OVERCOMING THE NEUTRALITY OF INTERNATIONAL INTERVENTIONS IN THE LIGHT OF AFRICAN ARMED CONFLICTS

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ABSTRACT

Neutrality has been considered as the cardinal principle in international intervention is now undergoing and overtake. That is what military interventions carried out at the edge of the 2010 decade precisely in the African continent. In fact, a change of paradigm is operating in the practice of international interventions. If before interposition was the privileged posture for international forces, today they are more implicated in arm conflicts as and such there exist a certain bias. This bias is manifested Through two instruments. One of these instruments is manifested before the interventions. It haves a theoretical connotation. This one precedes the operational one which quintessence is to oppose arm forces to other forces which are the threat to peace.

Keywords: Arm Conflicts, Interposition, International Intervention, Neutrality, Responsibility to Protect.

INTRODUCTION

The principle of neutrality has long been considered a cardinal principle in the field of international intervention. This principle implies " *not to take part in the conflict directly or in alliance with one or the other of the belligerents* "[i] and this, in order not to raise suspicions of bias on the part of the maintenance forces of peace supposed to be neutral[ii]. From this point of view, the interposing role traditionally played by these forces sufficiently reflected the application of this principle.

However, recent military interventions by forces acting under the mandate of the United Nations Security Council reveal a certain overreach of this principle. Witness the military interventions carried out at the dawn of the 2010 decade on the African continent. They were tinted with a strong bias because, having been carried out in an active way, that is to say, by identifying the authors of threats to the peace in order to neutralize them. This overrun generally reflects an evolution in the practice of international interventions. This development is itself justified by the constant concern which is to achieve effective protection of populations during armed conflicts.

Be that as it may, it is clear that it is now in this paradigm that the practice of international intervention is established. If in the past, interposition was the only posture of international forces, now they are more involved in armed conflicts. This bias against international forces[iii] has become inevitable, especially since military intervention is now underpinned by the responsibility to protect argument[iv]. Thus, at certain moments of crises, when they become irreversible, the best means of protecting populations involves taking sides against the perpetrators of threats to the peace.

Although international intervention underpins such an attitude, it should however be clarified that it is not established on the basis of subjective considerations supported by the interests of States, but in an objective manner, that is to say, " *in favor of a fundamental right of the populations not to be the victim of crimes, which it is a question of making prevail* "[v]. This means that the bias of international forces in armed conflict does little to favor an individual or a camp. It consists above all in obstructing the perpetrators of threats to the peace, although inevitably, this in turn leads to support for one of the parties to the conflict. In any event, it is the notion of threats to the peace[vi] that determines the bias of international forces. This bias, as

we have said, aims to guarantee protection to the civilian population. Thus, international interventions no longer lead to a kind of passivity which would consist in making the perpetrators of threats to the peace obsessed under the pretext of respecting the principle of neutrality.

It is in this perspective that the international forces were deployed in the armed conflicts that took place on the African continent at the beginning of the decade 2010. To achieve their objective, these forces relied on two instruments. These represent means by which the prejudice of international forces is concretized. One of these instruments is located upstream of the interventions and has a theoretical connotation (**I**). This means precedes the operational one, the quintessence of which is to oppose armed force against perpetrators of threats to the peace (**II**).

THE THEORETICAL MEANS OF CONCRETIZING THE BIAS OF INTERNATIONAL FORCES

In general, it may be noted that the provisions of Security Council resolutions authorizing the use of force do not stand out with great clarity. Those authorizing the use of armed force in certain states of the African continent were no exception to this rule. Also, these authorizations are very often subject to an extensive interpretation. This interpretation leads the forces authorized to carry out activities which, although not expressly provided for in the text of the resolutions, nevertheless participate in the fulfilment of the mandate assigned to them. Consequently, the extensive interpretation of authorizations appears to be an instrument making it possible to concretize the bias of international interventions (**1**). These extensive interpretations of the authorizations of the Security Council on which international forces rely for the use of force have a fundamental consequence: they sound the death knell for the theory of intervention so far put into practice (**2**).

Extensive interpretation of the authorization of the Security Council

To authorize the use of force, the Security Council prescribes the use of "all necessary means". This formula is found in Security Council resolutions concerning the Ivorian, Libyan and Malian situations[vii]. As can be seen, it is characterized by its insufficient clarity. " *While one*

would expect the Security Council to set clear objectives and limits on its mandate "[viii], it appears, on the contrary, that it is by this expression, to say the least, imprecise that it is doing so. This imprecision is justified in certain respects. In order to fulfil their mandate, the intervention forces " *need a certain margin of appreciation [...] which cannot accommodate too rigid a terminology* " explains Karine BANNELIER[ix]. From a strategic point of view, this imprecision is justified insofar as, " *the entities against which the Security Council authorizes the use of armed force analyze the authorizations to know their limits and build their strategy. It is therefore important that these resolutions do not reveal too much, by dint of precision, the military strategies envisaged* "[x]. Perceived in this sense, the imprecision of the authorizations to use force proves to be decisive for the success of intervention missions.

Although they are factors in the success of interventions, the fact remains that these authorizations to use force are, because of their imprecision, open to extensive interpretation[xi]. This interpretation, favourable to the intervention forces, gives them a " *very wide margin of appreciation* "[xii] in the execution of their mandate. As Serge SUR has noted, the formula by which the Security Council instructs international forces to use " appears to have no restrictions "[xiii]. In the same vein, Maurice KAMTO affirms that this formulation " *in extremely broad terms does not [pose] any limit to the means to be implemented* "[xiv].

