themselves and their environments. It is the employment of the qualitative study that seeks to provide meanings of the circles of inhabitants of particular settings. That meaning is derived through a series of observations of social

configurations, social roles, cryptograms, rituals and so forth. It (qualitative) is research method that shapes human beings' worldview and how people in a particular setting are viewed and related. The behaviour of human beings can be studied through a variety of ways. As opposed to quantitative qualitative research or procedures avail methods of producing and accessing non-numerical data about the actual behaviour of people in a particular setting.

Furthermore, as the qualitative study seeks to provide an understanding about certain social settings that is accomplished through listening the talks that people have, or studies people by their personal traces, which in a variety of things includes recordings of diaries, letters, newspaper interpretations and so forth. The versatility of the qualitative techniques permits scholars or researchers to share in the perceptions and comprehensions of others and further explore the manner in which people impute meaning to their hourly lives (Liamputtong, 2013). It is the qualitative study that allows researchers to drill in the ways in which people make sense and meaning of things. Further to that, permits scholars arrive at conclusions and inferences, which further allow more research to be conducted. Hence, there is a ceaseless production and obtaining of data to daily provide answers to questions that seek descriptions and responses about the phenomena that shape that behaviour of people be it direct or indirectly.

4.3. Data Acquisition.

After the definition of research problem and chalking out of research design or plan the task of data collection commences. As the widely accepted definition of research is known as the systematic fashion of collecting, presentation and interpretation of data, which seek to provide answers to unanswered questions (Sapsford and Jupp, 2006). The word systematic in the preceding definition suggests that there are ways in which one could collect data without losing the enthusiasm to respond to the set questions. Further to that the process in which data is obtained should be predetermined and be flexible in the sense that it will not ridicule the results of the already existing studies in any subject. Hence, it is imperative for any researcher to understand what data collection is? Data collection is the method through which a researcher acquires, obtain and collect data on the subject that he or she intends to research on (Thorne, 2000).

Moreover, data collect plays a very assistive role in research as Agresti (2002), deems that without data collection there would be no research at all. In research, there are various methods through which data collection is or can be conducted, among others, it includes observations, collecting

data from individuals or groups, physical measurements and retrieving existing sources (documents and data). It is through the afore-mentioned methods that researchers are capable of obtaining primary and secondary data. The process of data collection according to Peersman (2014), is the most exhausting process as it, among other things, involves location, validation, categorization and ensuring of reliability. For the purpose of this study, data is collected or sourced from both primary and secondary sources. The above referred sources, inter alia, library books, e-catalogs, articles, previous research papers, internet source (articles, journals, YouTube videos and recorded interviews). However, the acquirement of the primary data for this study did not involve the conduction of questionnaires or interviewing of individuals or groups for any purpose.

4.3.1 Primary Data.

The primary data are those, which are attained anew and for the first time, and therefore happen to be original in character (Kothari, 2004). According to Hox and Boeije (2005), the attainment of primary data ensures the continuity in adding data on the data that already exist in any particular subject or topic. These data are collected through the utilization of procedures that perfectly match the research purpose. Be that as it may, according to Peersman (2014), primary data can be as well attained through observation. The collection of primary data through observations does not necessarily involve direct interviews be it individual or group interviews, but it can be an observation of coded or recorded interviews, or documents that are written by a primary person and not submitted for any editing. Those documents can involve, among other things, speeches delivered in conferences or newspaper articles. Moreover, a researcher can as well obtain primary data through listening and studying videos that are among other things obtainable on YouTube and other related internet sites. For the purpose of the assessment of the viability of humanitarian intervention as the shield for human rights, the study sourced its primary data from YouTube videos and coded speeches that were mostly delivered in the United Nations annual meetings.

4.2.2. Secondary Data.

The secondary data as opposed to primary data, are those that happen to be already collected by another person and further analyzed or passed through the statistical procedures (Kothari, 2004). The intentions of a researcher to utilize secondary data begs for a careful search for the sources where s/he can obtain data. In instances where a study uses secondary data the researcher is not antagonized with difficulties affiliated with attaining fresh data. However, secondary data may be

published or not yet published (Sapsford and Jupp, 2006). In most instances published secondary data are obtainable from sources, inter alia, the publications by the global bodies, publications of the state or government, books, magazines, newspapers and reports published by research academics. The secondary data as the data that are not yet published can be acquired from sources that, among other things, encapsulate journals, letters, logs, biographs and auto-biographs. This study pursued its purpose by obtaining secondary data through the utilization of the data that is collected before by other scholars. Those secondary data are collected from the archived sources such as books, journals, articles, newspapers and reports by research scholars. Among other things, these sources were obtained from the internet and various libraries.

4.4. Data Analysis.

After data has been collected it has to be managed, processed, and analyzed in line with the plan worked out for the purpose, during the period of manufacturing the research plan. The process of analyzing data is very essential for any study. Categorical, data analysis is the most difficult and complex out of all stages of a qualitative task. It requires the researcher's undivided attention so that after the analysis unbiased results, which respond to research questions are generated. This study engaged thematic analysis as the mechanism through which data will be analyzed.

4.4.1. Thematic Analysis.

Thematic analysis is a technique for methodically classifying, categorizing and bringing close attention to arrangements of themes (or meanings) throughout a set of data (Braun and Clarke, 2012). Furthermore, thematic analysis permits scholars to perceive and make meaning of the joint or collective experiences and meanings. This technique assists in terms of detecting the recurring themes or what is common in a subject in discussion (Alhojailan, 2012). Be that as it may, the common aspects of data do not necessarily suggest the usefulness of that data. However, it is preferable due to its (thematic analysis) flexibility. It is that flexibility of the thematic technique, which makes it to be more suitable to be used with both qualitative and quantitative research (Boyatzis, 1998). As there are myriad arrangements or patterns that can be identified in a dataset but thematic analysis allows one to respond to certain questions. This study employed thematic analysis with the aim of responding to the broader question of this study. The broader question asks, is humanitarian intervention an effective apparatus to shield human rights in times of wars and other gross human rights violations? As the employment of thematic analysis thoroughly

allowed the study to focus on the meanings throughout the sources that were used in obtaining data that relate to humanitarian intervention. Moreover, focus was not only on the blatant meaning advanced but also the dormant meaning that is found on the texts. All that was allowed by the flexibility of thematic analysis, which is identified by Vaismoradi, Turunen and Bondas (2013) in their comparison of content and thematic analysis.

4.5. Ethical Concerns.

Any research conducted entails ethical issues. According to Ritchie, Lewis, Nicholls and Ormston (2013), “ethics in a research pertain to achieving good results and avoid doing harm.” As those participating have to be protected at all costs. This is a desk-based study, which does not include the conduction of interviews and questionnaires. Like any other desktop research, it sourced its data from both primary and secondary, which were found both online and in the libraries. Among other things, these sources include books, scholarly articles, journals and other existing studies about humanitarian intervention. This study was presented to the ethical clearance committee of the faculty with the sole aim of seeking approval. The study had to proceed after the ethical authorization was granted by the committee.

4.6. Limitations of the Study.

The limitations in a research design refers to the systematic bias that the researcher does not have control over and it might have effect in the results (Price and Murnan, 2004). This study sourced its data only from the existing articles. As there were no interviews or questionnaires that were conducted it might be difficult to get genuine opinions of the victims of humanitarian intervention. Moreover, some of the sources that were used might be subjective in their assessment of the effectiveness of humanitarian intervention in shielding human rights. As a result, that might have shaped the study to take a[n] (un)biased route in assessing the viability of humanitarian intervention in protecting the human rights. However, the researcher studied each source and provided an objective analysis.

4.7. Chapter Summary.

This chapter outlined the systematic method, which is followed in conducting this study. It contains the explanation of the qualitative paradigm, which this study took. Moreover, it also entails the thematic analysis as the tool employed to analyze data, which was collected from both primary and secondary sources. Lastly, the ethical concerns and foreseen limitations of the study

are also unpacked under this chapter. All in all, this chapter gave an elaborative explanation of the reasons for employing the discussed research methods and tools. In addition, explains the manner in which the researcher utilized the collected data to provided answers to the research questions that were stated at the beginning of research.

5. CHAPTER FIVE: CASE STUDIES, DATA ANALYSIS AND DISCUSSION

5.1. Introduction.

This chapter will offer the cases that are explored in this study. Data analysis and an intensive and rigorous discussion of each case will be done here. The analysis of data will also involve the data that is discussed in chapter two of this dissertation. Moreover, the research questions will be answered on this chapter. It is through that answering of the research questions that the study will arrive on the findings and be able to provide the applicable recommendations.

5.2. Humanitarian Crisis.

In the field of peace studies terms come and go however, such terms tend to be defined differently by different players. The term humanitarian crisis has always been tied to the history of human nature since immemorial time. Humanitarian crisis emanates from both human activities and natural processes. However, to some extent those that emanate from natural processes are deemed to be also the result of human daily activities whether meant to achieve good or the opposite. The creation of states in Westphalia (1648) transmogrified international politics, as it was easy for one to define the relationship between the state and citizens. The role of the state has evolved since from the inception of the term sovereignty. The definition of a sovereign state, among other things means, the ability of the state to exercise power up to last instance without the disturbance or interference from other independent states. In the words of Donnelly (1993: 608), “states are answerable to no higher authority concerning matters that take place entirely within their territories.” Moreover, the state has responsibilities, inter alia, protecting the rights of its people and protect them against anything that seeks to threaten their humanity.

However, the occurrence of the two major wars brought about an unconceivable human rights abuse (Tomuschat, 2014). Hence, in the post-WWII era ascended the necessity to define human rights, and further to that the description and the qualification of state sovereignty changed. That sovereignty is respected on certain conditions, inter alia, the ability of the state to respect and protect its people. Be that as it may, the post-Cold War era came with an unparalleled human rights violations instigated by paramilitary groups within the state. Moreover, in worst case scenarios the regimes themselves perpetrated brutality against their people. Hence, the new widely used description of the term humanitarian crisis. Humanitarian crisis encompasses all the activities by

the paramilitary groups within or without the state that violate human rights, inter alia, ethnic cleansing, genocide, mass murder, use of excessive force against the civilians (Dagne, 2005). Moreover, such cruel activities become even more threatening when carried out by the government that is expected to curb them from happening. In cases where the regime itself abuse its people becomes immune from the protection of the international law as they lose their sovereignty. It is in such cases that the international community is duty bound to intervene on the ticket of averting humanitarian crisis. As the non-intervention principle no longer applies to the state in question.

