



LUND UNIVERSITY
Faculty of Social Sciences
Graduate School
Department of Political Science

SIMT29
Master's Thesis in Development Studies
Spring Term 2010
Supervisor: Martin Hall

Protecting the Unprotectable:

Humanitarian Crisis and the International Community's Kantian
Responsibility to Protect in North Korea

Wouter Kruijs

Abstract

The famine in the Democratic People's Republic of Korea has once again reached a point of emergency wherein the international community has a moral duty to protect the population from their government. Although the member states of the United Nations have affirmed a global Responsibility to Protect, the ways in which that responsibility are carried out are often contradictory and help to sustain the regime – which further threatens the North Korean people. Using a Kantian code of ethics, this thesis will argue that the international community has not only a responsibility to protect, but more importantly has a *duty* to protect. Taking as a starting point the historical and contemporary political environment of North Korea, the thesis will analyze the alternatives to the status quo in an attempt to understand how and to what extent the international aid community can best provide humanitarian assistance and uphold their Kantian Responsibility to Protect given the circumstance that the North Korean government is unwilling or unable to protect its people from a humanitarian crisis.

Key words: North Korea, Responsibility to Protect, Kant, aid community, humanitarian crisis

Characters: 122.339

Words: 19.485

Table of Contents

From Bad to Worse: Humanitarian Crisis in North Korea.....	5
Structure.....	6
Research Methodology.....	8
The Democratic People’s Republic of Korea: 1948-present.....	9
A Nuclear North Korea.....	11
The Humanitarian Crisis.....	11
Origins of the Famine.....	12
Humanitarian Assistance to North Korea.....	13
The International Community and the World Food Programme.....	14
South Korea’s Role in Humanitarian Assistance.....	16
China’s Role in Humanitarian Assistance.....	16
The NGO Community’s Role in Humanitarian Assistance.....	17
The Responsibility to Protect.....	17
The Responsibility to Protect - the original framework of the ICISS.....	19
The Responsibility to Prevent.....	19
The Responsibility to React.....	21
The Responsibility to Rebuild.....	21
The Responsibility to Protect and the United Nations.....	22
Concerns Regarding the Responsibility to Protect.....	24
The Consequences of the Responsibility to Protect.....	25
Kant and the Responsibility to Protect.....	25
Hypothetical versus Categorical Imperatives.....	26
The Three Formulas of “the Categorical Imperative”.....	27
Kant’s Concept of ‘Duty’.....	28
Ethical Duties – To Oneself.....	29
Ethical Duties – To Others.....	30
The Responsibility to Protect: a ‘Kantian’ Duty to Protect.....	30
The Kantian R2P – An Ethical Duty.....	31
The Kantian R2P – A Duty to Others.....	31
The Kantian R2P – A Duty of Respect.....	32

The Kantian R2P - Sovereignty and Neutrality	32
The Aid Community and the Kantian R2P	33
Humanitarian Assistance Motives of the International Community.....	34
The International Community's Motivations and the Kantian R2P	35
Humanitarian Assistance Motives of South Korea	35
South Korea's Motivations and the Kantian R2P	36
Humanitarian Assistance Motives of China	36
China's Motivations and the Kantian R2P.....	37
Humanitarian Assistance Motives of the NGO Community	37
How to Change the Status Quo: Alternative Solutions	38
Alternative A:.....	38
Alternative B:.....	39
Conclusion: Stuck in a Quagmire.....	40
Executive Summary	42
Bibliography.....	45

From Bad to Worse: Humanitarian Crisis in North Korea

You'll see people eating grass. They also have something which they call substitute food. They'll take grass and twigs and they'll grind it up and they'll put a little bit of flour in it and try to make noodles. [...] And it gives you a false feeling that you're really eating something, but it's really called substitute food. And what you'll see at hospitals is all these people in North Korea holding their stomachs because you can't digest substitute food. And that's the situation in North Korea today. I suspect there have been at least a couple million people who died in North Korea of a population of about 25 million.

- *U.S. Congressman and former U.S. ambassador to the United Nations Agencies for Food and Agriculture, Tony Hall, in a 2008 interview conducted by the Washington National Cathedral, following several visits North Korea in the 1990s (Washington National Cathedral, 2008)*

The Great Korean Famine started in the early 1990s and continued until 1998. It had a devastating effect on the Democratic People's Republic of Korea: estimates suggest that 600,000 to 1 million North Koreans, or about 3 to 5 percent of the pre-crisis population, died in what is seen as one of the worst famines of the 20th century. While the acute crisis seems to have been diverted – due to assistance from the aid community – the country has never entirely recovered because of North Korea's closed-style economy, the still-failing Public Distribution System and the regime's crackdown on marketization. The people have been dealing with chronic food shortages ever since the famine, even now in the first decade of the 21st century. As a result of the closed nature of the regime, the outside world had little to no access to information at the onset of the humanitarian catastrophe; and even now it is nearly impossible for aid to enter the country (Haggard & Noland, 2008, p.2).

In 2008, a UN report highlighted new signs that the country was again experiencing severe food shortages, and although more information was available than in the past, it has remained imperfect and politicized. Haggard and Noland (2008) have demonstrated through extensive data research that for the first time in 2008, the aggregate grain balance has gone into deficit, while food and energy prices have risen steeply. At the same time, the government threatened to expel the World Food Programme, thereby incapacitating the international community's early warning system.

Recent reports published by Good Friends, a research institute for North Korean society and the international NGO Human Rights Watch (HRW) concur with UN predictions, indicating that North Korea is once again on the brink of a famine. Good Friends reports in one of their latest newsletters that:

Death by starvation occurring in Soonchun and Pyongsung, South Pyongan Province seems to be reaching a serious level. City Party officials are describing it as a record number of starvations since the Arduous March [The Great Famine]. Although the exact figures are not available, it is reported that thousands of people have died of hunger already during one month period

beginning in the middle of January. (Good Friends: Center for Peace, Human Rights and Refugees, 2010, p.2)

And Human Rights Watch states in a recent article:

Severe hunger looms, the question for donors is whether to resume food aid to North Korea and, if so, how to ensure the assistance reaches the people most in need and is not diverted to the military. Proper monitoring is essential. Some critics think it would be impossible to monitor food deliveries, as the North Korean government would simply reject such a condition, fearing foreigners would learn too much about the world's most secretive state. (Seok, 2010)

Letting 600,000 to 1 million people die without a timely and adequate response, and preventing the international community from properly assisting, based on political and ideological beliefs should have been considered a crime against humanity (Haggard & Noland, 2007, p.209). Allowing it to happen again 15 years later might be even worse. Following from that assumption, the central tenet of this thesis will address the following research question: How and to what extent can the international aid community best provide humanitarian assistance, and uphold their Kantian Responsibility to Protect, given the circumstances that the North Korean regime is unwilling or unable to protect its people from a humanitarian crisis? Taking as a point of departure the UN's doctrine of the Responsibility to Protect, this thesis will argue that it is not simply the international community's responsibility to protect, but it is its *duty* to protect¹.