It is this " *very flexible discretion* "[xv] that international forces have enjoyed during recent international interventions on the African continent. Making use of this power, these forces considered that their involvement in armed conflicts in order to neutralize the perpetrators of threats to the peace contributed to better protection of the population. Thus, they have become parties to armed conflicts. We cannot be offended by this, because, by relying on the formula used by the relevant resolutions, we realize that they prescribe to the international forces only two attitudes which, to see closely, strongly contribute to the significant room for manoeuvre from which they benefit.

First, the authorization of the Security Council offers these forces the possibility of using " *all means* ". They are therefore authorized to do everything possible to fulfil their mandate. It is thus a prescription highly favourable to the intervention forces, which a priori seem to benefit from a great latitude of action. However, on the pretext of this evasive formulation of authorizations to use force, it cannot be concluded that intervention forces use all means, including those which are unlawful. It is actually a prescription to use " *all means* " in

accordance with the law[xvi]. In this, the second consideration concealed in this formula constitutes a means of moderating the latitude of these forces. To this end, it may be noted that these forces are authorized to use " *all means* ", if and only if they are " *necessary* " for the protection of the civilian population.

Moreover, these two elements testify to the considerable room for manoeuvre enjoyed by the intervention forces in the exercise of their mandate. Relying on the prescription of the use of "all necessary means", it is conceivable that the intervention forces became parties to the various armed conflicts and that as such, they had to use force against perpetrators of threats to the peace. This attitude, although not expressly provided for in Security Council resolutions, nevertheless turns out to be necessary and even decisive in order to put an end to armed conflicts and, in turn, protect populations. From this point of view, the actions undertaken in this direction appear to be in conformity with the resolutions of the Security Council.

By prescribing the use of " *all necessary means* " for the benefit of international forces, which use may go as far as taking sides in armed conflict, it goes without saying that it is the principle of neutrality that is put wrong. It has been defeated because of the demands of the overarching objectives of maintaining peace or protecting populations. In reality, it is now a hierarchical relationship that emerges between these imperatives. As recent international interventions on the African continent reveal, this report is against the principle of neutrality. This decline also seems to mark the obsolescence of the intervention function of the intervention forces, hitherto perceived as a symbol of their neutrality.

The obsolescence of the theory of interposition with regard to the practice of international forces

Interposition between belligerents is a clear sign of the neutrality of international interventions. Traditionally, it is this posture that international forces have observed in armed conflicts. As André-Louis SANGUIN remarks,

"In *the long history of United Nations peacekeeping operations, the United Nations interposition spaces are clearly the oldest and most extensively used. In fact, the very mission of UN operations is to intervene, not only to separate the opposing combatants but also to put an end to the fire or even to protect innocent civilians from the shooting and abuses of one or the other of the opposing parties*"[xvii].

Intervention therefore consists of the intervention forces adopting a "common *position*"[xviii] between the parties to an armed conflict in order to prevent a confrontation between them. This practice was notably observed by international forces in Côte d'Ivoire at the very beginning of the armed conflict in 2002. MINUCI[xix], which later became ONUCI[xx], supported by French forces, then intervened along a green line between national armed forces in the south and rebel forces in the north. One of their missions was therefore to observe and monitor the implementation of the comprehensive ceasefire agreement and the movements of armed groups[xxi]. In doing so, the intervention forces had to preserve the buffer zone which they used as an "interposition *space*"[xxii] between the different armed groups intact.

Outside the African continent, several United Nations operations have also consisted of an interposition. We can cite UNFICYP, the United Nations mission in Cyprus. This mission was created on March 4, 1964 with the aim of preventing clashes between the Greek and Turkish communities. To achieve this, a buffer zone called the Green Line was established in the capital Nicosia. Other United Nations missions have sought to interpose between state armed forces. This is the case of operations UNEF I (November 1956-June 1967) and UNEF II (October 1973-July 1979), carried out with the aim of avoiding an armed confrontation between Egypt and Israel. The first operation was the establishment of a buffer zone in the Sinai, Gaza and around Sharm-El-Sheikh at the entrance to the Gulf of Akaba[xxiii]. The second, for its part, installed a buffer zone "on *the eastern bank of the Suez Canal and then, after successive Israeli withdrawals, transformed the entire Sinai Peninsula into a buffer zone*"[xxiv]. It is under this same pattern that the UNDOF operations (May 31, 1974) were carried out with the aim of maintaining the cease-fire between Israel and Syria and UNIFIL, created in 1978 in order to separate the two belligerents that were Israel and Lebanon. Unlike these operations carried out after the armed conflicts, operations UNPROFOR III (December 1992-March 1995) and UNPREDEP (March 1995-February 1999) were carried out in a preventive manner[xxv].

As these various examples bear witness, interposition between belligerents has characterized United Nations operations from their inception. This interposing function, however, tends to be blurred these days. In order to carry out their mission, the intervention forces are required to take measures which transcend the framework of neutrality. The international interventions carried out in the early 2010s in Africa are proof that the international forces are now actively taking part in armed conflicts. Thus, there is an evolution in the practice of international

interventions. This development makes the theory of interposition that was once practiced by international forces obsolete. This statement by Tristan FERRARO sufficiently reflects this evolution:

" *Over the years, the responsibilities and missions assigned to multinational forces have transcended their traditional tasks of monitoring cease-fires and enforcing fragile peace agreements [...] The mission of multinational forces [...] is no longer limited to enforcing cease-fires or monitoring buffer zones, but is characterized by their involvement in military operations intended to eradicate threats from different sides* "[xxvi].