5.3. Case Studies.

5.3.1. Libya.

The ascendance of the Arab Springs, which commenced in Tunisia and spilt-over to Egypt became the genesis of the unrests that engulfed the Arab world in initial months of 2011. Williams and Bellamy (2012), the crisis in Libya commenced as the peaceful demonstrations which were directed towards calling for improved human and political rights in January 2011. Those peaceful protests were also in one way or the other influenced by the arousal of the Arab Springs. However, the peaceful protests turned out violent as Gaddafi's regime employed brutal tactics to quell the protests. The matter was further exacerbated by the willingness of the police officers to forsake their duties and join hands with the demonstrators in demanding improved political and civil rights. Such move by the police officers led to a scenario where a group termed as the 'Interim Transitional National Council' (ITNC) was established and managed to gain control over towns of Tobruk and Benghazi. The response employed by the loyal forces assisted the regime in gaining control over Libya. Furthermore, scathing threats were issued against the rebellions in the center of Benghazi that they will be met with more force. According to Terhalle (2015), further deadly threats were issued by Gaddafi himself as he was quoted saying:

“Officers have been deployed in all tribes and regions so that they can purify all decisions from these cockroaches and any Libyan who take arms against Libya will be executed.”

Such statement was received in the similar manner as the statement that instigated the nefarious Rwandan genocide. Hence, the international community and the Secretary General of the United Nations Security Council saw a need for intervention before the situation in Libya transpires into a civil war. Such steps for intervention were preceded by the warnings that came from the then UN High Commissioner for Human Rights, Pillay Nadvi (Ulfstein and Christiansen, 2013).

Among other things the commissioner warned Gaddafi's regime that its actions levelled against demonstrators would amount to what is qualified as crimes against humanity. However, such warnings fell on deaf ears as the regime continued its brutality against the protesters. The continued brutality by the regime was tantamount to transgressing of the country's obligation to the 2005 adopted R2P. On the other hand, the Africa Union (AU) levelled heightened condemnation against the acts of the then Libyan regime in responding to protesters. That condemnation from the AU was by and large informed by the indiscriminate behaviour and intensified use of force by the Libyan regime against civilians.

Despite, the efforts by the UN high commissioner for human rights and the AU to stop the regime from brutalizing people. Deadly weapons were perpetual employed in an attempt to discourage people from demanding socio-economic development and political reforms. According to Cottle (2011), it was in the media that the violation of human rights was reported virtually on daily basis. What media provided was deemed as the compelling evidence, as some media outlets reflected only crimes against humanity as the hallmark of the Libyan conflict. It was also contained in newspapers such as *'The Times'* that civilians are being used as the way sending a warning signal to other protesters. Moreover, such brutal actions against the people expanded across the country as news outlets like Al-Jazeera and BBC circulated videos illustrating how children also became the victims of the regime. The malicious acts by the then Libyan regime were met with charges on the grounds of crimes against humanity. The International Criminal Court (ICC) judge issued warrants of arrests for some of the Libyan government officials, which among others included, Gaddafi and his son. The escalation of human rights violations compelled the international community to act in an attempt to quell the situation in Libya.

What Williams (2011), sees as the consequence of 'peaceful demonstrations', eventually begged for intervention. The international community was compelled to act in protection of human rights. According to Kuperman (2015), resolution 1973 was passed by the UN Security Council. The passing of the 1973 resolution came as the response to the failure of the Libyan authorities to meet the terms contained in resolution 1970. According to UN Security Council (2011), resolution 1970 (2011, Paragraph 26) outlined among other things:

“The Council articulated its willingness to contemplate undertaking supplementary applicable actions, as obligatory, to facilitate and support the return of the humanitarian agencies and make available humanitarian and related assistance in Libyan Arab Jamahiriya.”

The above-referred resolution was passed in an attempt to ensure the protection of human rights, as civilian populated areas were mainly targeted by the Libyan regime forces. However, such warnings were not heeded by the then regime, hence the UN Security Council was compelled to pass resolution 1973. As reported by the Financial Intelligence Centre of South Africa (FIC) (2011), that the UN has instituted and authorized the protection of civilians in Libya. Among other things, such protection included a no-fly zone over Libya, protection of civilians, enforcement of the arms embargo, banning of flights and asset freeze. It was under the powers of the UN Security Council catered for by Chapter VII of the UNC, that resolution 1973 was adopted. The resolution was endorsed by ten votes against the five abstentions. Such decisions were taken after the Libyan government was condemned by the UN, AU and Arab League but preceded with violations anyway.

According to Ulfstein and Christiansen (2013), not long after the passing of resolution 1973 was adopted, a coalition of states which among others included the United States, United Kingdom and France took an initiative to launch attacks on the Libyan government. Such actions by the aforementioned countries was a way of enforcing resolution 1973 adopted by the UN Security Council. Soon after the intercession by the ad hoc coalition of countries (that included US, UK, France), NATO forces took over the operations in Libya. NATO claimed to be operating in defense of the 2005 R2P doctrine. As it is encapsulated in the doctrine that fundamental responsibility to shield civilians from war crimes and crimes against humanity lies with the territorial state. However, the manifestly failure or unwillingness of the territorial state to act warrants the international community the right to intervene in protection of the civilians of the state in question. The case of Libya was seen as agent as it was the regime itself that exhibited brutal conduct against its people.

Despite the efforts taken to halt the Libyan government from violating the rights of the population, international community itself was divided. As there was no clear scope and limits of the intervention and the operations of NATO were already underway. The major issue that became the bone of contention was the overreach of military (Renner, 2015). The group of states that condemned intervention in Libya among others involved China, Russia and the AU itself. The

Chinese government became more concerned by what they qualified as “American and European assault of the Libyan government.” News 24 (*11 March 2011*) reported that the African Union condemns the intervention by NATO forces in Libya. Such condemnation from the AU was premised on the basis that there was no comprehensive consultation and space for negotiation was not given. These concerns grew as the NATO operations unfolded in Libya.

The US-led NATO intervention in Libya came at the time during which both the government forces and rebels were at each other’s throat. As the regime forces were resolute in their mission of recapturing Benghazi and Tobrik from the rebels. Both sides carried out attacks that placed the lives of the civilians under great deal of pressure and danger. Civilians in Benghazi and other cities that were strongholds of the rebel groups in Libya needed help from the international community. However, according to Cunningham (2011), the operations of NATO were biased as they sought to bomb every government military base in Benghazi and other cities and failed to deter rebels from carrying out human rights desecrations. Their operations did not attempt to disarm both rebels and government forces as the way to quell human suffering carried out by both sides. As that in the view of Etzioni (2012), was going to quell the ongoing violence and spare lives of a number of civilians. Furthermore, the NATO bombing campaign which dragged for over seven months involved among other things the employment of cruise missiles, unmanned drones and fighter jets taken lives not just for those of Gaddafi forces but of the civilians as well. On the other hand, rebels were able to accomplish progress in keeping control over Benghazi as they were assisted by the presence of NATO forces which aimed at dislodging the then Libyan regime.

Moreover, the over 8000 airstrikes executed by NATO generated more than one thousand deaths of civilians and the majority of which being women and children (Cunningham, 2011). Damage of property was sky rocketed and people were denied access to health facilities during the time of intervention. Such claims were further bolstered by the Arab Organization for Human Rights’ (AOHR) published report that entailed that atrocities in Libya were carried out by the entire involved parties (The Independent, 19/01/2012). Those parties included the brutal forces of government, the rebel forces and NATO forces. Moreover, the increase in the number civilian fatalities was further exacerbated by the length of intervention and the excessive force that was applied by the architects of intervention in Libya. Even after the 31st of October 2011 when NATO announced its withdrawal from Libya, war continued as the ascendance of Islamic State Groups

(ISIS) worsened things. Campbell (2013), portrays that development as the failure of humanitarian intervention undertaken in Libya, as the new order and rule of law was not accomplished by the US-led NATO forces. He further postulates that an intervention that harmed those who were in need of protection opened the country for another war that perpetual undermines human rights (2013). Intervention in that Arab state despite the authorization from the UN Security Council was a monumental failure. Such was reflected by the continuation of violations of human rights even in the post-NATO Libya.

5.3.2. Iraq.

The suspicions that Iraq under the headship of Saddam Hussein was in possession of the Weapons of Mass Destruction (WMD) became the warrant for the United States of America (USA) to invade Iraq (Heinze, 2006). However, the failure by the invaders to discover the WMD as Saddam was alleged to be in possession of such weapons, forced the Bush administration to fabricate new allegations that Saddam's regime is linked to the notorious terrorist group famously known as the Al-Qaeda. That link was also not proven by the Bush administration. US had to advance humanitarianism as the main reason for invading Iraq. The United States of America intervened in Iraq without the consent from the UN Security Council. Humanitarian intervention was said to be necessary as the Saddam regime was accused of brutalizing the civilians. The regime was said to be assaulting its people on the basis that they were protesting against the failure of the regime to improve political freedom and economic development.

These efforts to invade Iraq were made after the US Bush-led administration made it clear that it wanted to dislodge Saddam and his cohorts out of power. The then Iraq regime was deemed as the violator of human rights and threat not only to the security of the Middle East region but of the entire globe. On the other hand, Saddam made it clear that he will defend the Arab world from both internal and external forces that seek to threaten it. In so doing, he (Saddam Hussein) was accused of brutally suppressing Iraqis that attempted to demonstrate against his style of governing. As the people in the country were divided into two halves the B'thist (those who were close to the regime) and non-B'thist (those who were not in close relations with the government). Saddam Hussein saw those who were questioning his 34-years style of governance as threat to Iraq. Human rights violations of his regime were reported on daily basis on international news. As such reports on the news created a narrative that Saddam Hussein was a dictator, who commits crimes against humanity. Furthermore, that to USA and its allies was a confirmation of the hypothesis that they

always held that Saddam Hussein was a ‘madman’. That description according to Post and Baram (2002), was a dangerous diagnosis more than it was inaccurate.

Humanitarian intervention, which first came as the search for WMD, was provided on the basis that people were dying under the rule of Saddam. USA and its loyal friends UK and Australia went ahead to intervene in Iraq after they failed to secure authorization from the UN Security Council. The intervention in Iraq was illegal as it was not authorized by the correct body, and it was publicly declared that the main objective of the intervention was to oust the regime of Saddam more than humanitarian concerns. Furthermore, the western superpowers wanted to impose democracy upon Iraq (Brown, 2004). The altering of the regime’s political systems is not permitted under the international law, as it is regarded as the direct interference in the internal affairs of a foreign sovereign state. The invasion or intervention commenced by the bombing of the strategic areas of the government. The capture of the city of Baghdad by the interveners gave them an upper hand.

During intervention, according to Roth (2005), despicable incidents that threatened the lives of the civilians occurred. The tactics employed by the US-led forces among other things involved airstrikes and bombardments of the Iraq forces installations. Moreover, according to Roberts, Lafta, Garfield and Khudhairi (2004), the force they employed was regarded as being excessive. The employment of the excessive force was illustrative of the fact that the US-led forces wanted to de-capacitate the Saddam’s regime. However, those attempts did not only affect the forces of the regime but the wrath of the US-led forces was also felt by the civilians on the ground. As according to Bellamy (2004), the amount of death of civilians was said to be estimated between 5500-7500. However, Bellamy further postulates that the estimated number of deaths is not illustrative of the true scale of violence and barbarity employed by the US-led forces (2004). The indifference of the architects of the intervention was communicated when an independent commission was investigating the deaths of civilians, the then US Army General Tommy Franks responded by saying “we do not count bodies.” In addition, the operations of the interveners did not only violate human rights through killing them but also other human rights violations were prominent. As many people were forced to flee their homes as the bombings extended to areas that were dominantly occupied by the ordinary citizens or non-combatants. The intervention in Iraq was deemed to be the second after the war in Vietnam to generate more human rights violations (Anderson, 2004). The situation was exacerbated by the US forces for killings civilians who were

suspected to be combatants. The rule of war that speaks to clear identification of the target before attacking was not properly applied as residential areas were bombarded. Such actions illustrated that the ultimate aim was to capture Saddam Hussein who had to hide. However, the capture of Saddam followed after grave human rights desecrations befell and even after the capture the situation deteriorated.