Structure

This thesis will commence with a methodology section in which the research type, strategy and its limitations will be discussed. Ontologically speaking, it is the reader's responsibility to be aware of the research limitations when dealing with North Korea, and to appreciate the style and research design of the whole document.

Secondly, the thesis will provide a brief introduction to North Korean history, focusing specifically on the humanitarian crisis and the state's nuclear status in order to set the stage for further analysis. What follows will be a detailed description of the role of the international donor community in their attempts to provide humanitarian assistance, focusing in particular on the different types of bilateral support provided by South Korea and China. An important point to be made will be the existence of different types of humanitarian assistance which have great consequences on the final outcome and efficiency of aid deliverance. Because the international aid community lacks a united front, the North Korean regime always has a "bail out option" which severely limits the external aid effectiveness and pressure that can be applied to the regime.

The third section of the thesis will provide a theoretical discussion of the Responsibility to Protect (hereafter, R2P). It will begin with a brief discussion of the historical background of the doctrine, from the founding ICISS commission in 2001 to the affirmation by the UN General Assembly and the UN Security Council in 2005 and 2006. The analysis

¹ The international community is defined here as all the Member States who affirmed the R2P at the 2005 World Summit. The terms 'international community' and 'global society' will be used interchangeably throughout this thesis.

will proceed with a discourse of the applicability of the R2P in international politics, including the limitations based on state sovereignty and neutrality. The thesis will argue that while the R2P is an often-misunderstood concept that seems to conflict with the principle of state sovereignty, quite the opposite is true, as the R2P principle aims to *strengthen* state sovereignty. Furthermore the consequences of the R2P for the international community will be discussed.

The subsequent section will focus on the moral justification of the R2P. Making use of Immanuel Kant's moral philosophy emphasizing the three formulas of the Categorical Imperative and his concept of duty, it will be demonstrated that the R2P follows from a *duty of respect to others* which is of higher value than any other political or social necessity. The R2P is therefore always more important than, for example, national interests or national security, and therefore the international community has a *duty* to protect the people of North Korea.

Fourthly, the thesis will demonstrate how Kant's reading of the R2P can justify the two distinctive approaches of the international donor community (multilateral vs. bilateral). Multilateral aid – such as that provided by the WFP – aims to target aid and monitor its efficiency, thereby trying to improve the condition of the most vulnerable people in North Korea. A long-term solution to the humanitarian crisis requires, as a minimum, policy changes and ideally a regime change. On the other hand, South Korea and China give unconditional bilateral aid, though based on particular and unique motives, but as a result support and prop up the North Korean regime by helping it to escape international pressure and sanctions. The South Korean justification to their approach is that politics should not stand between them feeding their 'brethren' (Pomnyun, 2009), while the Chinese have an economic interest, a traditional ideological, and above all political connection with the North Koreans that allows them to opt for a bilateral aid option.

The final analytical section of this thesis will discuss the future alternative solutions for providing humanitarian aid to the North Koreans, and will analyze the most likely outcomes. It will look into the option of South Korea joining the international community's alliance in order to increase pressure on the regime, as well as the – unlikely – option of a complete international embargo including China in an the international alliance. Alternatively, there is also the unwanted option of maintaining the status quo, perpetuated by a sense of Kantian ethics. This analysis will introduce the scenario of "who blinks first" – asking the question of who will back down first in a standoff between the North Korean regime and the international community over the starvation of its people. It will be argued that the international community will never (and can never) win this game, since the North Koreans are not willing to play by the international community's rules (given that the regime has shown the willingness before to sacrifice its own population for its political and ideological beliefs), while the international community cannot take the risk of jeopardizing the safety and dignity of the North Korean people.

The conclusion will argue that the international community (necessarily) finds itself in a quagmire over the question of providing humanitarian assistance to the North Korean regime. The only way to alleviate this humanitarian crisis seems to be by acting inhuman (by Kantian standards), by entering into a stare-down with the North Korean regime, and risking that the regime will let its people starve to death. The international community cannot hazard

this chance, seeing as they are bound by a set of moral beliefs anchored in Kantian morality. Paradoxically then, the international actors can only try to help the people of North Korea by playing by the regime's rules, thereby indirectly supporting the regime and keeping it in power – leading to a continuation of the humanitarian crisis.

Research Methodology

This thesis takes as its starting point the moral basis of the Responsibility to Protect situated in a code of Kantian ethics. It continues to use the case study of North Korea to evaluate and assess the applicability of that code of morality in a real-world political situation. As Creswell points out, case study research is a qualitative approach that involves the study of an issue explored through one or more cases within a bounded system, through detailed, in-depth data collection involving multiple sources of information (Creswell, 2007, p.73). Yin (2003) argues that a case study design should be considered when the boundaries are not clear between the phenomenon and the context, which is true in the case of studying the R2P in the context of North Korea. Rather, in this single instrumental case study, the context of the political, economic and humanitarian situation in North Korea will be relevant to demonstrate the moral quagmire of the R2P (the phenomenon under study).

Typical case study data collection is extensive, and draws on multiple sources of information. Yin (2003) distinguishes six different types of information to collect: documents, archival records, interviews, direct observations, participant-observations and physical artifacts. In this study, the variety of information is limited for several reasons. First and foremost, the information that one can gather on the humanitarian, political and economic situation in North Korea is severely limited by the regime. North Korea is one of the most secretive and closed societies in the world, and so unfortunately collecting firsthand data would be too dangerous, time consuming and costly. The official information that comes out of the country is unreliable in the sense that it is most likely censored and inconclusive. Furthermore gathering information by conducting interviews, direct observation or participant-observation is most likely impossible and otherwise highly dangerous given the current political and social inaccessibility of North Korea. Therefore, this study is based on a literature review, using primary and secondary sources.

The most reliable information available on the topic is that collected by leading researchers, namely Marcus Noland and Stephan Haggard. Noland is deputy director and senior fellow at the Peterson Institute for International Economics and the author of a range of books and scholarly articles on the subject of North Korea and its political, economic, and humanitarian status. Haggard is a Visiting Fellow at the Peterson Institute and a professor at the University of California, as well as a consultant to USAID, the World Bank, the United Nations Conference on Trade and Development, the OECD and is a member of the council of Foreign Affairs. Haggard is author and co-author of a variety of books and articles concerning the North Korean political, economic and humanitarian situation. As a result, these authors produce the vast majority of information available on the DPRK, are recognized internationally as experts and therefore must be acknowledged in this thesis as key players in the production of knowledge about contemporary North Korea.