It should be noted that the development observed here took place in the context of peacekeeping operations. It marks the transition from first generation to second and third generation peacekeeping operations (hereinafter OMP). The peculiarity of these latter PKOs is that they free themselves from the principle of neutrality. As Charles LETOURNEAU notes, the use of force in this context is not neutral[xxvii].

This particularity is above all that of operations carried out under the responsibility to protect. We can also say that this principle strikes like no other at the practice of interposition. Its implementation almost inevitably involves actions against perpetrators of attacks against the civilian population. The example of international intervention in Mali is particularly revealing of this situation. In this scenario, the Security Council at no time considered the possibility of international forces interposing between the parties to the conflict, but, on the contrary, expressed itself in favour of offensives against the armed groups. prevalent in the northern part of the country. It is in this sense that we must understand the prescription made to international forces to " *take any useful measure" to, among other things, "help the Malian authorities to retake the areas in the north of its territory which are controlled by armed terrorist groups." and extremists* "[xxviii].

More assertively, it may be seen from the situation in the Democratic Republic of the Congo that the Security Council went beyond the function of interposition by authorizing the use of force against armed groups. To this end, he created "exceptionally" an "intervention *brigade*", charged under the command of MONUSCO, to use force in order to " *neutralize the armed groups* "[xxix] which operate in certain regions of the DRC especially in Kivu and Katanga. The creation of this brigade, which resembles a kind of "special *force*", was a first in the history of

United Nations peace missions. Above all, it is proof that, in order to achieve peacekeeping, it is necessary that armed measures be implemented in order to overcome those who threaten the peace.

THE OPERATIONAL MEANS OF ACHIEVING THE BIAS OF INTERNATIONAL FORCES

Maintaining peace at some stage of armed conflict requires the adoption of coercive armed measures. This implies that a person responsible for the crisis is designated and that measures are taken against it. Generally made up of armed groups, these perpetrators of threats to the peace will then have to face international forces in the context of an armed conflict. This armed reaction by international forces can, as was the case in Côte d'Ivoire and Libya, go so far as to promote regime change.

The armed reaction against the perpetrators of threats to the peace

The Charter of the United Nations, the principal legal instrument guiding the action of the Security Council in the maintenance of international peace and security, envisages to this end the possibility of resorting to means of armed coercion. Thus, it states in its article 42 that "the *Security Council [...] may undertake, by means of air, naval or land forces, any action which it considers necessary for the maintenance or restoration of peace and international security*". It is this position that is reflected in the 2005 World Summit Outcome Document through which the international community declares itself ready to "take *resolute collective action in due time, through the Security Council, in accordance with the Charter, in particular his Chapter VII*"[xxx].

According to these two provisions, it can be seen that the use of force is a crucial means of peacekeeping and therefore of protecting populations. This is in reality the last lever on which this protection is based. It goes without saying that the failure of this ultimate means of protection therefore entails the failure of the responsibility to protect or the maintenance of peace. Its implementation generally involves "making *war*" on the perpetrators of threats to the peace. Thus, the armed reaction constitutes the most visible means of achieving the bias of international interventions. Indeed, as pointed out by Barbara DELCOURT, "the *spirit or the*

logic of jus contra bellum presupposes in principle that an adversary is identified, a designated enemy, clearly determined targets"[xxxi]. Very often, this bias manifest itself in the support of international forces for the armed forces of a state under threat from armed groups. In this sense, Tristan FERRARO affirms that:

"The *new features of peace operations are such that multinational forces are often called upon to intervene in a pre-existing CANI by supporting the armed forces of the state in whose territory the conflict is taking place. This support for the armed forces of the government fighting against organized non-state armed groups is sometimes expressly required by Security Council resolutions*"[xxxii].

International interventions in Mali and the Democratic Republic of Congo in particular corroborate this new situation. They were carried out in support of government forces plagued by armed groups. By supporting these, the international forces concomitantly affirmed their disapproval of the activities of armed groups and therefore their prejudice in armed conflicts. This bias was manifested in the context of the Malian situation by offensives against these armed groups with the aim in particular of "retaking *the areas [...] controlled by terrorist and extremist armed groups and [reducing] the threat posed by terrorist organizations*"[xxxiii].

With regard to the Congolese situation, the "intervention *brigade*" under the command of MONUSCO is a striking example of the transposition of the interposition function of international forces. This brigade, unprecedented in the history of United Nations missions, results from paragraph 9 of resolution 2098 through which the Security Council decides that:

" *MONUSCO will have, for an initial period of one year and within the limits of the maximum authorized workforce of 19,815 men, on an exceptional basis and without creating a precedent or without prejudice to the agreed principles of peacekeeping, an "intervention brigade" comprising in particular three infantry battalions, an artillery company, a special force and a reconnaissance company* ".

The creation of this brigade, which constitutes in addition to the regular forces, the military component of MONUSCO, consolidates the moult that is taking place within the PKO[xxxiv]. Like the missions deployed in Côte d'Ivoire and Mali, the mandate of this "robust" force goes beyond mere intervention. It is an offensive mission[xxxv], the military activities of which necessarily involve one of the parties to the conflict. With this in mind, the MONUSCO

intervention brigade has been authorized by the Council to "take *all the necessary measures*"[xxxvi] to fulfil the objectives set out in paragraph 11 of resolution 2098[xxxvii]. They consist in particular of the "protection *of civilians*" and the "neutralization *of the armed groups*" which are "the *M23, the FDLR, the Allied Democratic Forces, the APCLS, the LRA, the various Mayi-Mayi groups and the other groups armed*"[xxxviii]. It is therefore a question of this mission, of supporting the armed forces of the DRC (FARDC) facing these armed groups.