Moreover, after the bombings and heavy airstrikes that paralyzed the Saddam regime, what was said to be the main objective of humanitarian intervention was not achieved. Humanitarian intervention is the mechanism through which brutalities directed against humanity should be averted. In addition, if such brutalities were carried out by the regime of the state in question, interveners ought to withdraw when such brutalities have ceased to occur and new rule of law must be established. However, in the case of Iraq of Saddam Hussein the opposite transpired. According to Hehir (2008), on the 13th of December 2003 the US forces managed to capture Saddam Hussein from his hideaways. However, the situation in the country (Iraq) was altered from bad to worse. As there was no new rule of law that was established, and peace as envisaged before the change from invasion to intervention was not restored. The capture of the alleged dictator (Saddam Hussein) broke the country into more violence and more human rights violations. The ending of the 34-years rule of Saddam in Iraq ushered the country into another phase of war. The fall of the Ba’thist rule resulted to criminal violence that was directed towards the looting of the state coffers. On the other hand, the intervened forces were trying to maintain their presence in Iraq. However, those endeavors were extinguished by the graduation of small military groups to more organized guerrilla warfare. These groups challenged both the US-led forces and the former regime forces. Thus, according to the principal objectives of humanitarian intervention in Iraq were not achieved.

5.3.3. Kosovo.

It is in the view of Hadebe (2012) that, “the end of war in Bosnia came with the expectations of peace in the region.” He further postulates that such anticipations were extinguished by the actions of the president of the Federal Republic of Yugoslavia (FRY), Milosevic Slobodan (2012). Such actions among other things exhibited the mal-treatment of the Kosovo-Albans. In actual fact, the Kosovan crisis reached the turning point when students commenced protests in 1997 August. These protests intensified to a point where it was becoming clear that the Democratic League of Kosovo (LDK) was losing its grip over the Kosovar Albanian political undertakings. Independent International Commission on Kosovo (IICK) (2000), reported that non-violent demonstrations by

students were met with violence by the police. After the assault of 20,000 students by the police, opponents across the country were detained. Such protests according to Hadebe (2012), were ignited by the actions of Milosevic Slobodan, which among other things included, the introduction of segregation policies.

Furthermore, the situation intensified as the Serb Police Units reacted harshly against the confrontational resistance and conducted mayhems against civilians. On the other hand, the Kosovo Liberation Army (KLA) acted in a manner that was also inconsistent with the international law principles of peace. As the KLA launched attacks against the Serbs authorities where they had gatherings (Hilpold, 2001). The situation, which commenced as the peaceful demonstrations or non-violent struggle as others would term it culminated in violence. The major event which is marked as the event that ended as non-violent struggle was the Drenica massacre (Bahador, 2007). The Drenica Massacre entailed a sequence of slaughters of Albanian people by the Serbs Police Units. Such actions triggered the civil war, which caught the attention of the international community. However, the international community was slow in terms of reacting, as the Albanian people continued to face mayhems meted out to them by the Serb Police Units (Abraham and Andersen, 1998). The first attempt by the international community to resolve the crisis in Kosovo was to suggest peaceful talks between the antagonistic parties. This was the time during which the situation was escalating because of the aftermaths of the Drenica incidents. During this period KLA had taken a more decisive position against the Serbian forces (IICK, 2000). As the KLA was receiving training and organized themselves in Kukes the northern town.

The situation was out of hand, as the Kosovar Albanian pro-independence group (KLA) was gaining more members. The group further received assistance in terms of arms and ammunition. There were organized supply routes. These Kosovar Albanian group orchestrated a string of ill-organized attacks on Serbian police stations. The conflict extended to peripheral areas, as people in the rural areas were affected (Abraham and Andersen, 1998). The KLA gained control of parts of Kosovo, among which were parts of the countryside and small towns. People, civilians in particular lost their lives, as the intervention by the Federal Republic of Yugoslavia (FRY) intensified their campaigns. Reports were released by the FRY forces claiming to have killed Kosovars who were trying to cross borders. The intensification of the situation costed lives of civilians and their property was damaged. Human rights were placed under harsh pressure as there

was no side that wanted to back down. However, to some extent the FRY actions were successful in uprooting KLA forces in some areas where they had control. Moreover, the ceasefire was reached but it was deemed to be unstable some people continued to suffer. The international community was compelled by the volatile situation to pass resolution 1160.

The then Secretary General of the United Nations Kofi Annan ordered the FRY forces to stop their life harming attacks in Kosovo with immediate effect (Kaufman, 2002). The communication by the UN Secretary General to FRY forces coincided with the communication coming from NATO Secretary General directed to the UN Secretary General. In the letter from Javier Solana the then NATO Secretary General entailed concerns ranging from the serious humanitarian implications, the unwarranted intensification of the employment of force by the FRY forces and deterioration of the situation which warrants immediate intervention. It was even before NATO received reply from Kofi Annan as the Secretary General of UN decided to intervene. The then US president Bill Clinton appeared on television screen outlining the goals of NATO intervention in Kosovo. The list of those goals was topped by the objective to quell the aggression exhibited by the forces of Milosevic. The European leaders applauded the actions taken by NATO to save the situation in Kosovo, as it according to them posed dangers to human rights and the capacity of Kosovo to emerge as the strong nation.

Prior the international community taking concrete actions through the UN to follow up on the passing of 1160 resolution, NATO forces took it upon themselves to establish military campaigns in Kosovo. However, according to Sperling and Webber (2009), such campaigns were not authorized by the UN Security Council. The advanced arguments and justifications by NATO in defense of its actions in Kosovo, inter alia, they (NATO) wanted to quell the escalating fighting between the Serbian regime and paramilitary Kosovo-Albanian pro-independence groups. In addition, NATO intervened as the ongoing conflict had grave humanitarian implications. Furthermore, the actions by NATO were a response to the failure of the resolution 1160 taken by the UNSC earlier to achieve its intentions. The resolutions among other things entailed, the enforcement of the all-inclusive army embargo, the condemnation of the employment of an unwarranted force by the Serbian government, which was met by terrorism acts of the Kosovo-Albanian separatists. In addition, the UN Security Council commanded the immediate withdrawal of the Serbian forces and urged the two contrasting groups to take the matter to a round table. Such

resolutions by the UNSC were meant to find political solution to the matter. However, those resolutions did not harvest the required and intended result of accomplishing peace in that region.

The situation preceding the presence of NATO in Kosovo was to a point where civilians were compelled by the circumstances to vacate their homes and seek refuge in the surrounding provinces and countries (Bahador, 2007). As the situation was intensifying others lost their lives and other human basic rights were violated. However, the presence of NATO even though it was not through the authorization of the UNSC managed to compel the Serbian militaries to withdraw from Kosovo. These Serbian militaries were supplanted by the introduction of international peacekeepers in the territory. Moreover, those who were compelled by the circumstances to flee their homes had to return to home as the situation was calming down. It was through the bombardments and airstrikes launched by NATO that the killings of civilians in Kosovo were quelled. NATO acted after the inaction exhibited by the wider international community of states (through the UN). NATO managed to end the ongoing conflict in Kosovo as the FRY withdrew its forces. People were able to start over with their lives. The situation after NATO left Kosovo was not characterized by any conflict as it was before the intervention.

Be that as it may, the bombings of NATO in Kosovo generated a certain number of casualties because of its imprecision bombings (Shaw, 2012). In addition, according to McLaughlin (2002), some of those casualties came from the Kosovars whom the intervention was intended to shield. According to the IICK (2000), NATO tried its level best to circumvent civilian casualties however, there were blunders that occurred. There first blunder was the ‘unintended’ bombardment of the Chinese embassy. That blunder caught attention of the observers as it was seen as the provocation of the Chinese by the NATO members. However, there was no reaction from the government of China. Moreover, some of the blunders involved the endangering life and taking the lives of the civilians who were supposed to be shielded. In the Korisha province civilians were killed due to unwarranted air strikes that were launched by NATO. Their property was also demolished. Such actions directly impinged negatively on the rights of the individuals who occupied that area. As the relief personnel and medical workforces were to a certain degree disturbed from executing their jobs by the NATO bombing campaigns. Such disturbances translated to an increased suffering of civilians. Furthermore, bombs were ‘mistakenly’ directed to a number of convoys of the Internally Displaced Persons (IDPs). The bombardment of the IDPs unnecessarily increased

the number of civilians that died and those wounded during the intervention. The minimal number of deaths of civilians that was accounted stood at 1165 (IICK, 2000). However, that number is not reflective of those who lost their property and those who incurred physical injuries.

The employment air-to-surface missiles is one among the reasons that human suffering and more violation of human rights was generated. As it was not easy for NATO forces to identify some of the targets on the ground. Moreover, the magnitude of force that was applied by NATO was not necessary and the length of stay of NATO forces in Kosovo was not properly planned. The NATO forces stayed more than they were required and their stay meant that bombings are continuing. Brown (2002), explains the overstaying of NATO in Kosovo as the result of the geo-strategic interests of the USA in Euroasia. He further states that the application of excessive force was an effort for the conservation of NATO's authority in the region (2002). The accounts for the failure of the NATO coalition's operations in Kosovo to tick all the boxes blame its geo-strategic interests. Moreover, NATO wanted to send signal to the whole region that it is still going to protect its interest anywhere. Such actions are best explained by realism through the assumption that states amass power and test it against weak states to warn others. All in all, the intervention in Kosovo could be characterized as being successful in halting the ethnic cleansing that was faced by the Muslim groups. However, in terms of shielding human rights it somewhat failed, as the intervention took lives of those who were supposed to be protected and generated an increased number of civilian casualties. Be that as it may, it achieved its end goals as it stopped killings of Kosovars and eventually liberated Kosovo from Yugoslavia.

5.4. The Legality of the Intervention in Libya, Iraq and Kosovo.

The international legal framework forbids the intervention of foreign states into the internal affairs of another sovereign state (Chesterman, 2001). The principle of non-intervention has been an integral part of the international relations since from the formal formation of states in Westphalia. Scholars have always circled their thoughts around the sovereignty of states. It is that sovereignty that allows one state to run its internal affairs without interruptions from the other states. However, the principle of non-intervention did not alter the realist assumption that states permanently seek for power or dominion over other states. Hence, according to Dinstein (2017), war and conflict remains a permanent characteristic of relations between states. That was proven when the world experienced two great world wars in which human rights were trampled upon. Things became

worse towards the end of the 20th century as the unparalleled abuse of human rights occurred on the account of the forces within the states, inter alia, regimes, rebels, tribal wars and terrorists. It is on those fundamentals that the international society came to the realization that the principle of non-intervention allows regimes to assault the rights of their people with impunity.