Furthermore, there are official institutes such as the WFP (World Food Programme), Good Friends (a South Korean NGO with extensive relations in North Korea) and human rights organizations such as Amnesty International, Human Rights Watch and Freedom House who collect and disseminate information on the status of the people of North Korea. The analysis from this thesis will be based on this type of information, which is the most valuable and accurate available, given the sensitive nature of the topic.

In this study, the researcher takes the role of interpreter and valuer of reality. As such, the goal is not only to try to lecture or to deliver information, but also to advocate a certain interpretation of reality. However, it is important to point out that the interpretations of a researcher are hardly ever completely value neutral; it is wishful thinking to present “facts”, and discretely or not, researchers do their level best to convince their readers that they too should believe what the researcher has come to believe (Stake, 1995). Research is not always helped by making it appear value free. It is better to give the reader a good look at the researcher (ibid, p.95).

With this understanding, it is important to realize through this study that the researcher holds a ‘western’ background, and is therefore more familiar with so-called ‘western morals and ethics’. The use of Immanuel Kant’s moral philosophy is a deliberate choice, based on his understanding of human dignity, and the application of his philosophy will add a new and challenging perspective to the discussion of the Responsibility to Protect. While the author is aware that there are a plethora of other interpretations or understandings of morality and ethics, for this argument the scope must be limited to a philosopher that the author feels is appropriate. Granted, this might lead to a bias towards a western-liberal take on humanity and morality – but this bias seems inevitable, based on the researcher’s background and education. Such a bias is hardly unique, however, as the most prolific authors on North Korea share a similar background and education. It is important to understand, however, that any production of knowledge is situated within the author’s (albeit limited) understanding of the world, which will doubtless be slanted in a particular direction. That said, though, the thesis is not meant to argue against communism, nuclear proliferation or the North Korean political ideology. Rather, the critique centers on an aversion to humanitarian distress and state enforced suffering. The author requests the reader to keep in mind that there are other competing views on the humanitarian crisis, the North Korean political ideology and the international community’s response opportunities – many of which will be footnoted throughout the thesis – and encourages the proactive reader to investigate competing or contrasting claims.

The Democratic People’s Republic of Korea: 1948-present

In order to provide a perspective for the following analysis, it is important to give a short overview of the historical context regarding the situation in North Korea. The framework of the current predicament will be greatly enhanced by a deeper understanding of a history of the conflict and an awareness of the key actors who influence political and social decisions.

Before and during the Second World War, the Korean peninsula was occupied by Japan. After Japan surrendered in August 1945, Soviet occupation forces established themselves north of the 38th parallel and allied themselves with the Communist Korean forces

led by Kim Il Sung - leading to the establishment of the Democratic People's Republic of Korea (DPRK)² on 9 September 1948. The US forces set up a full military government south of the 38th parallel and, after elections; the Republic of Korea (ROK, commonly known as South Korea) was created. An attempt in the late 1940s to unify the two Korea's stagnated at early stages.

On 25 June 1950, the People's Army of the DPRK attacked the ROK across the 38th parallel in order to unify the peninsula under Communist control. A war unfolded that ended in an armistice three years later with more or less the same border as had existed before the war (Human Rights Watch, 2006, p.7). Around the 38th parallel, a military demarcation line was set up, known as the Demilitarized Zone (DMZ). Kim Il Sung took full control of the leadership in the DPRK and, with the aid of China and the Soviets, the country began to restore its war-damaged economy. Kim Il-Sung, lauded as the "Great Leader" introduced a national ideology called *juche*, typically translated as "self-reliance" - a combination of extreme nationalism, Stalinism, and Confucian dynasticism (Haggard & Noland, 2007, p.4). The core concept of *juche* is the ability to act independently without regard to outside interference. In short, the regime designed the country to produce enough means to support the entire population without having to rely on import products or external aid.

Besides the focus on *juche*, the country commonly known as North Korea ascribes to an extreme caste-like social regimentation (ibid). The population is divided into several different classes, according to perceived political loyalty and the former social status of parents and grandparents. Only a small part of the population is considered to be politically reliable, and the political and military elite accounts for roughly 1 percent of the population (ibid, p.5).

In order to keep the population under strict political control, the country is characterized by a complete absence of standard political and civil freedoms and rights. Freedom House and Amnesty International note that there is no freedom of speech, as all media outlets are controlled by the state and characterized by strict supervision and censorship, while it is impossible to receive information from outside of the country. In practice, there is no freedom of religion, freedom of assembly is not recognized and strikes and collective bargaining are illegal. Freedom of movement does not exist, and one is not allowed to leave the country without permission of the regime. (Amnesty International, 2010; Freedomhouse.org, 2010). Violators of the rules risk ending up tried by the nonexistent independent judiciary and imprisoned in the brutal penal system. Emerging portraits of the North Korean system of punishment suggest "a machine that processes large numbers of people engaged in illicit activities for relatively short periods, but which exposes them to terrible abuses while incarcerated" (Haggard & Noland, 2010, p.3). There are political prison camps similar to concentration camps, where prisoners are subjected to extreme food deprivation, a lack of medical treatment, torture and public executions (ibid, p.4). Besides the political prisons, there are also penitentiaries that serve as correctional or "educational" institutions for non-political criminals, and "collection centers" and "labor-training centers" for less severe crimes (ibid, p.6).

² DPRK and North Korea will be used interchangeably throughout this thesis.

A Nuclear North Korea

Another feature of the political and economic system in North Korea is its extreme militarization. With a population of 20 million and a one million strong-army, the country has the highest percentage of army personnel per capita in the world, and also the highest share of national income devoted to the military – making it the world’s most militarized society (Korean Ministry of Unification, 2010b). Accordingly (or as a consequence), the government pursues “military-first” politics, whereby the army has the highest political and expenditure priority.

However, despite constantly present tensions between the North and the South, the division of the peninsula has been surprisingly stable. Though the two sides are technically still at war, the situation has not escalated during the last 57 years. Nevertheless, in order to strengthen its external security, the regime developed a nuclear device in the 1990s. Over the last two decades, the regime has conducted several missile and nuclear tests, much to the chagrin of South Korea and the rest of the international community. In hopes of resolving or improving the nuclear situation, meetings were set up to denuclearize the region through a creation of a non-proliferation treaty. In a planned response in 2008, the regime submitted a declaration of its plutonium holdings and destroyed the cooling tower of its Yongbyon facility. One year later, however, it conducted a new series of nuclear tests, unveiled a uranium enrichment project, annulled the Korean War armistice agreement and stated that it would never let go of its nuclear arsenal (Fitzpatrick, 2009, pp.5-6). It also threatened the international community with ‘merciless’ nuclear attacks if nations implement measures adopted by the UN Security Council. By demanding acknowledgement as a serious nuclear threat, the North Korean regime tries to uphold its external security and keep outside factors on a distance³.