In Côte d'Ivoire and Libya, on the other hand, military force was used against forces acquired by the government[xxxix]. These different cases show that the use of force is in principle applied to those who threaten the peace, whoever they are. To be honest, it is not neutral. That said, it should be noted that the reference made in paragraph 6 of resolution 1975 to UNOCI of "impartial *performance of its mandate* " does not call into question the assumption made here. This requirement of impartiality indeed regulates the actions of the intervention forces towards the populations whose mission they are responsible for protecting. In this, they are supposed to make no distinction between these populations. This means that the impartiality referred to in the Council resolution cannot be understood in the same sense as the principle of neutrality which, for its part, concerns the relations between international forces and the parties to the armed conflict[xl].

From the above, it can be noted that the various cases of international intervention taken as an example have in common their absence of neutrality. The use of force was necessarily carried out against one of the parties to the armed conflict[xli]. They are a sign that international interventions are no longer neutral. Sandra SZUREK realized this and said that "as *soon as the international community is called upon to bear its subsidiary responsibility to protect, it is logically to take sides*"[xlii]. Indeed, "unlike humanitarian assistance[xliii], the responsibility to protect cannot be neutral: in all cases, it consists in opposing the perpetrators of the abuses suffered by a population"[xliv], that is to say taking sides. This bias favored in some cases a change of regime.

International intervention, a factor in regime change

There is no doubt that international interventions in Côte d'Ivoire and Libya have encouraged regime change[xlv]. If this option of maintaining peace through a regime change has been productive in Côte d'Ivoire, the same cannot be said with regard to Libya.

In the first case, the support given to the FRCI by international forces led to the arrest of Laurent GBAGBO on April 11, 2011 then entrenched in the presidential palace[xlvi]. In this support which was decisive in the outcome of the crisis, we can see a way to restore peace in this state[xlvii]. In this regard, the chain of events indeed shows that it was only after the arrest of Laurent GBAGBO that the armed conflict began to fade. From this point of view, it is indisputable that the support provided by international forces with a view to neutralizing the party to the conflict considered to be responsible for the crisis was necessary for the maintenance of peace and, by extension, for the protection of populations, an objective for which the Security Council prescribes the use of " *all necessary means* ".

This use of " *all necessary means* " was likewise required by the Security Council in Libya in order to protect the civilian population[xlviii]. Also, military force was used by NATO and allied forces against forces acquired from Colonel KADHAFI, who was found responsible for attacks against civilians[xlix]. Attacks by coalition forces have substantially weakened the loyalist forces. This favoured the capture of cities such as Tripoli and Sirte by rebels. It is moreover following the capture of this last city that Mouammar KADHAFI will be killed on October 20, 2011. However, the NATO mission which ends with his departure on October 31, will not really have allowed to pacify Libya. In some respects, one might even think that the intervention of international forces plunged this country into chaos. This country has known since then a " *slow disintegration* "[l] due in particular to the actions of the ex-insurgents grouped within the militias. In general, the forces acquired from General Khalifa HAFTAR, a former high-ranking official of the KADHAFI regime, are now opposed in Libya to those of Islamist persuasion, made up of Muslim brothers and jihadists.

International intervention in these two states has therefore had a mixed record. However, we can see that these international interventions have had a significant impact on the political landscape of the States concerned. They fostered a real " *political transformation* "[li] there. It is in the words of Sandra SZUREK, " *a form of political responsibility of the leaders, resulting in the expression of the necessity of their departure* "[lii] that shows the implementation of the responsibility to protect in these states. As a result, when a government turns out to be a threat to the peace, his departure seems to be the real way out of the crisis[liii]. According to Eduard LUCK, such a government is not " *normal* "[liv] and undoubtedly, it must be dismissed.

The changes made within these states have however been strongly criticized by the doctrine in particular. In this regard, Barbara DELCOURT asserts that changing a regime was never an objective mentioned during the development of the responsibility to protect[lv]. Regarding the intervention of NATO forces in Libya specifically, Olivier CORTEN and Vaios KOUTROULIS stated that:

" *when the Security Council decides to target a government, it clearly states as much in the relevant resolution. This was the case with resolution 940 (1994) on Haiti, where the Council undoubtedly authorized a military action aimed at overthrowing the de facto Haitian government. In contrast, it seems difficult to interpret resolution 1973 (2011) as containing an authorization to overthrow the Gaddafi regime. The Council explicitly reiterated the responsibility of the Libyan authorities to protect the Libyan population, referred to the initiatives of the African Union which always opposed any attempt to interfere into the civilian strife, and reaffirmed its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya [...] All these elements indicate that the Council resolution excludes regime change by force* "[lvi].

Notwithstanding these criticisms of the regime change, it cannot be denied, with reference to the Ivorian situation in particular, that the arrest of Laurent GBAGBO favoured a certain lull in the crisis. Although it is part of a strong intrusion into the internal domain of this State, the fact remains that this attitude has proven to be remarkably effective in protecting populations. By neutralizing or at least providing support for the arrest[lvii] of those responsible for the crisis, international forces have enabled the Ivorian armed conflict to enter its terminal phase. In the same wake, some officials of the NATO mission in Libya considered "difficult *to imagine the end of the violence as long as Gaddafi remains in power*"[lviii]. In other words, it means that "the *protection of civilian populations [seems] to be inseparable from the fight against the "troublemaker" regime*"[lix].