This altered the manner in which people viewed state sovereignty. Hence, according to Ocran (2002), if the state fails to protect its people that becomes the responsibility of the international community. Nevertheless, in cases where it is the regime that manifestly violates the rights of its citizens that state is automatically immunized from the protection of the international law. Hence, in the words of Chopra and Weiss (1992), sovereignty is qualified as porous and conditional. The immunization of a state from the protection of international law is also embedded in the UNC that the UNSC has the prerogative to decide on the matters that seek to or threaten the international peace and order. Among such matters encompassed, the brutality levelled against human rights and actions that are categorized as crimes against humanity or war crimes. Therefore, the non-intervention is legitimately transgressed through humanitarian military intervention when the need ascends. The international community has the responsibility to 'save strangers' as Wheeler (2000a) would say. However, that responsibility can only be activated through the veto that the UNSC possesses. A legitimate intervention is that which authorized by the UN Security Council. The intervention authorized by the UNSC is not only qualified as legitimate but also characterized as the multilateral action or intervention. Such characterization differentiates it from the intervention that is not authorized by the UNSC, as it is qualified as the unilateral action or intervention.

5.4.1. Authorization of Intervention in Libya.

The actions that were exhibited by the regime of Gaddafi to quell protests that engulfed Libya in the beginning of 2011, forced the UNSC to pass resolution 1973. It is that resolution that authorized the intervention of NATO in Libya. It is on those grounds that Pattison (2011), safely deems the intervention in Libya as lawful. He further qualifies it as the just cause (2011: 272). As the intervention was necessitated by the blatantly abuse of human rights by the regime. The decision to intervene was further buttressed by the Arab League (AL) and the AU. All the necessary procedures were followed in intervening in Libya as resolution 1970 preceded the decision to intervene. Resolution 1970 was passed in an attempt to stop the government from brutalizing the civilians. The UNSC hoped to accomplish that through arms embargo, assert freeze and travel ban among other things. Despite that attempt by the UNSC to pass resolution 1970, the Libyan regime

continued its indiscriminate and lethal attacks on civilians. Hence, there was an urgent need for the UNSC to authorize NATO to intervene through the passing of resolution 1973, which *inter alia*, advocated for a no-fly zone.

According to Glanville (2013), the legitimate intervention in Libya came as the first to be authorized by the UNSC in a sovereign and operative state. Moreover, the use of force in Libya is deemed as lawful or a just cause on the grounds that it was meant to punish the tyrannical regime. The international law permits the use of force against an independent state if it is directed at achieving good or liberating the victims. The UN Charter clearly stipulates that the only legitimate intervention is that which directed by the UNSC. The use of force against the Libyan regime under the headship of Gaddafi was legitimate. Its legitimacy was further bolstered by the objective to defend human rights that were flouted by the regime. Moreover, such actions by the regime were incompatible with the aim of the international law to accomplish global security and order. The failure of the state authorities to protect the rights of its citizens is seen as a recipe for international disorder. The authorization of force against the then Libyan regime was a just cause and the intention outlined in the resolution 1973 passed by the right body (UNSC) was clear that it wanted to protect civilians.

5.4.2. Authorization of Intervention in Iraq.

The use of force against the Saddam Hussein's regime was not legitimate as it was not directed by the UNSC, as the international law demands. According to Byers (2004), the only resolution that was passed by the UNSC was resolution 1441. The passing of the resolution 1441 in November 2002 was meant to order the then Iraq regime to bow to the disarmament obligation. The passing of that resolution was informed by the allegations that Iraq had the WMD, which was proven to be untrue after the intervention. Things became more perplexing as the US and its allies exacted more pressure on the Security Council to vote in favour of intervention in Iraq. Nonetheless, according to Richardson (2003) the attempt of the US to coax the Security Council did not find expression as China and Russia voted against the motion. However, that did not dishearten the US and its loyal allies, UK and Australia, to intervene in Iraq.

Moreover, that intervention was justified on a number of grounds. The first justification was that Saddam Hussein's Iraq had the WMD, which turned out to be untrue. The fabrication of another fat lie surfaced on the western media, linking the Hussain's regime with the Al-Qaeda group. The

international law qualifies WMD and terrorism as the grave threat to international peace and security (Posteraro, 2002). Hence, propagating such propaganda virtually won US the support of other states. However, both the allegations that Saddam had the WMD and links to Al-Qaeda were baseless and unfounded. Such failure to prove the allegations prompted the US to resort to humanitarian reasons. Brown (2004), Saddam now was said to be a dictator who unleashes force against the civilians who demonstrated their dissatisfaction against his government. The US-led forces claimed to be working in favour of the victims of Saddam's nefarious actions. But the failure to obtain the authorization from the UNSC disqualified the intervention in Iraq as legitimate. This was an assault to Iraq's sovereignty as the US-led coalition used force against an independent state. A state (Iraq) that did not even threaten assault the United States or any of its allies. Therefore, the actions of the US-led coalition cannot be justified even on the grounds of self-defense as UN Charter permits. Moreover, the cause to intervene in Iraq was unjust, as the intention was to dislodge the Saddam regime. The intervention directly transgressed the international law as US interfered directly with the internal affairs of another sovereign state. Moreover, the international law demands that prior intervention there should be comprehensive consultation between the regional bodies and the coalition that is authorized by the UNSC to intervene. However, in the case of Iraq there was no such consultation.

5.4.3. Authorization of Intervention in Kosovo.

Peaceful protests that were met with brutal force by the administration of Milosevic Slobodan received the international attention. The situation was exacerbated by the strategies employed by the KLA in their quest for separation of Kosovo province from the Republic of Yugoslavia and Serbia. These strategies exhibited some terroristic elements. According to Hadebe (2012), the UNSC was compelled by the situation to pass resolution 1160, which among other things, strongly condemned the employment of unwarranted force against the civilians and the barbaric actions of the KLA. The resolution entailed, inter alia, arms embargo on FRY and Kosovo, and condemning the external support of terrorism, be it in financial or training form. The UNSC urged the warring parties to resolve their differences through dialogue.

However, the then US president Bill Clinton and NATO Secretary General Javier Solana took it upon themselves to order NATO to launch attacks against Yugoslavia to restore order. According to Alexander (1999), "those attacks were also meant to curb Serb forces from perpetrating

additional harm against the Kosovar population.” The intervention was not directed or authorized by the UNSC. NATO decided upon itself to launch airstrikes to end the atrocities that occurred in Kosovo. The decision of NATO to intervene without the authorization from UNSC was informed by the dearth of will from the international community to act assertively in an attempt to end violence in Kosovo. However, on the other hand, the action by NATO undermined the efforts of the Security Council of encouraging resolution of disputes through dialogue. NATO transgressed the precepts of the international law that the decisions to identify threats to international peace and order should be taken by the UN Security Council. But the decision by the then US president Bill Clinton to order NATO to intervene in Kosovo received much support from the western allies, which was suffice to grant that intervention multilateral legitimacy rather than being seen as the US unilateral intervention. Be that as it may, the actions of NATO are hailed by scholars like Wheeler (2000b), as NATO managed to quell the atrocities that engulfed the Kosovar population. He further postulates that the action by NATO towards saving the situation in Kosovo gave a new momentum to humanitarian intervention as it proved that failure of UNSC to act does not hinder other coalitions to act in favour of civilians (2000b).

5.5. The Extent of Force Used in these Countries (Libya, Iraq and Kosovo).

Definitions of the term humanitarian intervention employed by this study reveal that, it is the employment of force in a foreign territory with the aim of stopping humanitarian disaster. That employment of force is permissible under the international law. However, there are certain conditions under which it should be exercised. One among those conditions stipulates that it should be undertaken in protection of civilians against grave human rights violations whether instigated by their regime or any other paramilitary formation. Nevertheless, according to Elshtain (2001), humanitarian intervention should employ the precepts of the just war doctrine, which inter alia, last resort, right intention, right authority, proportional means and reasonable prospects. These principles of humanitarian intervention are all important. However, the good achieved vis-à-vis the bad generated depends on the magnitude of force employed, which is also the measure of the magnitude of intervention provided. As the number of casualties be it combatants or non-combatants is determined by the amount of force engaged.

Libya: It can never be denied that the then Libyan government led by Muammar Gaddafi unleashed violence against innocent civilians who were demanding political and economic rights.

The attempts were made by the international community to urge the Libyan government to desist and refrain from carrying out gross violations of human rights or what was classified as crimes against humanity. According to Ulfstein and Christiansen (2013), the UNSC attempts were preceded by the warning from Nadvi Pillay, the then UN High Commissioner for Human Rights characterizing the actions of the regime as crimes against humanity. The failure of that warning to stop Gaddafi from carrying out heinous crimes against humanity necessitated intervention in Libya for humanitarian reasons. Resolution 1973 authorized NATO to use force in an attempt to stop the Libyan forces from bombing civilians. NATO intervened as per the mandate of UNSC however, the amount of force used was unwarranted. Even though it managed to quell the regime forces from attacking civilians. Moreover, during the time of intervention anti-Gaddafi forces had lost control over the Benghazi and Tobruk, which required NATO to relax its attacks and bombings, as they were faced with one target. Nevertheless, the political motives which triumphed humanitarian reasons propelled NATO to use excessive force against the Libyan government. As according to Rowley (2011), NATO was committed to effect regime change in Libya more than concerned with humanitarian reasons.

Moreover, the pursuit of regimes impelled NATO to apply an excessive force. The intervening brigade in Libya employed massive airstrikes (Fisher, 2012). These airstrikes were meant to protect civilians in Libyan Arab Jamahiriya and Benghazi. However, in the quest by NATO to bomb camps of the Libyan forces that were loyal to Gaddafi and other paramilitary groups that operated in Libya civilians became targets. Civilians died on account of NATO airstrikes and scores of others had to flee their homes to neighbouring countries. Furthermore, NATO's brutal hunt for Gaddafi in his hideaways compelled them to drop more than 20 000 bombings in different towns of Libya including Tripoli. The application of such force indicated that NATO desperately wanted to oust Gaddafi out power more than it wanted to protect civilians from his cruel actions. According to Engelbrekt, Mohlin and Wagnsson (2013), such actions were further confirmed by the assistance and training that was offered to rebels by NATO personnel. As such move was directed at empowering rebels to lead the ousting of Gaddafi's administration. Civilians suffered and some got killed as the mad search led to NATO forces bombing convoys that were suspected to be transporting Gaddafi. The bombing of convoys driven by suspicion increased the number of civilians who died on account of NATO forces.