The Humanitarian Crisis

I personally know about fifteen people who died of hunger. In the case of an acquaintance of mine, her entire family died. There were so many deaths; we got used to seeing dead bodies everywhere at train stations, on the streets. The year 1997 was the worst, and then things got better, because everyone began selling stuff at markets. That’s how we all survived. – *Ms. Kim, escapee from North Korea in 2005* (Human Rights Watch, 2006, p.1)

As a result of the severe decline in aid in the early 1990s and the lack of adequate response to these circumstances, heavy flooding in 1995 and 1996 was enough to drive the country into one of the worst famines of the 20th century. As mentioned before, approximately 600.000 to 1 million North Koreans perished during this famine. The regime directly attributes the crisis to the natural disasters in 1995-96 and indirectly to the decline in trade relations with Russia and China, but Haggard and Noland have pointed out that the policies of the regime without a doubt contributed to the severity of the crisis (Haggard & Noland, 2007, p.9). The next section will provide a brief overview of the origins of the North Korean famine, as presented by Haggard and Noland.

³ See for example Cha & Kang (2003), Chinoy (2008), and Fitzpatrick (2009) for elaborate discussions on North Korea’s nuclear status.

Even though the regime actively pursued the *juche* ideology, it has needed the support of external factors for its survival. Until the collapse of the Soviet Union in the early 1990s, the country was highly dependent on unconditional aid from their communist allies. Afterwards, China stepped in to fill the gap, but not sufficiently enough to avoid the rapid deterioration of North Korea's external security environment (ibid). The breakdown of Soviet support and the lack of response of the government to these changed circumstances are what Haggard and Noland (2007) point out as one of the main causes of the humanitarian crisis that unfolded in the mid 1990s.

Origins of the Famine

Although North Korea has been pursuing self-reliance since its establishment in 1948, the harsh truth is that the country lacks a comparative advantage in the production of grain. Attempts to go against that trend are likely to involve substantial inefficiencies, as there is simply not a sufficient amount of arable land in North Korea to produce enough food to feed the population. Also, the country's climate and weather conditions are unfavorable, as it is generally cold and growing seasons are short (Haggard & Noland, 2007, p.25). As a result, the North Korean regime has always been dependent on trade with the Soviet Union and China, or on unconditional aid from allies.

When these external relations changed in the early 1990s, it was up to the regime to react and to adjust their policies – which, unfortunately, they blatantly failed to do, leading to an increased vulnerability to external shocks. Statistics on food availability show a decline in food production before the floods in 1995 (ibid, p.35), while attempts to increase domestic production turned out to be unsuccessful. Technical improvements, a shift in crop composition in favor of high-yield rice and corn, maximizing industrial inputs, and intensifying double cropping and planting did not lead to a significant increase in production; to the contrary, it led to more soil erosion and river silting that caused the floods in 1995 and 1996 (ibid, p.33-4). These catastrophic events led to the destruction of over 300,000 hectares of cropland and resulted in almost 2 million tons of lost grain. The lack of available food resulted in a breakdown of the Public Distribution System (PDS) during the height of the famine from 1994-1998. The PDS was the major source of food for most of the North Korean population, and was therefore also a central pillar for control by the regime. In particular, the poor who had no other means to secure food outside the PDS suffered most during the famine.

Instead of anticipating the early signs of economic decline and internal food production due to the changing relations with the Soviet Union and China, the regime lacked a timely and decisive response. The regime refused to acknowledge its problems to the outside international community, and it was not until 1995 that the government finally requested external support. Even then, the international community lacked precise information on the severity of the crisis, and it took until 1996 before humanitarian assistance started to arrive (ibid, p.37). Instead of using the outside aid as a supplement to the existing food imports and internal production, the regime decided to cut down on imports. International assistance thus replaced the food imports in commercial terms (ibid, 42-3). The

expenditures saved on food imports were instead used to increase military imports, which is consistent with the regimes “military-first” policy⁴.

Haggard and Noland conclude that if the North Korean government had upheld its commercial imports and if its expenditure and policy priorities had been different, the famine could have been avoided. While this conclusion does not mean that life in North Korea could have been rosy during the 1990s, the deaths of hundreds of thousands of people were not inevitable⁵.

Despite North Korea’s attempts to isolate itself from external forces and be self-sufficient, during the height of the famine it could not support itself and it had to call on foreign assistance. The different approaches to the provision of humanitarian assistance will be discussed in detail in the next section.

Humanitarian Assistance to North Korea

When, in 1995, the North Korean regime finally acknowledged the extent of the humanitarian crisis they were facing, they decided to call on the international community for humanitarian assistance. First they established two bilateral agreements, one with South Korea and one with Japan, for additional food support. Curiously, though, the regime waited for a wider appeal for multilateral assistance until the floods of July and August 1995 (Haggard & Noland, 2007, p.80). The international community first reacted cautiously to the requests made by the regime, partly because of incomplete and inconsistent information provided by the regime on the actual food situation. It was not until a year later – mid 1996 - that the international donor community reacted on full scale and aid started arriving. Since the mid-1990s, humanitarian aid (both monetary and food-based) has flowed continuously into the country, despite the often-changing internal and external political situation.

Currently, humanitarian assistance to North Korea is provided in three different ways. 1. South Korea as well as China provides bilateral aid (roughly 26 percent of the total assistance); 2. The rest of the international community provides multilateral aid through the UN-supported World Food Programme (WFP), (roughly 62 percent of the total assistance), and 3. The NGO community present in the country (roughly 12 percent of the total assistance) (Haggard & Noland, 2007, p.85). From 1996 to 2008, North Korea received almost 3 billion USD in humanitarian assistance through the combined donor community.

Notwithstanding this large amount of aid, the country still faces food shortages and, according to Haggard and Noland and Human Rights Watch, it is again on the brink of a new famine (Seok, 2010). This section will describe the role and the motives of the different actors regarding humanitarian assistance to North Korea. First, the thesis will analyze the actions of the international community (characterized by the WFP), followed by an in-depth discussion of the South Korean and Chinese roles in the process. To conclude, the position of the NGO

⁴ A clear example of the regimes “military-first politics” is a situation in 1999 when the imports of commercial grain got cut to less than 200.000 metric tons, the regime decided to purchase 40 MiG-21 fighters and eight military helicopters from Kazakhstan (Haggard & Noland, 2007, p.50).

⁵ For a more extensive discussion on the origins of the famine in North Korea see Haggard and Noland’s book “Famine in North Korea: Markets, Aid and Reform” (Haggard & Noland, 2007).

community will be discussed (understandably) briefly, due to its rather limited contribution to the total amount of assistance.