All things considered, this enterprise has a more or less direct link with the objective of protecting populations[lx]. It is undeniable that by making this arrest, international forces have significantly reduced the attacks against these populations. This attitude is conceivable, especially since the wording of authorizations to use force seems to leave the door open to all kinds of businesses provided, they are "necessary". Thus, it is conceivable and even realistic

to envisage armed measures against a government when it turns out to be responsible for attacks against the populations.

That said, it is no less important to stress that international interventions deserve to be implemented with the greatest restraint. Although it may prove to be very effective, it is preferable that international interventions do not serve as an instrument for regime change. By doing so, it is the credibility of the responsibility to protect that could be called into question because, giving the image of a screen to political ambitions. Since international intervention is by its nature conducive to all kinds of speculation about their interests, it is obvious that achieving the overthrow of governments will further arouse the rejection of the principle of the responsibility to protect which already has the particularity of not being unanimous. Also, these changes of regimes, although sometimes necessary for the protection of populations, should not be part of the practice of the United Nations at the risk of distorting this principle and certainly, auguring paralysis of the UN system for maintaining peace as demonstrated by the 2012 Syrian precedent. Taking this path would reinforce the responsibility to protect as an instrument for the promotion of - democratic - values, anything that would decide with the idea of protecting the populations on which it was conceived. Although democracy represents the best guarantee of security for populations, it is nevertheless desirable that its promotion is not backed by international interventions.

Using "all *means necessary*" to protect, responders should know reason. Certain means of protection could jeopardize the survival of the principle of the responsibility to protect. We can observe, for example, that the failure to implement this principle in Syria is due to the very extensive interpretations of which resolutions 1973 and 1975 were the subject. By "pushing *the responsibility to protect to [its] ultimate logic*"[lxi], these precedents have contributed to breaking the consensus necessary for its implementation in the successive cases. In short, this means that the present successes of the responsibility to protect should not presage its future failures in which case, they would appear as "Pyrrhic *victories*"[lxii], which are prejudicial to the establishment of this principle in constant practice. Also, it can be argued that all the means necessary for the protection of populations can be used provided that they do not compromise the survival of this principle. Otherwise, it is the people's right to protection in future conflicts that could be affected.

CONCLUSION

The use of force authorized by the Security Council now contrasts with the principle of neutrality. The Libyan, Ivorian, Malian and Congolese examples are revealing. As a sign of an evolution in the practice of peacekeeping, the activity of protecting populations now requires international forces to take an active part in armed conflicts. This presupposes military actions against the perpetrators of threats to the peace. In Mali as in the Congo, international forces have used armed force against armed groups. In Côte d'Ivoire and Libya, they intervened against government forces. On the whole, the bias of international forces is based on the prescription for their benefit of "the use of all necessary means" and is established against the authors of threats to the peace. An extensive interpretation of this requirement has enabled international forces to effect regime change, as was the case in Côte d'Ivoire and Libya. This ultimate means of protecting populations, although necessary in certain respects, can however jeopardize the survival of the principle of the responsibility to protect. The Syrian example of 2012 also presents itself as a sign of its decrepitude. It is therefore desirable that the implementation of this principle should depart in the future.

REFERENCES

[i] Françoise BOUCHET-SAULNIER, Practical Dictionary of Humanitarian Law, Paris, La Découverte, 4th ed., 2013, p. 602. The principle of neutrality is very often understood in the sense of impartiality. This rapprochement is due to the fact that these two principles postulate an absence of prejudice in armed conflicts. An element of distinction can however be established through the assertion of Bruno POMMIER according to which, "if impartiality is a fundamental requirement, one could say ethical, of humanitarian action […] neutrality […] arises as principles of action". Bruno POMMIER, "The use of force to protect civilians and humanitarian action: the case of Libya and beyond", International Review of the Red Cross, 2011, p. 186. This means that the principle of impartiality characterizes civil protection activities. Applying to humanitarian agencies, it implies non-discrimination in the delivery of aid. The principle of neutrality, on the other hand, relates more to the intervention forces whose activity is supposed to be carried out without preference for one of the parties to the conflict. This distinction is not infallible.

The obligation of impartiality is not the preserve of humanitarian workers. Intervention forces are also subject to this principle. It requires them to "make no distinction of nationality, race, religion, social condition or political affiliation" between the populations with which they are sometimes mandated to protect. Véronique HAROUEL, Humanitarian Law Treaty, Paris, PUF, 2005, p. 160. That said, it can be said that the principle of neutrality concerns the relationship between the intervention forces and the parties to the conflict, while that of impartiality focuses on the relationship between these forces and the people.

[ii] It is in this wake that certain States represented on the Security Council of the United Nations, demanded the neutrality of the international forces concerning the situation in Ivory Coast. In the framework of the adoption of resolution 1975, the representative of India affirmed that "the United Nations Operation in Côte d'Ivoire (ONUCI)

must not become one of the parties to the political deadlock Ivorian. UNOCI must not be involved in a civil war either, and must carry out its mandate with impartiality ... ". Likewise, according to the representative of China, "United Nations peacekeeping operations must strictly adhere to the principle of neutrality." For the representative of Brazil, "ONUCI must be cautious and impartial not to become a party to the conflict." See resolution 1975 adopted by the Security Council at its 6508th meeting, on March 30, 2011, summary record session.