Iraq: The mad search for WMD which was later justified as the intervention for humanitarian purpose. The US-led brigade intervened to stop Saddam Hussein from carrying out murderous attacks on his people. According to Roberts (2004), the airstrikes and bombardments directed to strategic places of Saddam's forces did not only affect the targeted objectives. As these bombings generated more than 5000 civilian casualties that were supposed to be shielded (Bellamy, 2004). However, the suffering of Iraqis was not only generated by the bombs but combatants physical abused civilians when they were conducting search of weapons in their homes. Such physical abuse is reported by Emery (2004), combatants at times "humiliate the men, offend the women, and torture the very people who are supposed to be providing intelligence about terrorists and Baathist whereabouts." Moreover, the bombardment of the strategic government areas is tantamount to destroying the country's infrastructure. Destroying the infrastructure is not an ideal objective of humanitarian intervention, as it poses more suffering for the civilians. It is embossed in the findings of IICK (2001), the protected individuals should not be denied access to or disturbed from accessing services like public health as that further threatens their rights. In Iraq health personnel were interrupted from the reaching civilians who required medical attention. That interruption and demolition of infrastructure was manufactured by the employment of excessive force. Yes, in the words of Bellamy (2004), collateral damage is anticipated during humanitarian intervention however, it must not outweigh the good achieved.

In addition, the length spent by US and other foreign troops in Iraq exacerbated the situation. The situation in Iraq deteriorated even after the capture of the alleged dictator Saddam Hussein, as the external forces remained in Iraq for reasons related to peacekeeping. Goldberg (2010), provide statistics for casualties of hostilities or those who got killed during confrontation between the intervening troops and Saddam forces. The operations of the US-led coalition in the name of humanitarian military intervention in Iraq incubated a terrorist friendly society. As the removal of Saddam's regime meant more looting of the state resources. Restoring peace became an increasingly difficult or an impossible task to achieve in Iraq. Human rights continued to be violated as there was violence that emerged after Saddam's removal.

Kosovo: The employment of an excessive force seems to be the problem during humanitarian intervention. In Kosovo, the unauthorized operations of NATO included cluster bombings and airstrikes which were to some extent not precisely executed. According to Shaw (2012), the

imprecision of NATO bombing campaigns generated non-combatant casualties, which could have been shunned if NATO had used ground soldiers. The employment of air-to-surface missiles led to incidents where some bombs that were directed to military targets went astray and landed in residential areas. In addition, the application of an excessive force compelled people to vacate their places and that subjected civilians to the state of refugees within their own country. The application of airstrikes did not only end by threatening lives of non-combatants but also posed danger even to the future of the country through damaging of the infrastructure. As destroying the infrastructure of the country means that even the new political structure after the intervention will find it difficult to service the people. As the failure to service your people is equal to denying them some of their certain fundamental human rights.

5.6. Human Rights During and After Intervention.

Intervention for humanitarian purposes is meant to rescue human rights from being violated (Bellamy, 2004). Ordinarily, such violations occur when there are two parties fighting in the manner that is inconsistent with the international humanitarian law. However, in most frequent scenarios attacks on civilians are unleashed by their respective regimes or governments. Hence, the UN Charter warrants intervention and the use of force by the international community in protection of civilians of a state that openly defiles human rights. That intervention is prompted by the fact that civilians suffer from crimes against humanity and war crimes. Both these forms of crime (crime against human and war crimes) are constituted by actions that violate human rights. Human rights are enshrined in the UN Declaration of Universal Human Rights of 1948. These rights are innate and every living person possesses them as Evans (2001) would claim. The world where human rights are protected is a world characterized by peace and order.

The use of force in a foreign country with the purpose of shielding human rights should be governed by the rules of war. The intervening forces must at all times target areas where the perpetrators of human rights violations are located. Furthermore, the safety of the civilians must always take first priority. The inability of the interveners to identify places where the abusive forces are situated renders the intervention as ineffective. However, this is not to ignore the reality pointed out by Kiernan (2003), that humanitarian military intervention takes lives of civilians as ‘collateral damage’. The generation of ‘collateral damage’ or ‘side-effects’ must always come as an unintended result. However, in some humanitarian interventions lives of civilians seem not to

matter as the usage of an excessive force violates human rights. Moreover, the blockade of civilians from accessing health facilities defiles human rights.

5.7. The Effectiveness of Humanitarian Intervention.

Humanitarian intervention is just a brief undertaking with one clear objective, which is to avert the looming or existing humanitarian disaster faced by the people. The effectiveness of humanitarian intervention can only be measured during two periods, which is during the intervention and after the intervention. The former is more concerned with the conduct of the intervening combatants and how they select places to attack. However, it is not only confined to the selection of targets but also the weapons and types of explosives used. Whereas, the latter is more concentrated on the aftermath of the intervention. Yes, scholars like Arbour (2008), agree that humanitarian intervention is meant stop human rights violations and also create peace. However, in the words of Ramsden (2016), the creation of peace does not necessarily mean ‘long lasting peace’. There should be enough peace for the warring parties to be able sit on a roundtable and iron out their differences. Be that as it may, the fact that humanitarian intervention is the employment of force with aim of saving civilians from humanitarian disaster. (Pharo, 2000) acknowledges that it is inevitable that the use of force to save live entails dramatic implications. As lives of both combatants and non-combatants will be taken. However, the degree to which human rights gets violated is determined by the ability of soldiers to apply the rules of law.

i. During Intervention.

The only tool to gauge the effectiveness of humanitarian intervention is the score of lives it saved vis-à-vis the score of lives that would have been taken in the absence of intervention (Seybolt, 2008). Saving lives during intervention largely rests on a number of factors, inter alia, the conduct of belligerents during the intervention, selection of targets to hit and the proportionality of the force that is used to protect civilians. Properly planned interventions apply the principal precept of medicine, which is the principle of ‘first do no harm’ (Cronin, 2014). That principle applies in humanitarian intervention on the basis that humanitarian intervention is meant rescue civilians who find themselves in the state of being patients of a particular political climate. The purging of the elements, which perpetuate humanitarian disaster is influenced by a number of factors. Among those factors, it is the arrangement of the territory in which intervention takes place.

Be that as it may, during intervention in Kosovo, Iraq and Libya interveners applied an excessive force. The application of an extreme coercion produced a heightened number of civilian casualties

and damaged infrastructure and property belonging to non-combatants. As writers like Thakur (2013), do emphasize that the employment of coercion, inconsequential of, its benevolence, enlightenment and impartiality in intent has dramatic outcomes. The forgoing characterization of humanitarian military intervention got its foundation from the acknowledgement of Bellamy (2004), that collateral damage is forever the part and parcel of humanitarian intervention. However, in the case of Kosovo interveners did not want to risk their lives as they preferred to launch airstrikes than having more combatants on the ground. This risked more lives of civilians as some airstrikes went astray and hit residential areas. Hence, civilians lost their lives unnecessarily. However, Humanitarian International Law (IHL) does not utterly illegalize the killing of civilians but killing of civilians must come as side-effect. The magnitude of side-effects of humanitarian intervention are to a greater extent influenced by the amount of force applied by the intervening combatants. The NATO operations in Kosovo despite being hailed violated human right in both direct and indirect manner. As civilians were displaced as refugees on the other hand infrastructure was damaged, cutting electricity supplies, which worsened the plight of civilians in their respective areas (Wise, 2013).

Moreover, in Libya and Iraq the mad hunt for the heads of states from their hideouts resulted in bombings of convoys transporting civilians, as those convoys were suspected to be with the heads of states. This behaviour of bombing civilian convoys exposes the failure of the intervening combatants to apply the principle of war under *Jus in Bello* that prior launching an attack one must properly identify the target. Furthermore, the households that were suspected to be hiding those who were hunted were raided and during those raids people were subjected to physical abuse. As they were physical assaulted and threatened in an attempted to force them to tell the truth. Such unaccepted and unwarranted actions of abuse resulted to the decimation of civilians. On the other hand, the International Law was transgressed in the most disgusting fashion. As in these two countries intervention sought to impose values of liberal democracy. This was done despite the impermissibility of the direct intervention in the internal affairs of another country by the international law. In their efforts to enforce such values interveners were compelled to apply excessive force as they wanted to get rid of any force loyal the regimes of the respective states. In addition, the US-led forces in Iraq did not only bombard military camps but also went to the extent of attacking institutions that were suspected to be reliable to Saddam's regime. Among others such institutions included factories that produced arms. Intervenors chose to ignore the fact that in those

factories there were people (non-combatants) working to support their families. Yes, Pharo (2000), characterize humanitarian intervention as necessary despite being not perfect. However, that should not create a situation where collateral damage comes as the deliberate and intended result. As bombing of institutions where you know that there are civilians is synonymous to deliberately taking lives that are innocent and could be saved. Such actions render humanitarian intervention as an ineffective tool in shielding human rights. Therefore, an effective intervention should protect civilians and the interveners should not embark into any action that directly or indirectly pose threat to human rights. Moreover, the actions of the intervener must always seek to shield human rights and take out the dangers, which is identified as posing threats to them.

ii. After intervention.

Interveners are anticipated to stop crimes against humanity and war crimes, which are the primary condition that required them to intervene in the first place. Moreover, stopping of the ongoing war crimes and crimes against humanity allows the negotiations to continue under a pacific climate. The creation of the pacific climate is tantamount to the cessation of human rights violations. Hence, according to Western and Goldstein (2011) it is ideal to have negotiations while the principal concern is resolved. The principal concern is the humanitarian disaster that is generated through violent conflict. Human rights violations are anticipated to be stopped by the intervention. In succinct words, humanitarian military intervention ought to stop the main cause of human rights defilements. Moreover, create a favorable atmosphere for negotiated settlements that will allow the previously human right abuser to engage in processes of rehabilitation. Moreover, that favorable atmosphere allows the victims to get on with their daily activities without any interruptions.

However, in the case of Iraq and Libya conflict continued even after the interveners have withdrawn their ground troops. According to Thakur (2013), the precariousness and violence continue to cast a long shadow over post-Gaddafi Libya. As the attempts to enforce liberal democracy in a post-Gaddafi Libya did not resolve the question of rebels, as they continued to pose threat to civilians. Moreover, the introduction of democracy converted Libya to a safe haven for terrorist groups linked to al-Qaeda and Al-Shabaab. Human rights that were violated by the forces loyal to Gaddafi continued to be violated by the terrorist group that are currently operating in Libya. Moreover, the intervention in Libya for humanitarian reasons left the country in a

predicament with no central strong government, but with different groups having control over different towns. Hence, according to Kuperman (2015), the intervention in Libya did not only fail to introduce liberal democracy, but degenerated Libya to be a failed state. He further adds that intervention magnified the death toll as a result of human right violations that increased in several folds (2015).