The International Community and the World Food Programme

Between 1996 and 2005, the WFP contributed more than four million tonnes of commodities, valued at 1.7 USD billion, to North Korea, thereby supporting up to one third of the North Korean population (World Food Programme, 2010). The WFP policy is based on targeted intervention which aims to "...improve the lives of the poorest people, people who either permanently or during crisis periods, are unable to produce enough food or do not have the resources to otherwise obtain the food that they and their households require for active and healthy lives" (World Food Programme, 1994).

As Edward Reed, the Asia Foundation's country representative of the DPRK, points out, there are several basic principles governing the delivery of humanitarian aid. Aid should go to those in the greatest need, based on objective and systematic assessment. Access to aid should not be determined on the basis of age, gender, social status, ethnicity or political beliefs, it should be transparent, and enabling agencies to confirm that it is distributed to the targeted groups (Reed, 2004, p.208). The WFP identified two special sets of target groups in North Korea: those who are vulnerable because of their particular food needs, age, or position within the household (such as children, pregnant and nursing women, and elderly) and those who are the beneficiaries of a food-for-work program, which combined the provision of food with rural reconstruction projects (Haggard & Noland, 2007, p.90). At its peak efficiency in 1998, the WFP efforts supported up to 8 million North Koreans.

In order to ensure the effective implementation of its assistance programmes, the WFP aims to cooperate with the recipient country to integrate its food aid into existing development plans and policies. Truly efficient aid provision requires operational control and one of the general rules of the WFP is to be able to monitor its activities:

General Rule XII.1:

Monitoring of operations by WFP personnel

As agreements are carried into effect, recipient governments shall give full cooperation to enable authorized personnel of WFP to monitor operations, to ascertain their effects, and to carry out evaluations and other missions to assess the results and impact of the programmes and projects. (World Food Programme, 2009, p.19)

In North Korea, the regime used extreme measures to inhibit this basic principle and to obstruct the monitoring and accountability processes. For example, the secretive regime made it from the start almost impossible to assess the amount of aid that was needed. The outside world had to rely on information provided by the regime by working through the Flood Damage Rehabilitation Committee (FDRC), a committee of the Ministry of Foreign Affairs. The committee's main role was to watch the international aid workers, while its secondary role was to make sure aid reached the target groups (Haggard & Noland, 2007, p.89). Multilateral agencies and NGOs had little to no access to the country pre-crisis, and therefore lacked crucial information on the severity of the crisis (ibid, pp.88-89).

Even though the WFP established an office in Pyongyang in 1995, it still had limited access throughout the country. By 2000, the WFP had access to only 167 of 201 counties, and especially many of the most vulnerable counties in the isolated north-east stayed off-limits (ibid, p.93). Gathering information in the accessible regions was further frustrated by highly orchestrated visits to institutions picked by the regime. Not only was it impossible to visit the east coast, but visiting markets was prohibited as well, making it impossible to gauge food prices and estimate the food availability (ibid, p.89). The government prohibited the WFP and NGOs to use Korean speakers and required the use of government interpreters, thereby obstructing independent information collection (Havel et al., 2006, p.24). In another example demonstrating the difficulties of monitoring aid deliverance in 2005, UN special rapporteur on the right to food Jean Ziegler was denied entry to North Korea five times, despite the fact that UN programs had been feeding nearly one-third of the population (Haggard & Noland, 2005).

Besides the problems with collecting information, the distribution of food aid was also frustrated by the government. It was impossible for the WFP to deliver food through independent channels; everything had to go through the FDRC, which subsequently led to food diversion to non-targeted groups (Haggard & Noland, 2007, p.109). There are three reasons why diversion of food aid is problematic. Firstly, humanitarian aid is intended to relieve the suffering of the most vulnerable, and having it reach the targeted groups is a better outcome than having it consumed by people who are less vulnerable or undeserving all together. Secondly, when food aid reaches the undeserving, it not only keeps the intended beneficiaries without food, but it also gives corrupt officials and others the chance to enrich themselves through selling it on the market. The third reason is most concerning, namely that diversion could destroy political support for aid programs in donor countries. When aid is ineffective and fails to reach the intended target groups it might undermine the willingness of donor countries to keep sending aid (ibid, p.108).

In attempts to change the position of the regime and to force permission to monitor the relief-assistance, the WFP has threatened several times to scale back the amount of aid. This pressure did lead to the opening of some new counties, but the WFP never got access to the entire country. Therefore, the WFP has instituted a strictly “no access-no food” policy, which means they will not provide food to the regime for the counties where they are not allowed to monitor (World Food Programme, 2010).

Unfortunately, it appears that as soon as the situation in North Korea improves slightly, for example after a successful harvest, the regime quickly takes restrictive measures to re-limit the outside world’s access. In 2005, on the back of improving harvests and generous outside aid, the government threatened to expel the WFP due to disagreements on monitoring regulations, which resulted in the WFP suspending all its activities. It resumed its activities in 2006, though with a greatly scaled-down program that supported only one-third of the original intended beneficiaries (ibid). Given that the WFP is a multilateral institution, it is dependent on food contributions from its members to provide assistance. When countries withhold their donations – which can be a political move – the WFP can run short on resources and not be able to meet promised goals (Yim, 2009).

South Korea's Role in Humanitarian Assistance

Despite the existing tensions between the north and the south, and the fact that they are technically still at war, humanitarian aid has continued to flow from south to north on a regular basis. Granted the exchanged has experienced its share of political ups and downs, and has been contested in domestic politics, but the flow of unconditional bilateral aid continues. The South Korean Ministry of Unification stated in 1999 that “while the standard of give and take pertained to matters of security and economic exchange, the principle of reciprocity does not apply to humanitarian aid to the North” and aid for North Korea came “without any conditions attached” (Lumsdaine & Schopf, 2007). Even though several breakdowns in the dialogue occurred due to a series of provocative North Korean acts, as well as due to the awareness that such unconditional assistance frees up resources used by the North to finance an arms buildup, the progressive Kim and Roh governments of South Korea have continued to provide uninterrupted humanitarian assistance.

There are several interesting features of South Korean aid. Firstly, most of its aid is bilateral, largely consisting of grants through the government (roughly 45 percent) and through government supported NGOs (approximately 25 percent). 30 percent of the humanitarian assistance comes in the form of food-loans, with a one-percent annual interest rate and a twenty year repayment period (Korean Ministry of Unification, 2010a). Public bilateral aid does not go through the WFP, nor is it subject to any of the WFP's protocols regarding targeting, access and monitoring. Most often, South Korean aid is unconditional and goes directly to the PDS without monitoring its final destination (Haggard & Noland, 2007, p.144)⁶.

The provision of unconditional aid is not completely uncontested in South Korea. The Grand National Party (GNP), South Korea's largest opposition party, has called for large scale-backs of humanitarian assistance, or otherwise initiating stricter terms, following in the steps of the international community and the WFP (Lumsdaine & Schopf, 2007, p.247). Changing political climates and the future actions of the North Korean regime will doubtless have a strong effect on political support for unconditional aid.