[iii] By international forces is meant those forces authorized by the Security Council to use force to maintain international peace and security. These forces can come from the United Nations (peacekeepers), an international organization such as NATO or the African Union, or even a state.

[iv] Started by the work of the International Commission on Intervention and State Sovereignty (see the report of this Commission entitled, The responsibility to protect, Center for Research for International Development, Ottawa, December 2001, 83 p), the principle of the responsibility to protect, the essence of which is found in the theory of the "right to interfere", is today contained in several legal instruments. See, inter alia, UN, General Assembly, Resolution 60/1, 2005 World Summit Outcome, September 16, 2005. Part IV, Human rights and the rule of law, para. 138 and 139; see also Security Council resolutions 1674 of April 28, 2006, 1706 of April 31, 2006 and 1894 of November 11, 2009. In essence, this principle centres on the idea of protecting populations from the horrors of armed conflict. This protection, which covers prevention, reaction and reconstruction activities, falls primarily to States; the international community acting through the Security Council has subsidiary responsibility.

[v] Roger PINTO, "The rules of international law concerning civil war", R.C.A.D.I., 1965-I, t. 114, p. 464; quoted by Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and back: the situation of Libya before the Security Council", P.U.F., 2012, p. 83.

[vi] The concept of threat to the peace constitutes a "legal standard". This is so because of its indefinite nature (Jean Marc SOREL, "The enlargement of the concept of threat to peace", in SFDI, Chapter VII of the Charter of the United Nations, Symposium of Rennes, Paris, Pedone, 1995, p. 11), because "adaptable to various situations" (Jean SALMON, Dictionnaire de droit international public, Bruxelles, Bruyant, 2001, p. 800). For this reason, Jean COMBACAU was able to say that a threat to the peace is "a situation of which the body competent to launch an action of sanction declares that it effectively threatens the peace". Jean COMBACAU, The sanctioning power of the UN - Theoretical study of non-military coercion, Paris, Pedone, 1974, p. 100.

Despite its indefinite nature, however, it can be seen from Security Council resolutions that the content of threats to the peace consists essentially of violations of human rights and humanitarian law.

[vii] See respectively resolutions S / RES / 1975 (2011), para. 6, S / RES / 1973 (2013), para. 4, and S / RES / 2100, (2013), para. 17. It is through this coded language that the Security Council generally authorizes the use of armed force. Serge SUR notes in this regard, a "cultural reluctance" of the Security Council which, by "modesty", refrains from using the term "force". Serge SUR, "What legality for armed conflict in international law? ", Cities n ° 24, 2005/4, pp. 105 and 115.

[viii] Karine BANNELIER, "Who will keep the guards? military interventions authorized by the security council between legality and legitimacy", in Karine BANNELIER, Cyrille PISON (dir.), The use of force authorized by the Security Council, Paris, Pedone, 2014, p. 9.

[ix] Ibid., P. 11.

[x] Colonel VINÇOTTE, "Military command in the face of the law of armed conflict: feedback from Afghanistan and Libya (the point of view of the Air Force)", in On the borders of jus ad bellum and jus in bello: review of the interventions authorized by the Security Council of Kosovo and Afghanistan to Libya and Mali, Grenoble, November 22-23, 2012; quoted by Karine BANNELIER, "Who will keep the guards? military interventions authorized by the Security Council between legality and legitimacy ", op.cit., p. 12.

[xi] Extensive interpretation is understood as a logical process of interpretation which "consists in extending the scope of a provision to a situation which it has not expressly provided for". Jean-Louis BERGEL, Legal methodology, Paris, P.U.F., 1st ed. 2001, p. 244.

[xii] Karine BANNELIER, "Who will keep the guards? military interventions authorized by the Security Council between legality and legitimacy", in the use of force authorized by the Security Council, op.cit., p. 9.

xiii Serge SUR, "What legality for armed conflict in international law? ", Op.cit., P. 105.

xiv Maurice KAMTO, International Governance Law, Paris, Pedone, 2013, p. 177.

xv Laëtitia PIERRY, "From chapter VI to chapter VII: towards more robust PKOs? ", In The use of force authorized by the Security Council, op.cit., P. 88.

xvi In this regard, it should be recalled that the intervention forces are liable to sanctions in the event of their committing offenses during the execution of the mandates assigned to them.

xvii André-Louis SANGUIN, "United Nations peacekeeping operations, an applied political geography", L'Espace politique 23, 2014-2.

xviii *Ibid*.

xix United Nations Mission in Côte d'Ivoire.

xx United Nations operation in Côte d'Ivoire.

xxi Resolution 1528 of February 27, 2004.

xxii According to the typology established by André-Louis SANGUIN, interposition spaces represent a type of "UN space generated by its missions". In addition to these spaces, there are survival spaces, coverage spaces, governance spaces and marking spaces. André-Louis SANGUIN, "United Nations peacekeeping operations, an applied political geography", op.cit.

xxiii Same.

xxiv Same.

xxv With regard to these operations, André-Louis SANGUIN reveals the following facts: "On the initiative of Kiro Gligorov, president of this Yugoslav federal republic since January 1991, Macedonia proclaimed its independence on November 20, 1991. Before the explosion of the violence following not only the outbreak of the Croatian War (November 1991) and the Bosnian War (May 1992) but also the abuses perpetrated in Croatia and Bosnia by the Yugoslav Federal Army under the orders of Milosevic and by the paramilitary militias Macedonia asked the UN to send a protection force. This step was aimed at protecting its territorial integrity by monitoring its border with Milosevic's Yugoslavia". It followed that "not only was Macedonia practically the only ex-Yugoslav republic to be spared the wars of Croatia, Bosnia and Kosovo, but, moreover, the UNPREDEP mission played an important role in facilitating a relatively peaceful transition from communism towards international sovereignty and towards democracy". *Ibid*.