On the other hand, the dislodging of Saddam's administration in Iraq left the country in a volatile situation. Violence did not end as the intervention intended to end it. Despite the presence of foreign forces in Iraq, violence occurred and posing more danger to the lives of the civilians. The country became the hiding place for terrorists as it is the case in Libya. Moreover, Iraq remained as another failed product (state) of attempts to introduce liberal democracy (Parker, 2012). In addition, such attempts exposed people to traumatizing situations as children are exposed to violence. The failure of the western countries led by the US to democratize Iraq created a scenario in which paramilitary groups gained a direct access to state resources. The rampant looting of state resources in Iraq pose more threat to civilians as they fail to access other necessary services. Moreover, the rule of law that humanitarian intervention seeks to achieve ended as a pipe dream for the Iraqis as the country turned to a battle field for paramilitary groups.

The NATO intervention in Kosovo is qualified by many essayists as the perfect example of humanitarian intervention. Such praises of the NATO intervention in Kosovo seemed to be accepted despite the fact that it did not have the UNSC stamp on it (Solana, 2000). The unlawful operations of NATO in Kosovo accomplished the intended liberation of the Kosovars from the unfriendly treatment of Milosevic. Moreover, NATO delivered the independence of Kosovo as it freed it from the wing and control of Yugoslavia. Among other things, NATO created an atmosphere where thousands of refugees were able to go back home. As the humanitarian disaster that they faced was now averted and their country declared its independence. After NATO's withdrawal of its belligerents from Kosovo there were no signals that there could be the reemergence of human rights violations. Hence, NATO intervention in that region is said by many to have brought peace and saved human rights. Moreover, the airstrike of NATO did not end by obliterating the maltreatment displayed by Milosevic through the policies he adopted but saw Kosovo gaining its autonomy from the Yugoslavia. In the post-intervention era in Kosovo the rule of law was established.

5.8. Interests of the Interveners in Libya, Iraq and Kosovo.

Humanitarian military intervention is fundamentally designed for shielding human rights against the malicious actions that seek flout and violate them. However, humanitarian intervention can be hijacked to pursue and serve the parochial interests of the intervening parties, be it political or economic interests. The success of humanitarian intervention is also depended on the intentions of the interveners as they are supposed to prioritize between their interests or humanitarian interests. Hence, according to Gibbs (2009), only disinterested intervention that is capable of being effective in saving the endangered human lives. Disinterested intervention is by and large inspired by the intention to save and advance humanity before any material gain. However, realists are skeptic about the existence of an intervention that is disinterested. Their skepticism is informed by their position in relation to international relations that states enter into dealings with each other to benefit themselves. It is in the words of realists like Kaldor (2003), that there is no action that is undertaken by a state in the international platform that is aimed at achieving interests that are not of that state. Therefore, disinterested intervention is fictitious and only exist on paper.

The seizing of power by Gaddafi in Libya in 1969 altered a number of things. It is some of those changes, which strained the Libyan-western relations. As according to Blanchard (2010), Gaddafi compelled the western countries, amongst which US and UK, to renegotiate their oil production agreements. Moreover, the new deals among other things forced the western countries to cede the bigger share of the oil production to Libyan government. Since such deals the relations between US and Libya were strained. The 2011 humanitarian intervention undertaken NATO after the authorization from the UNSC was meant to drive regime change. According Kuperman (2015), the operations of US-led NATO in Libya sought to replace the administration of Gaddafi with a liberal government as that was going to ease the market relations between Libya and US and its allies. The 2011 intervention in the Libyan soil was driven by the intention to effect regime change more than rooting out the humanitarian crisis that occurred in Libya. The killing of people in that country that occurred on the account of NATO was not meant to free people Libya. In the Libyan case the name of humanity was abused to hide the pursuit of the parochial interest of the western countries led by the US.

With no much difference from the Libyan case Iraqis became victims of operations that were meant to ease relations between Iraq and US. However, such actions were veiled behind the name of

humanitarian intervention. The Bush administration displayed desperation to invade Iraq. That desperation was revealed through the justifications of intervening in Iraq after Bush failed to secure the authorization of the Security Council. The justifications that were provided by US for interfering in Iraq ranged from the suspicions of WMD to links with Al-Qaeda and eventually humanitarian reasons. However, it became clear that US-led forces targeted Saddam Hussein and people around him. In the words of Byman (2003) and Russett (2010), the Bush administration wanted to enforce democracy in Iraq. However, such efforts failed as the presence of the US-led forces in Iraq created a conducive atmosphere for terrorists and other paramilitary groups that through their nefarious activities violated human rights. Iraq in the post intervention period became a failed state just like Libya. The situation changed for worse as people suffered from death to persecution. The situation in Iraq and Libya after the intervention can be characterized as period where children grow up exposed to guns and dead bodies. Intervention in these two countries failed to yield what intervention for humanitarian reasons is meant to accomplish, which is to avert humanitarian disaster and restore the rule of law and order.

On the other hand, the case of Kosovo is different from the Iraq and Libyan case. Humanitarian intervention in Kosovo came in a period in which US was faced with difficulties in prioritizing in formulation of its foreign policy. The failure to prioritize is informed by the fact that for more than four decades the US foreign policy was shaped by the existence of USSR as the superpower, and during the time of intervention US enjoyed an unparalleled dominance in the international arena. Moreover, the intervention Kosovo came in the age where US wanted to demonstrate that it is the only superpower. The maltreatment of the Kosovars by the then Yugoslavian president Milosevic forced NATO to intervene in Kosovo in the name of humanity. People in Kosovo faced danger of genocide or ethnic cleansing. However, the operations of NATO averted such danger and consequently liberated Kosovo from Yugoslavia. However, the main interest of NATO in Kosovo was to assert its credibility and authority in the Balkan region, which previously had strong ties with the former USSR. Contrary to what transpired in Iraq and Libya the US-led NATO to a larger extent accomplished the primary objectives of humanitarian intervention in Kosovo. The violations of human rights were ended after bombings of NATO and Kosovo became a self-proclaimed autonomous country. Despite the fact that those victories came through self-interested intervention. However, human rights were somewhat violated during the airstrike bombings of

NATO. That confirmed the words of (Pharo, 2000), that the employment of force whether for a just cause or otherwise entails some dramatic outcomes.

5.9. Analyzing the Case Studies Using Realism and Liberalism.

Realism qualifies humanitarian military intervention in a foreign country as an extension of foreign policy. Foreign policy is loosely described as the layout of objectives that a country intends to achieve when dealing with other states (Smith and Light, 2001). Realists deem humanitarian intervention as the mechanism among other mechanisms used by states to pursue and protect their national interest beyond their borders. Hence, states or coalition of states are selective when it comes to intervention. Such actions illustrate that human rights only matter where the interests of other countries (with the capacity to intervene) are vested and are (human rights) trivial where there are no interests involved. This is exhibited by the inaction of the international community towards resolving the humanitarian cataclysm that visited that country (where there are no interests vested). Moreover, the international society ignored the most obvious signs that the situation in Rwanda will degenerate to the point where human rights were openly violated. People around the world had to witness the most gruesome situation where people were killed based on their ethnicity. Realists like Piiparinen (2009) believes that the inaction by the international community during the Rwandan genocide speaks volumes about the prioritization of interests. Hence, according Freeman (2017), human rights just exist on the paper not in reality. The realism account of humanitarian intervention places national interests at the center, then humanitarian goals come as secondary.

Furthermore, the claim that human rights only exist on paper permits the superpowers of this world to pursue their parochial interests hiding behind the name of human rights. The interests of the country intervening may vary or some countries within the intervening coalition might be used and bullied by the powerful countries to pursue their narrow interests. Hadebe (2012) citing Waltz (1979), advances that states enter into coalitions with other states just to pursue their egoistic interest. Such was somewhat confirmed by the words of US president Barack Obama when intervening in Libya, he pronounced that “there are times... when our safety is not directly threatened, but our interests and values are... in such cases we should not be afraid to act.” The uttering of those words were also exhibited in their intervention in Libya. Despite the fact that human rights were indeed violated in Libya, there are enough records that Muammar Gaddafi had

a strained links with the western market. According to Fernandes (2013), the ousting Gaddafi and replacing him with a liberal government that would coincide well with the western values was the primary intention of NATO in Libya. The intervention in Libya was directed at democratizing that country so as to lessen tensions between the west and Libya. Viewing intervention in Libya through the lenses of a realists, it is evident that that intervention had nothing to do with human rights but had much to do with political and economic reasons.

Moreover, the endeavors to topple Saddam Hussein as well had nothing to do with human rights, but it was in the same manner with Libya driven by political reasons. Hussein's efforts to protect the Arab world and civilization against western democratic values exacerbated reasons for the US-led coalition to intervene in Iraq (Brown, 2004). The resisting of the Western values by the alleged dictator of Iraq made things almost impossible for the US and other western countries to establish healthy relation with countries in the region of Middle East. Thus, that region became the geostrategic region for the US. The attempts by the US-led coalition in Iraq and Libya can be best explained by realism theory, as they were purely meant to pursue narrow interest of the US more than addressing humanitarian concerns. Moreover, the US had to use the countries who joined the coalition to assist in pursuing its own national interest. It was unfortunate that human rights were further violated as the bombings by the US-led forces also hit the civilians. Moreover, humanitarian intervention in Iraq became a pretext for war that was directed at toppling Saddam Hussein out of power.

Intervention in Kosovo is frequently used as an example of a successful intervention. The appreciation of NATO operations in Kosovo emanates from the fact that it managed to stop the killings of Kosovars by Milosevic and eventually liberated Kosovo from Yugoslavia. Kosovo gained its freedom from the inhumane policies that were introduced by the government of Yugoslavia. Moreover, NATO succeeded in liberating Kosovars without the authorization from the correct body which is the UNSC. Despite the fact that it is still quite vague as to what the US-led NATO in Kosovo stood to gain by intervening. However, realists always characterize the action of a state in another state or on the international platform as always driven by a motive to serve its interest. It is on those grounds that realists see the intervention in Kosovo as the way in which US wanted demonstrate that it has taken over the region that was previously dominated by

the former Union of Soviet Socialist Republics. In succinct terms, the US wanted to stamp its authority and emphasize its credibility in that region (Sperling and Webber, 2009).

Nevertheless, on the contrary liberalism regards the protection of human rights as the gigantic stride towards accomplishing the international peace and order. That is demonstrated in the words of Fernandes (2013), that intervention humanitarian purpose is premised on liberal understandings of ethical duty to defend human rights. In addition, the liberal account of humanitarian military intervention is premised on two grounds, which are the moral and political philosophy. Such views are inspired by the fact that states are qualified as the institutions formed by moral agents. In succinct terms, states are formed by independent beings as Kant alluded. In such states duties and powers are defined in a particular manner. Moreover, the fashion in which these duties and powers are defined should be illustrative of respect of individuals and their freedom within the state. Hence, liberals deem the state as the liberal answer to the issues relating to tyrannical governments and anarchic situations (Tesón, 2001). However, the qualification of the states as the liberal answer to the above referred issues does not dismiss the reality that endeavors to survive compel people to engage in some gruesome activities, which subsequently result to grave human suffering and violations of human rights.