China's Role in Humanitarian Assistance

Since the collapse of the Soviet Union, China has been North Korea's principal ally. Not only does China share its status as one of the last communistic regimes in the world, but also the Chinese government views the DPRK as vital to its strategic interests (Chanlett-Avery & Nanto, 2010, p.55). As a result, China is North Korea's largest trading partner and also a major distributor of aid. The amounts of Chinese aid to North Korea nevertheless remain unclear, given that the Chinese government treats this as a state secret (Haggard et al., 2008, p.6). The statistics on trade that are available show that there has been a significant increase in Sino-North Korean trade in recent years, with a peak of almost 2 billion USD in 2007 (Korean Ministry of Unification, 2010b). Pyongyang is economically dependent on China, and the Chinese have been the main food and energy supplier for the regime over the last two decades (Bajoria, 2009).

⁶ The total amount of South Korean humanitarian assistance is a bit misleading. The Ministry of Unification state that since 1995 about 3.000 trillion Korean Won in assistance has been provided to the North. This is equivalent to 2.6 billion USD. However, this amount assistance includes the private sector as well as loans, which results in an ambiguous picture.

Like South Korean assistance, most of Chinese trade and aid seems to be unconditional and against favorable rates. There are no signs that Chinese aid is subjected to monitoring and targeting requirements. Chanlett-Avery and Nanto (2010, p.58) claim that it is widely believed that Chinese food aid is channeled directly to the military, and that China uses its assistance to pursue its own political goals independently of other countries. Although Sino-North Korean relations have not always been without tribulations during the last few of years, in the end China always comes through with crucial support to bail out the North Korean regime, acting as a supplier of last resort (Haggard & Noland, 2005, p.37).

The NGO Community's Role in Humanitarian Assistance

The operational conditions have made it extremely difficult for many NGOs to work in North Korea. A lack of information on the severity of the crisis and a lack of access to certain target groups and regions have made effective assistance provision close to impossible. From the onset of the aid provision in 1996, the responsibility of food aid deliverance was left to the WFP, while other agencies attempted to focus on assisting specific locales through small scale interventions (Reed, 2004, p.205). Several European NGOs established modest projects in the country, but most US-based NGOs only had access through one- and two-week visits during the arrival of commodities. South Korean NGOs were active in North Korea, but during the early years, all their efforts were channeled through the South Korean government-controlled Red Cross (ibid, p.205).

A number of European NGOs that were focused on healthcare distribution withdrew their aid workers due to the extremely restricted working conditions. Médecins du Monde (MDM), Médecins Sans Frontières (MSF), Action Contre la Faim (ACF), and Cap Anamur were all involved in fields which required constant contact with patients, and a belief in the importance of training, which meant ongoing contact with doctors and nurses, which was made impossible by the regime (Haggard & Noland, 2007, p.88). Oxfam UK and CARE followed suite when they decided to suspend their operations in the country because the regime did not allow them to implement “sustainable rehabilitation and development programs” (Reed, 2004, p.211). Nevertheless, there are NGOs who have successfully adjusted to the difficult operational conditions and the unpredictable regime. Several South Korean NGOs are still active, and by being innovative and flexible they provide essential on-the-ground information – and due to their small-scale projects, they manage to reach target groups (Haggard & Noland, 2005, p.26; Smith, 2002, p.5; Snyder, 2003, p.7).

The Responsibility to Protect

As has been demonstrated in the previous section, the humanitarian crisis in North Korea is severe enough that it requires the utmost consideration of the international community. Unfortunately, it would not be the first time in history when a humanitarian crisis unfolded itself while the global society looked the other way or failed to intervene. Between April and June 1994, an estimated 800.000 Rwandans were killed in the space of 100 days. UN forces were present in the region, and strategies were available to prevent the slaughter. However, the UN Security Council refused to take the necessary action and the consequence was a humanitarian catastrophe for Rwanda and the entire region (ICISS, 2001, p.1). In 1995, history repeated itself when Bosnian Serb forces massacred 8.000 Muslim men and boys in

Srebrenica. The UN was present, but did not have the power or support to prevent the genocide (Karon, 2001). Four years later, intervention did take place, but NATO's operation raised major questions about the legitimacy of military intervention in a sovereign state (ICISS, 2001, p.1).

In 1999, UN Secretary-General Kofi Annan raised the 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 affect every precept of our common humanity?" (ICISS, 2001, p.VII) It was this challenge that led, in 2000 to the establishment of the International Commission on Intervention and State Sovereignty (ICISS) in Canada. The commission's mandate was to develop a global political consensus on how to move from polemics – and often paralysis – towards action within the international system, particularly through the United Nations, in cases of severe human rights violations (ibid, p.2).

The report that followed in 2001 contained the shared views of the commissioners after worldwide consultations with representatives from governments, NGOs, civil society, universities, research institutes and think tanks (ibid, p. IX). It presents a new framework called the "Responsibility to Protect" stating as a central theme the idea that sovereign states have a responsibility to protect their own citizens from avoidable catastrophe – from mass murder and rape, from starvation – but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states (ibid, p.VIII). The commission argues for a shift from *sovereignty as control* to *sovereignty as responsibility* (ibid, p.13). The ICISS distinguishes three different elements in the R2P;

1. The responsibility to *prevent*;
2. The responsibility to *react*; and
3. The responsibility *rebuild* (ibid).

At the World Summit in 2005, the largest gathering of heads of state and government the world has seen to date, the UN General Assembly adopted the principle of the R2P in articles 138 and 139 of the World Summit Outcome (U.N. General Assembly, 2005, p.31). The UN states that the R2P rests on three pillars;

1. The protection responsibilities of the state;
2. International assistance and capacity-building; and
3. Timely and decisive response (Ban, 2009).

In 2006, the UN Security Council reaffirmed the endorsement of the concept with Resolution 1674 (U.N. Security Council, 2006; Ban, 2008). By receiving the official UN confirmation, the R2P principle is now accepted worldwide.

The following section will discuss the premise of the ICISS and its distinction between the three elements of prevention, reaction and rebuilding. The second part will elaborate on the R2P principle as accepted by the UN General Assembly and the UN Security council, which will focus on the three distinctive pillars of the R2P. To conclude, the analysis will take a critical look at the R2P and bring up the question of allocation as discussed by Robert Pattison and Heather Roff (Pattison, 2008a; Pattison, 2008b; Roff, 2009).