xxvi Tristan FERRARO, "Applicability and application of international humanitarian law to multinational forces", International Review of the Red Cross, Vol. 95, 2013, pp. 71-72.

xxvii Charles LETOURNEAU, "Generations of peace operations", http://www.operationspaix.net/. Accessed on 08/17/2019.

xxviii S/ RES /2085, (2012), at 9.

xxix S/RES/2098, (2013), para. 9.

xxx This is paragraph 139 of this document.

xxxi Barbara DELCOURT, "The introduction of the concept of responsibility to protect in authorizations given by the Security Council: political issues and paradoxes", in the use of force authorized by the Security Council, op.cit., P. 58.

xxxii Tristan FERRARO, "Applicability and application of international humanitarian law to multinational forces", op.cit., P. 94.

xxxiii S/RES/2085, op.cit., Para. 9. b.

xxxiv Brusil Miranda METOU, « Mali: Security Council resolution 2100 (2013) creates an exceptional PKO », Sentinelle, n ° 326, 2013, p. 50.

xxxv Brusil Miranda METOU, "DRC: From defensive to offensive: The security council endows MONUSCO with an intervention brigade", Sentinelle, n ° 341, 2013.

xxxvi S/RES/2098, op.cit., Para. 12.

xxxvii Two objectives are set out in this paragraph. The first consists of "reducing the threat posed by Congolese and foreign armed groups, in particular through the operations of the intervention brigade, and violence against civilians, in particular sexual and gender-based violence and the violence suffered by it children, at a level that Congolese justice and security institutions can effectively manage ". The second objective aims to stabilize "the

situation through the establishment of operational public security institutions in areas affected by the conflict and the strengthening of democracy so as to reduce the risks of instability, in particular by offering political space, ensuring respect for human rights and implementing a credible electoral process".

xxxviii S/RES/2098, op.cit., Para. 8.

xxxix Let us specify with regard to Ivory Coast that, although the government of Laurent GBAGBO suffered by its illegitimacy, it justified at the time of the crisis of the effectiveness of the capacity, all thing which, from our point of view, is sufficient to give it the quality of government representing the Ivorian State to the detriment of the government of Alassane OUATTARA which on the other hand, suffered by its ineffectiveness.

xl For more details on the relationship between the principle of neutrality and the principle of impartiality, see above, note 1.

xli To the extent that international forces conduct military operations against one of the parties to the conflict, they ipso facto become parties to the armed conflicts. This claim was, however, dismissed by some supporters of the "agent of the international community" theory. According to proponents of this theory, international forces, those specifically the UN, because acting on behalf of the international community as a whole, cannot be considered as parties to armed conflict. Furthermore, they argue, operations in which peacekeepers are involved are "operations other than war" aimed at promoting peace and not the interests of states. Also, these forces cannot apply the law of armed conflict because, not being involved in an armed conflict in the classical sense of the term. On this subject, see Vaios KOUTROULIS, "Tensions between jus ad bellum and jus in bello within the framework of the Security Council's mandates", in the use of force authorized by the Security Council, op.cit., Pp. 27-52.

Despite these reservations, the submission of multinational forces to the law of armed conflict is no longer in doubt. The particularities which they present cannot remove them from this right and this, on the basis of the main cardinal of humanitarian law which is that of the separation between jus ad bellum and jus in bello, as well as on its corollary, that equality of belligerents. According to these principles, the application of humanitarian law does not depend on the legality and even less on the legitimacy of the use of force. In other words, the applicability of IHL to parties to an armed conflict, including multinational forces, depends only on the facts on the ground and not on the nature of their mandate. When the conditions drawn in particular from articles 2 and 3 common to the Geneva Conventions are fulfilled, IHL applies accordingly.

xlii Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and back: the situation of Libya before the Security Council", op.cit., P. 82.

xliii While the responsibility to protect is free from the principle of neutrality, the same cannot be said of humanitarian assistance. Neutrality is in this latter framework a cardinal principle. Organizations providing such assistance are required "not to take part in hostilities, but still in political, racial, religious or ideological controversies". This neutrality is, moreover, a condition for the acceptance of their activities by the parties to a conflict. Véronique HAROUEL, Treaty on humanitarian law, op.cit., P. 160.

xliv Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and back: the situation of Libya before the Security Council", op.cit., P. 82.

xlv The expression "regime change" has been used unanimously by the legal authorities to describe the changes made in these states. However, it is clear that the concept of regime is used here in a restrictive sense with reference to a change of head of state and to a large extent, a change of government. This means that when speaking of regime, there is no reference to the political regime, a concept well known in constitutional law in particular. In this sense, a change would imply deeper consequences than those observed in Côte d'Ivoire for example. Indeed, a political regime is defined as "a mode of government of a State" (Raymond GUILLEN, Jean VINCENT, Lexicon of legal terms, Paris, Dalloz, 16th ed., 2007, p. 610), or even as a "organization of power in the state" mode (Roland DEBBASCH, Droit constitutionnel, Paris, LexisNexis, 3rd ed., 2002, p. 45). It is analyzed through the "institutional form of power" in a state but also, from the "practice arising from this institutional form".