Liberals regard humanitarian intervention as the vehicle through individuals can be taken out in situations that culminated in violence or liberated from the oppression of their tyrannical regimes, which undermine their rights. The existence human rights defilements in the view of liberals is the result of the absence of the values of liberal democracy, which allow the negotiations as the best mechanism to resolve issues. Such believe is influenced by the assumption that liberal societies or states hardly engage into war to resolve disputes. Therefore, liberal states embark on humanitarian intervention with the sole intention of introducing liberal democracy in countries that are facing humanitarian danger. Hence, Kuperman (2015), deems the intervention for humanitarian reasons in Libya as one of the attempts made by the US-led coalition to introduce democracy in that country. However, the attempts to introduce democracy in Libya failed and subsequently rendered Libya as the failed state. Moreover, the invasion which ended being justified on the grounds of humanitarianism also advanced the agenda of democratizing the Arab world. As the intervention was directed at dislodging Saddam Hussein out of power. The attempts to topple Hussein's regimes

were inspired by the allegations that his regime was tyrannical in nature and did not respect the rights of the individuals within Iraq.

On the other hand, the 1999 humanitarian intervention in Kosovo was motivated by the events that occurred in that country (Tesón, 2009). The intervention by NATO was meant to shield the rights of the Kosovars from the cruelties that were instigated by the president of Yugoslavia. Furthermore, the intervention was directed towards liberating Kosovo from the control of Yugoslavia. This again is virtually similar to the actions pursued in Libya as they sought to liberate people. However, in the case of Kosovo that liberation was of both the country from Yugoslavia and the people from tyrannical treatment of Milosevic Slobodan. The intention of NATO operations in Kosovo were hailed by many on the grounds that managed to liberate Kosovars from the maltreatment they received from Milosevic. However, on the other hand, it received the rain of criticisms on the fundamentals that it was not authorized by the right body (UNSC).

Liberals study humanitarian intervention from the side of the victims who need help not as realists who seek to study the motive of the interveners. Fernandes (2013), opined that “liberals believe that no significance of borders should prevent actions meant to address abhorrent actions. Hence, liberal determine the success and effectiveness of humanitarian intervention on the basis of liberating the oppressed and save violated human rights. On the other hand, realist see humanitarian intervention as the excuse for powerful states to enhance their interest beyond their defined territorial borders.

5.10. HI as the Protection of Human Rights.

Freedom of people in some other parts of the world face grievous threats, which some come from their rulers. The international community is moral obligated to take a collective action against local dictators and other propellers of evilness (Orford, 2003). However, that collective action should be driven by the will and intention to avert humanitarian abuse or any symptom of disruption to international peace and security. Failure to prioritize the nobility of protecting human rights results to a precarious and volatile situation where human rights are further violated. According to Pharo (2000: 8), “it is in the nature of war that things get worse before they get better.” Hence, in the face of humanitarian catastrophe it is worth taking the risk of employing war for humanitarian reasons. The use of force directed at freeing people from the danger of perishing protects human rights and conversely take civilians’ lives. However, the taking of civilians’ lives must not be the

hallmark of the entire operation of military intervention but must come as an unintended outcome. In addition, that unintended outcome must be outweighed by the good accomplished during the intervention. The efforts to achieve more good illustrate that humanitarian intervention is meant to alter the precarious and threatening situation. However, that rely on the number of factors which among other things entail the amount of force employed and on the style used to attack military targets.

Furthermore, the employment of force as the means to protect human rights should be governed by the regime of rules of war, which is the IHL or Jus in Bello. The intervening states should at all times apply the principles of war to avoid the unnecessary killing of civilians. Moreover, the most imperative part of the humanitarian intervention is to neutralize the perpetrator of human rights abuses. That is best explained by liberalism that in cases where human rights are violated, violence or use of force to shield the violations to human rights is justifiable. However, the realists are opposed to that idea through their posture that war waged on humanitarian grounds is just a veil to hide one's parochial interest. That position by the realists seeks to dispel the belief that a democratic state do not engage in war with other democratic states. Be that as it may, intervention on humanitarian grounds must be solely for that, not to advance the narrow interests of the interveners. As it has been noted by Parekh (1997); Gibbs (2009) and Krieg (2013), that only a disinterested intervention that has the potential to succeed in averting humanitarian crisis or any symptoms of threat to human rights. As the use of force in such interventions is not excessive and is used with extra care and in such operations the likelihood of achieving the principal aim of humanitarian intervention is high.

5.11. Chapter Summary.

This chapter is comprised of case studies, presenting and analyzing of data. However, it began by giving the scenarios of what led to, what happened during and after intervention in the three countries elected as the cases of the study. The legitimacy of the intervention and the extent of the force that was applied by interveners in Libya, Iraq and Kosovo is also analyzed. Moreover, the effectiveness of intervention in these country case studies is also discussed after examining the outcomes of each intervention. This chapter ends by assessing the intentions of interveners in each country. The discussion of the interests of the intervention is informed by the fact that narrow interests of the interveners are to some extent influence the effectiveness of humanitarian intervention in saving the endangered lives.

6. CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS.

6.1. Introduction.

It is in this chapter where the synopsis of the discoveries made in this study is provided. Such discoveries are foremost based on the theoretical findings of the study. Moreover, these findings are made after a comprehensive interaction with the existing literature on the subject of humanitarian intervention and human rights. However, this study acknowledged in chapter four that there might be inevitable limitations on this research that the researcher does not have control over. Be that as it may, this study arrived at its conclusion and provided the applicable recommendations as how the problems associated with the ineffectiveness of humanitarian intervention could be addressed. This chapter ended by summing up the findings and recommendations.

6.2. Summary of Theoretical Analysis of HI.

Realism: The concern raised by the weaker states on the humanitarian intervention is confirmed by their reaction to the ICISS's decision to adopt R2P. It is entailed in the work of Seybolt (2008), that the heads of states mainly from the developing regions lamented the adoption of the R2P, seeing it as an opportunity to allow stronger states to pursue their political objectives in weaker countries. Such criticism from the third world countries is more leaned on the realist perception of humanitarian intervention. Realism adjudicates the international arrangement as the self-help and anarchic system. In more succinct terms, the international politics allow every state to act in pursuit of its narrow interest however, the unevenness in powers of states gives the stronger ones an upper hand. As the weaker states are given no option but succumb to the will of the stronger states who, more often than not, act as the bigger brothers to poor nations.

Humanitarian intervention fails to salvage the victims of humanitarian disaster instead has become a tool for strong states to exercise their power in regions where they have their economic and political interests. Moreover, realism qualifies humanitarian intervention as the vehicle through which liberal states seek to transport their liberal values to non-democratic states. That move of transporting democratic values to non-democratic regions helps western countries to have improved and eased access to the market of the weaker regions. Hence, according to realists the invoking of human rights in international politics has allowed an opportunity for powerful states to directly or indirectly, wittingly or unwittingly define how weaker states should conduct their

internal affairs. For that reason, humanitarian intervention has become the tool to ensure that the will of the stronger is done in weaker. However, the manner in which humanitarian intervention is carried out tramples upon the very human rights that is purported to protect. The undermining of human rights during interventions for humanitarian reasons is the result of the prioritization of the national interest more than humanitarian concerns. That indorses the perception of realism theory about the philosophy behind humanitarian intervention, which characterizes intervention as the vehicle to push political and economic agendas.

Liberalism: The liberal perspective of humanitarian intervention is that is a necessary tool liberate the oppressed. Hence, liberalism deems the use of force for humanitarian reasons as just and ethical. Humanitarian military intervention became a tool to enforce liberal values in undemocratic countries. Despite the UNC forbidding a foreign country from imposing a particular political or economic system upon a sovereign state. The attempts by the democratic countries to enforce a particular political system (Democracy) in other regions is ethical in their eyes. Despite, the international law hindering such moves but the liberals see it as the way through which the world can be pacified. Moreover, in the eyes of liberals, humanitarian intervention is the proper mechanism to alter the anarchic nature of the international system. That view is born out the conception that democratic states rarely engage in war with one another. Therefore, democratic regimes are duty bound to consider the rights of individuals. Moreover, societies and governments that practise and espouse democratic values listen to the people and do not engage to acts that assault human rights. However, that is opposed by the realists on the grounds that democracy is built on blood that spill when these democratic states impose their democracy to weaker ones through humanitarian intervention. Thus, the claim that democratic states and societies do not engage in violent conflicts, which ultimately undermine and violate human rights is unfounded. In addition, that qualifies humanitarian intervention as the tool that warrants the bullying of weaker states by the strong ones.

Both the analysis of humanitarian intervention by realists and liberals acknowledges that the employment of force entails life threatening outcomes. Therefore, capability and the effectiveness of humanitarian intervention to save human rights is compromised by the concealed agendas, which among other things entail political and economic objectives. Therefore, such view coincides with the general view of this study that no action undertaken by any state or group of states that is meant

to enforce human values. But such actions are meant to drive the concealed agendas. As a result, humanitarian intervention fails to accomplish its envisaged noble goals and objectives of salvaging human rights and restoring order in troubled regions and countries. Instead, it is the mechanism to push political and economic agendas at the expense of the civilians who are purported to be shielded. As in the view of liberals that humanitarian intervention is the perfect vehicle to push liberal democratic values and pushing those agendas morally and politically justifies it. On the other hand, realists are diametrically opposed to the idea of humanitarian intervention as it allows the bullying of the weaker by the strong. Moreover, realism does not only end by opposing humanitarian intervention as a doctrine but also dispel the existence of human rights on the grounds that these rights are not real more than being just being a talk to which world leaders just pay lip service. The act of paying lip service becomes too prominent when one's interest is threatened.

6.3. Synopsis of Findings.

Humanitarian intervention is the mechanism through which humanitarian disaster or threats to human rights are averted. The undertaking of humanitarian intervention in Libya, Kosovo and Iraq happened under different conditions. However, these actions were purported to be taken for the humanitarian values. The authorization of intervention in Libya by the UNSC gave NATO grounds to pursue its narrow interest of toppling Gaddafi and democratizing Libya. Moreover, their objective of democratizing Libya was driven by their narrow interest to relax market relations with Libya so that they can have easy access to the Libyan oil. However, such interest was pursued behind the guise of humanitarian intervention yet it generated more human suffering and eventually increased human rights violations. Civilians suffered on the account of NATO, however, this is not to escape the argument by the number of scholars that the use of force even if meant to liberate the oppressed or end humanitarian crisis entails negative results. Nevertheless, those negative results must be at minimal level and come as an error.

Moreover, the evil (collateral damage) must at all times be outweighed by the good accomplished. However, in Libya people suffered unnecessarily, as the US-led NATO sought to destroy any institution that had strong link with Gaddafi's regime. These nefarious attempts were driven by the urge to de-capacitate the Libyan government. The US-led NATO did this despite international law forbidding any intervention that is meant to cripple the government of a sovereign state. As a result, people suffered as their property got demolished and some civilians had to seek refuge to

neighboring provinces and countries. In worst case scenarios people lost their lives and loved ones. Moreover, the attempts to impose liberal democracy in Libya created a failed state with no central government. The interveners failed restore the rule of law and that managed to set the country up for civil war, which resulted to more human rights violations. Moreover, the shocking quiet response from the UNSC placed the lives of the Libyans at danger. UNSC as the body that authorized the intervention in Libya did not take any measures to stop NATO from demolishing the Libyan infrastructure. That failure of the UNSC divulged its double standards in applying the international law as the UNC delegated them to. In addition, such deafening silence from the Security Council posed questions to the credibility of its members.