The Responsibility to Protect - the original framework of the ICISS

The principle of sovereignty and state equality that is enshrined in Article 2.1 of the UN Charter signifies the internal capacity of states to make authoritative decisions with regard to the people within the territory of the state (ICISS, 2001, p.12). The corresponding obligation of this principle is that states accept other's sovereignty. Nonintervention, which is set in article 2.7 of the UN Charter, is however still the norm in contemporary international relations (ibid). When this norm is violated, states have the right to self-defense, the right to protect their territory and political independence against external forces.

The idea of sovereignty is closely linked with the principle of *human security* and *national security*. The fundamental components of human security – the security of *people* against threats to life, health, livelihood, personal safety and human dignity – can be put at risk by external aggression (ibid, p.15). In order to protect human security within a country, states protect their national security. In a case where in a state is unable or unwilling to protect its citizens or to end the harm of its population, sovereignty reaches its limits and it becomes the responsibility of the international community to act in the state in questions place.⁷ The principle of nonintervention is the norm, but it is not a supreme law that forbids intervention in every case. Rather, it can yield to the international community's responsibility to protect (ibid, p.XI).

It is extremely important to emphasize that the ICISS does not necessarily advocate coercive measures, and especially not military intervention. The commission stresses that the debate should not focus on the “right to intervene,” but rather on the “responsibility to protect” (ibid, p.17). Importantly, military intervention is not the only way to protect people. There are many different options available, and the sooner that budding problems are detected, the more opportunities the international community has to intervene in a non-military way. The ICISS distinguishes a broader responsibility: one to *prevent*, to *react* and to *rebuild*.

The Responsibility to Prevent

As the ICISS framework states, “Prevention is the single most important dimension of the responsibility to protect.” (ibid, p. XI) Preventative efforts should reduce, and hopefully eliminate, the need for intervention entirely. In order to prevent humanitarian catastrophe effectively, three crucial conditions must be met. First, there has to be an “early warning system” so that knowledge of the fragility of the situation and the risks attached to it will become available. Second, there has to be a good understanding of the so-called “preventative toolbox,” that is, the measures available to change the situation. Thirdly, there has to be “political will” to actually apply the preventative measures (ibid, p.20).

The “early warning system” requires cooperation and coordination between government and intergovernmental organizations. UN specialized agencies and NGOs often have grassroots-level information, but the infrastructure to communicate with the top of the

⁷ Unfortunately, this leads in many cases to an overemphasis on the protection of citizens against external attacks, and enormous amounts of the national resources are spend on armaments and armed forces. At the same time, countries fail to protect their citizens from chronic insecurities of hunger, disease or crime (ICISS, 2001, p.15). This is particularly evident in the case of North Korea, where a disproportionate percentage of the national budget is spent on the military while its population starves

organization is often lacking. Therefore streamlining the available information is crucial for effective conflict prevention (ibid, p.21). Without proper and accurate information, it is extremely difficult to assess the severity of humanitarian crises and to act in a timely and decisive manner when necessary. In the case of North Korea, there historically has been a lack of an “early warning system” given that organizations like the World Food Programme and the UNDP have only limited access to the country, due to restrictions implemented by the regime.

The “preventative toolbox” contains measures aimed at root causes (poverty, political repression and uneven distribution of resources) and direct causes. For both causes, there are political/diplomatic, economic legal and military measures available. Figure 1 shows a preventative toolbox with possible preventative measures (although not exhaustive).

Figure 1: "Preventative Toolbox" (ICISS, 2001, pp.22-24).

Preventative toolbox	Measures aimed at root causes:	Measures aimed at direct causes:
<i>Political/ diplomatic</i>	<ul style="list-style-type: none"> ❖ Democratic institution-building. ❖ Constitutional power sharing. ❖ Power redistribution arrangements. ❖ Press freedom and the rule of law. ❖ Promotion of civil society. 	<ul style="list-style-type: none"> ➤ Positive inducements: direct involvement of the UN Secretary-General; fact-finding missions, eminent person commissions, dialogue & mediation. ➤ Negative inducements: political sanctions, diplomatic isolation, “naming and shaming”.
<i>Economical</i>	<ul style="list-style-type: none"> ❖ Development assistance. ❖ Redistribution of resources. ❖ Economic growth. ❖ Better terms of trade. ❖ Economic and structural reform. ❖ Technical assistance. 	<ul style="list-style-type: none"> ➤ Positive inducements: new funding, investment promises. ➤ Negative inducements: investment withdrawal, IMF or World Bank support withdrawal, curtailment of aid.
<i>Legal</i>	<ul style="list-style-type: none"> ❖ Strengthening the rule of law. ❖ Protecting independence of the judiciary and honesty in law enforcement. ❖ Protection of vulnerable groups. 	<ul style="list-style-type: none"> ➤ Offers of mediation and arbitration. ➤ Domestic trials using universal jurisdiction. ➤ Human rights standards monitors.
<i>Military</i>	<ul style="list-style-type: none"> ❖ Enhanced education and training. ❖ Strengthening civilian control mechanisms. ❖ Accountability of security services. ❖ Promoting arms control. ❖ Disarmament and non-proliferation. 	<ul style="list-style-type: none"> ➤ Stand-off reconnaissance. ➤ Consensual preventive deployment. ➤ The threat to use force in extreme cases only.

In the “preventative toolbox,” the measures aimed at root causes are of a distinctively preventative nature, while the measures aimed at direct causes often overlap or are of better

use regarding the responsibility to react. Those measures are more straightforward and can be implemented or discharged in a shorter time span.

“Political will” is necessary to implement measures from the preventative toolbox. Prevention must be integrated into policies, planning and programmes at the national, regional and international levels. The ICISS states that a change in the international community’s basic mindset is necessary “...from a ‘culture of reaction’ to a ‘culture of prevention’” (ICISS, 2001, p.26).

The Responsibility to React

In case preventive measures are unsuccessful to resolve the situation and a state is still unable or unwilling to redress the situation, intervention by the international community may be necessary. These measures may include political, economic or judicial measures, and in extreme cases, they may also include military action (see the “measures aimed at direct causes” in figure 1) (ibid, p.29). Military intervention is nevertheless the very last resort.

Other coercive measures such as political and economic sanctions should, if possible, be exhausted first. The benefit of sanctions is that they do not go directly against state sovereignty, since they only cut off the state in question from the outside world, while at the same time preserving its capacity to act within its borders (ibid). Notably, though, it is crucial to implement sanctions that do not increase the harm inflicted on the population. Blanket economic sanctions in particular have been criticized in recent years, as they have the tendency to increase the suffering of the population that they are supposed to protect, while not effectively influencing the principal guilty actors (ibid).