Starting from this definition, it is obvious that the change in question in Côte d'Ivoire cannot be that of a political regime. Indeed, the succession to the head of the Ivorian State orchestrated by the arrest of Laurent GBAGBO followed by the exercise of power by Alassane OUATTARA has not produced any change on the form and the institutional practice of power in this State. There was indeed continuity in the matter. It is still a presidentialist regime which, like other French-speaking black African states, is characterized by a "concentration of power" in

the hands of the hyper-powerful President of the Republic. (Roland DEBBASCH, Ibid., P. 53). For this reason, one cannot understand the change alluded to here in the sense of a change in the political regime.

All in all, the reference to the change of regime translates in this specific case, a political alternation. This alternation, in this case forced, did not have fundamental consequences on the nature of the political regime, but only a change at the head of the State. We must therefore understand in the reference made to a change of regime in Côte d'Ivoire a simple succession of individuals at the head of the state.

Unlike Côte d'Ivoire, where the scope of regime change was limited, in Libya it was more extensive. It was to the extent that succeeded the authoritarian regime embodied by Mouammar KADHAFI, a democratic regime embodied by a National Council of Transition. In this context, the expression "change of regime" can both refer to a change in the head of state as well as a change in the way the state operates. Immersed in this democratic era, Libya will have its first election on July 7, 2012, an election in which the Libyans will elect the first parliament of the post-KADHFI era: the National General Congress.

[xlvi] The press has abundantly reported this fact. See among others, Le Figaro.fr, "GBAGBO: Licorne and Onuci" in support ", 04/11/2011; Liberation, "The day Gbagbo was arrested", 04/11/2011.

[xlvii] In another measure, the support of international forces for the arrest of Laurent GBAGBO can be seen as a means of carrying out the will of the Ivorian people who had expressed themselves through the ballot boxes, in favor of Alassane OUATTARA, who had been certified as the winner of the presidential election by the Special Representative of the Secretary-General of the United Nations in Côte d'Ivoire. Thus, by supporting his arrest, the international forces were carrying out the will of the Ivorian people which had been embellished by the outgoing president, then obstinate in retaining power.

[xlviii] The Security Council did so without first reminding Libya of its obligation to protect by means of resolution 1970. Security Council, S / RES / 1970, 6491st meeting, 26 February 2011, S /PV.6491.

[xlix] The Libyan representative to the Security Council, for example, related the following facts: "On February 15, a group of civilians took to the streets of Benghazi to peacefully demand the release of a lawyer named Tarbel, who represents the families of 2000 prisoners killed in 1996 in Abu Salim prison. They were greeted with head and chest shots. " Security Council, 6490th meeting, 25 February 2011, S / PV. 6490, p. 5.

[l] Camille BORDENET, « The slow disintegration of post-Gaddafi Libya », *Le Monde*, August 26, 2014.

[li] Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and back: the situation of Libya before the Security Council", op.cit., P. 91.

[lii] *Ibid*., P. 92.

[liii] According to Bruno POMMIER, the use of force against these governments is also part of "a progressive dynamic of deterrence". Indeed, "the rulers of a state violently attacking their civilian population now know that a reaction going as far as the use of force against them is possible even if not always probable". Bruno POMMIER, "The use of force to protect civilians and humanitarian action: the case of Libya and beyond", op.cit., P. 192.

[liv] UN, News Center, Newsletters, "Spotlight: Interview with E. LUCK, Special Advisor to the Secretary-General", September 7, 2011; quoted by Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and return: the situation of Libya before the Security Council", op.cit., p. 92.

[lv] Barbara DELCOURT, "The introduction of the concept of responsibility to protect in authorizations given by the Security Council: political issues and paradoxes", in the use of force authorized by the Security Council, op.cit., P. 62.

[lvi] Olivier CORTEN, Vaios KOUTROULIS, "The Illegality of the Military Support to the Rebels in the Libyan War: aspects of jus contra bellum and jus in bello", Journal of Conflict and Security Law, vol 17, 2012, p. 59.

[lvii] The participation of international forces, notably French, in the arrest of Laurent GBAGBO is controversial. For France, this participation was limited to simple support. His Minister of Foreign Affairs declared in this sense that "it was the forces (of Alassane Ouattara) who entered the presidential residence and who carried out the arrest of Mr. Gbagbo". Quoted by Yannick VELY, "Côte d'Ivoire: controversy over the arrest of Gbagbo", Paris Match, 04/11/2011. This statement is not shared by a section of the public for whom this participation went beyond mere support. See, Le Point.fr, "Gbagbo's arrest: questions about the" support "of the French forces", 12/04/2011.

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lviii Press conference on May 3, 2011, with Oana LUNGESCU, NATO spokesperson and Vice-Admiral Rinaldo VERI, Commander of the maritime forces deployed in the framework of Operation Unified Protector; cited by Barbara DELCOURT, *Ibid*. p. 61.

lix Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and back: the situation of Libya before the Security Council", op.cit., P. 86.

lx In the same vein, it has been said in connection with international intervention in Libya that "the main concern [is] to neutralize the nuisance capabilities of the current regime and therefore indirectly to protect civilians". Press conference on April 26, 2011, with Carmen ROMERO, NATO spokesperson and Lieutenant General Charles BOUCHARD, Commander of Operation Unified Protector; cited by Barbara DELCOURT, "The introduction of the concept of responsibility to protect in the authorizations given by the Security Council: political stakes and paradoxes", in The use of force authorized by the Security Council, op.cit., p. 61.

lxi Sandra SZUREK, "The responsibility to protect: from the prospective to the prescriptive ... and back: the situation of Libya before the Security Council", op.cit., P. 95.

lxii *Ibid*., P. 79.