Contrary to the Libyan case, operations in Kosovo and Iraq were not authorized by UNSC but US-led forces went on to intervene anyway. However, the unfolding of events was different in these two countries. The airstrikes unleashed by NATO in Kosovo yielded the intended results, as the dangers that Kosovars were faced with were averted and eventually resolved. Subsequently, Kosovo became a self-proclaimed autonomous state. The fact that Kosovars were saved from the inhumane treatment of Slobodan Milosevic is illustrative of the fact that humanitarian intervention can be successful at times when solely pursued for humanitarian reasons. However, this is not to qualify the NATO intervention Kosovo as an intervention devoid of side-effects. Human rights were abused as the employment of an excessive force effected civilians in a manner that was not intended. The launching of airstrikes resulted in cases where residential areas were bombed. As a consequence, people suffered in the most unimaginable fashion and others were internally displaced. However, the end result of the intervention was what many Kosovars wished for. All in all, the operations in Kosovo generated evil that was way outweighed by the good accomplished. Despite, the fact that NATO was not authorized by the UNSC to intervene in Kosovo, the international community needs to draw some lessons from how NATO executed the intervention in that region. However, that is not to say that NATO was perfect in Kosovo but with the irregularities marking its (NATO) operations managed to save Kosovars. In addition, NATO achieved both its interest but equally delivered Kosovars from the afflictions that visited them during that period.

The interested intervention in Iraq, which was justified on the number of different grounds produced another perfect example of a failed state. The failure of the Bush administration to secure

the authorization from UNSC did not demotivate US from intervening. The US and UK acted in a manner that confirmed that where their national interests are concerned would do anything to bypass the UNSC. However, human rights of the Iraqis during the intervention were flouted. That flouting of human rights by the interveners stemmed from the aim of the US-led forces to topple Saddam Hussein's regime. The toppling of Saddam Hussein was propelled by the US's desperate longing to democratize the entire region (Middle East) so that it can have improved market relations with that region. The attempts of the US-led coalition to democratized Iraq were propelled by their voracious thirsty for the tons and tons of oil, which that country (Iraq) sat on.

Not different from the Libyan case, the interveners attacked any institutions that directly or indirectly, intentionally or unintentionally offered support to Saddam Hussain. In the process of hammering those institutions civilians suffered as some were mere workers in these factories or institutions. For instance, those who were working in arms producing factories became 'collateral damage' that could have been avoided. However, the bombing of such factories was not an accident but an intended result driven by the pursuit of national interest. The prioritization of self-interest clouded the reality that those workers were mere non-combatants with equal rights as other civilians. It is the actions of that nature that approve the hypothesis by the realists that human rights only matter where ones narrow national interest is concerned. Moreover, the prolonged stay of foreign forces did not help in terms of stopping the paramilitary groups that captured some parts of Iraq. Instead these paramilitary groups agitating against the state received assistance from the intervened forces. The intervention was not impartial as the interveners assisted the other side to carry out grievous crimes in Iraq. These groups committed even worse crimes by stealing from state coffers and basic services were not delivered to deserving people. In addition, the post-Hussein era saw more human rights being violated and death of civilians amplified, as the seed of war was cultivated by humanitarian intervention undertaken in that Arab country.

The pursuit of national interest under the guise of humanitarian intervention entails negative outcomes. Where Interveners seek after their national interests they brook no obstacle until it is achieved. This has been proved by the stubbornness of the western countries where they had bypassed the UNSC to intervene. Such undertakings of by passing the Security Council exhibited the Machiavellian philosophy that a man, in this case a state, has got to do whatever in their power to achieve their desired end result despite the disapproval of such action by the authorities. In clear

terms, that encourages one to dishonour their word if it places term in disadvantageous position and that was demonstrated in the actions of the western countries when they prioritized their national interests more than humanitarian concerns, which were the primary reason for the intervention. Moreover, such interventions resulted to civilians who the intervention was directed at shielding being the victims and their rights being violated in a most gross manner. At times, if not all the times, interested intervention applies an excessive force that ends up demolishing the infrastructure and preventing people from accessing health care centers. The hindering of people from accessing basic health care centers violates their rights. However, that does not end by denying them access to health facilities but also take their lives in a most gruesome way. In addition, the failure of humanitarian intervention to protect human rights is influenced by ignoring IHL or *Jus in Bello* principles. The ignoring of the principles of war is propelled by the hidden agendas of the intervening countries. The ignoring of the principles of war can be best described by skeptical realism, which suits the Machiavellian theory that ‘murder and lies are permitted if used to accomplish the aspired political ends. Chiwenga (2014: 132) describe it as “the art of the possible.” In most cases where the above-referred principles are not applied is not caused by their (interveners) ignorance of IHL or *Jus in Bello* principles... but caused the arrogant desire to accomplish their narrow interests. Hence, in most interventions the good accomplished is outweighed by the evil generated. Moreover, that evil only impacts negatively on civilians but parochial interest of the interveners is in most of the times achieved.

6.4. Recommendation.

Firstly, since countries are located within certain regions, when there is humanitarian disaster in one country it is the neighboring countries that are affected the most. As they have to give refuge and asylum to victims of war. A successful intervention can only be undertaken by the regional bodies as they will be driven by the need to slow down the number of immigrants to their countries. Thus, it will be in their best interest to intervene with the sole aim of ending humanitarian crisis. As intervening will put stop to the influx of victims of war in their countries. It is known that the influx of immigrants in one country puts pressure on the economy and other resources of the receiving country. Thus, the agent need to amend the UNC to legitimize only regional bodies to intervene for humanitarian purposes.

Secondly, in cases where countries in that region do not have the military capacity to intervene, should play the leading in terms of monitoring the intervened coalitions. As their failure to do so will open the gap for intervening coalition to act in pursuit of the interest. The pursuit of national interests of countries that are not in close proximity might cause chaos in the region as a whole. Moreover, create a protracted war that will harm the economy of the neighbouring countries. Hence, it is in the interest of any country to achieve peace and tranquility in their region. The intervention led and monitored by the regional body entails interest of achieving peace more than any other political or economic goal. As peace would mean less people seeking refuge in their countries.

Lastly, the stubborn refusal of the P-5 to allow the democratization of the Security Council allowed the UNSC to be used for pursuance of national interest. Thus, there is a resounding need that the decision to authorize humanitarian intervention should move to the General Assembly. In the GA all member states are represented and that will assist in terms of hindering few countries from advancing their narrow interest. Moreover, synchronize humanitarian intervention to its primary objective of salvaging human rights from the scourge of war and violent actions unleashed by their regimes or other paramilitary groups within their countries.

6.5. Prospect Research.

On the grounds that this research discovered that intervention for humanitarian reasons is always clouded by political and economic objectives. The transcending of humanitarian considerations by narrow interests has led to scenarios where human rights are further abused rather than being salvaged. Hence, this study recommended that military intervention for humanitarian purposes should be undertaken by the regional bodies, as it is the regional bodies that feel more strain when there is a country with human rights violations in their region. Such recommendations underscore the strong prerequisite for more studies to be undertaken on the subject of ‘the possibilities of effective interventions by regional bodies’ and ‘possible measures to be taken to capacitate the regional bodies to end human suffering in their respective regions.

6.6. Conclusion.

This research provided the conceptualization of the terms humanitarian intervention and human rights. Moreover, assessed the case studies of the countries (Libya, Iraq and Kosovo) where humanitarian intervention was provided. The assessment of the cases of these three countries was

prompted by the aspiration of the researcher to examine the processes that lead to intervention for humanitarian reasons. Moreover, the study proceeded to investigate the correlation between the authorization and effectiveness of the intervention. Despite the entailed side-effects, the study found that humanitarian intervention is a necessary shield for human rights however, its effectiveness to achieve that depends on a number of factors. Among other things those factors include, the magnitude of force employed and more importantly the interest of the intervention. In most cases, if not all, interested humanitarian intervention fails to synthesize results that are favourable for the victims and subsequently restore the rule of law and order. Interested interventions have cultivated intractable wars, which further generate intensified defilement of human rights. In addition, interested intervention tends to produce flawless examples of failed states.

This study recommends that for humanitarian intervention to be effective in shielding human rights must be executed by the regional bodies. In cases, where concerned regional bodies have no military capacity to intervene should take the leading role in monitoring the intervention. Lastly, this study recommends that the decision to intervene should be approved in the GA where all else is represented and Security Council should play the ceremonial role by just signing that which has been approved by the GA.

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A. ADDENDUMS.

Addendum One: Ethical Clearance.



1 February 2018

Mr Owethu Johnson Tutu 212525798
School of Social Sciences
Howard College Campus

Dear Mr Tutu

Protocol reference number: HSS/0058/018M

Project title: Assessing the viability of Humanitarian intervention as the shield for human rights, Case3 Studies of Kosovo, Libya and Iraq

FULL APPROVAL – No Risk/Exemption Application

In response to your application received 25 January 2018, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment /modification prior to its implementation. In case you have further queries, please quote the above reference number.

PLEASE NOTE: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

.....
Professor Shenuka Singh (Chair)
Humanities & Social Sciences Research Ethics Committee

/pm

cc Supervisor: Dr Siyabonga Dlamini
cc. Academic Leader Research: Professor Maheshvari Naidu
cc. School Administrator: Mr N Memela

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Addendum Two: Turnitin Report

Turnitin Originality Report

Turnitin Originality Report
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1 Assessing the viability of humanitarian intervention as the shield for human rights: Case studies of Kosovo, Libya, and Iraq.

By Owethu J. Tutu. (212525798) Supervisor: Dr. Siyabonga I. Dlamini. A Dissertation Submitted in Partial Fulfilment of the Requirements for Master of Social Science in the School of Social Science (Conflict Transformation and Peace Studies) at the University of KwaZulu-Natal, (Durban: South Africa). -2017-DECLARATION Submitted in Partial Fulfilment of the Requirements for Master of Social Science in the School of Social Science (Conflict Transformation and Peace Studies) at the University of KwaZulu- Natal, (Durban: South Africa). I Owethu J. Tutu, assert that this, i. The research stated in this dissertation, excluding where otherwise specified, is my original work. ii. iii. This dissertation has not been submitted for any degree or scrutiny at any other university. This dissertation does not contain other persons' data, pictures, graphs or other information, iv. v. unless specifically acknowledged as being sourced from other persons. This dissertation does not contain other persons' writing unless specifically acknowledged as being sourced from other researchers. Where other written sources have been quoted then; a) Their words have been re-written but the general information attributed to them has been referenced. b) Where their exact words have been used, their writing has been placed inside quotation marks and referenced. This dissertation does not contain text, graphics or tables copied and pasted from the internet unless specifically

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