In the extreme scenario that all non-military coercive measures have been exhausted or discarded, military intervention becomes the necessary subsequent step. The consequences of taking this step will be tremendously influential on the population of the offending state, to say the least. Therefore defining what ‘extreme scenario’ entails is important. The commission states that “these exceptional circumstances must be cases of violence which so genuinely ‘shock the conscience of mankind’, or which present such a clear and present danger to international security, that they require coercive military intervention.” (ibid, p.31). The UN General Assembly has narrowed down four, and only four, specific situations in which military intervention might be applicable, namely: in cases of genocide, war crimes, ethnic cleansing, and crimes against humanity (U.N. General Assembly, 2005, p.31). It must to be noted that military action can never be justified when the intervention would lead to a larger conflict. The commission accepts in such a case that some human beings simply cannot be rescued except at unacceptable cost (ibid, p.37).

The Responsibility to Rebuild

Following up with full assistance for recovery, reconstruction and reconciliation is as important as the responsibility to prevent and to react. Intervention without a proper contingency plan to address the root causes of the situation is not helpful. The ICISS defines three crucial aspects to rebuilding: security, justice and reconciliation, and development (ICISS, 2001, pp.40-43).

Regarding security, it is important to provide basic protection for all members of society, regardless of their ethnic origin or their relation to the previous source of power (ibid,

p.40). It is essential that victims will not look for revenge and thus only increase the amount of human suffering. Disarmament, demobilization, and restructuring and rebuilding of new police forces are also vital. Re-establishing local judicial institutions and facilitating opportunities for refugees to return home is most important regarding justice and reconciliation. For development purposes it is important to promote economic growth, the recreation of markets and sustainable development (ibid, p.42).⁸

The Responsibility to Protect and the United Nations

In paragraphs 138 and 139 of the 2005 World Summit Outcome, the general assembly endorsed the Responsibility to Protect. The final principle is based on the report of the ICISS, but its definition is clearer and more concise. The document states in paragraph 138 that:

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability. (U.N. General Assembly, 2005, p.31)

Paragraph 139 states that:

The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out. (U.N. General Assembly, 2005, p.31)

In April 2006, these provisions were reaffirmed by the UN Security Council in resolution 1674, as the R2P principle received the approval and support of all relevant UN institutions.

⁸ For a detailed description of the responsibility to rebuild, see the ICISS-report (ICISS, 2001, pp.39-45).

Importantly, it should be underscored that the above provisions are firmly anchored in well-established principles of international law (Ban, 2009, p.5)⁹. This does not mean that the R2P itself is anchored in international law, but more that principles have sufficient ground in other existing laws. Secretary-General Ban Ki-moon explains in his report “Implementing the responsibility to protect” (2009) that the principle rests on the following three pillars:

1. The protection responsibilities of the state;
2. International assistance and capacity-building; and
3. Timely and decisive response (ibid, pp.8-9).

Importantly, the first pillar – the bedrock of the Responsibility to Protect – necessitates that the heads of state and government accept the responsibility to protect their populations, whether nationals or not, from genocide, war crimes, ethnic cleansing and crimes against humanity (Ban, 2009, pp.8-9). At the 2005 World Summit, all members of the UN General Assembly affirmed that this responsibility lies first and foremost with the state. This statement is aimed to strengthen state sovereignty, since it is up to the individual states to protect their own populations. Ban Ki-moon calls this “responsible sovereignty” (ibid, p.10). If they uphold their responsibility, their sovereignty will never have to be questioned.

The second pillar states that it is the responsibility of the international community to encourage and help states to exercise the first responsibility. Only when a state is unable to fully meet the first responsibility, due to capacity deficits or a lack of territorial control, should the international community be prepared to support and assist the state in meeting the core responsibility to protect one’s own population (ibid). The Secretary-General emphasizes that it is crucial to assist and support those who are “under stress before crises and conflicts break out” (ibid, p.15). This demonstrates that the first two pillars mostly refer to the responsibility to *prevent*, as laid out by the ICISS in 2001.

In the case that the political leadership of a state commits crimes and violations relating the R2P, then assistance measures under Pillar Two would be of little use. The international community therefore would be better advised to begin assembling the capacity and will for a “timely and decisive” response (ibid). Importantly the R2P shifts from protecting the sovereignty of a state to protecting the rights of the population against the state. Cooperation among stakeholders (including member states, regional and sub-regional bodies, civil societies and private sectors) is important to provide the most efficient and effective assistance to a state. The UN is therefore presumed the best-suited institution to coordinate the assistance discharge.

When a state is “manifestly failing” to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, it is up to the international community to respond collectively in a timely and decisive manner, using Chapter VI (Pacific Settlement Disputes), Chapter VII (Action with respect to Threats to the Peace) and Chapter VIII (Regional Arrangements) of the UN Charter as appropriate (ibid, p.22). “Timely and decisive” should be emphasized here because, as Ban Ki-moon explains: “In a rapidly unfolding

⁹ “Under conventional and customary international law, states have obligations to prevent and punish genocide, war crimes and crimes against humanity. Ethnic cleansing is not a crime in its own right under international law, but acts of ethnic cleansing may constitute one of the three other crimes” (Ban, 2009, p.5).

emergency situation, the United Nations, regional, sub regional and national decision makers must remain focused on saving lives through ‘timely and decisive’ action [...] not on following arbitrary, sequential or graduated policy ladders that prize procedure over substance and process over results” (Ban, 2009, pp.22-23). The “preventative toolbox” (Table 1.1) gives an overview of several measures the UN has at its disposal to react in a timely and decisive manner. In case the Security Council does not reach an unanimous decision and therefore does not act in a timely and decisive way, it is the UN General Assembly’s responsibility to address the situation. However, the decisions of the General Assembly in such a case are not legally binding (ibid)¹⁰.

Concerns Regarding the Responsibility to Protect

The danger of the R2P is that appeals to protection will evaporate amid disputes about where the responsibility lies (Bellamy, 2005, p.33). This ‘agency question’ is one of the main concerns regarding the R2P, because for the sake of practical implementation, it is vital that a specific agent be assigned to discharge the R2P. At the 2005 World Summit, the UN General Assembly agreed that the ‘international community’ shares the R2P, but as Thomas Weiss notes, the term ‘international community’ is vague and “without a policy edge” (Weiss, 2001, p.424). The term can refer to all the General Assembly member states who affirmed the R2P paragraphs, but that does not make it any easier to implement the R2P. Weiss states that using the notion of ‘international community’ allows analysts to avoid pointing the finger at which specific entities are responsible when the so-called international community fails to respond (ibid). The first pillar of the R2P states clearly that the primary responsibility to protect lies with the state suffering the humanitarian crisis. It becomes problematic when this responsibility transfers to the international community because this state is unwilling or unable to protect its citizens’ basic human rights (Pattison, 2008a, p.263).

ICISS’s solution to the agency question is that “there is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes” (ICISS, 2001, p.XII). Pattison nevertheless argues that this does not help in identifying who has the real responsibility to act. The Security Council would still have to allocate a particular agent to discharge the responsibility (Pattison, 2008a, p.263). In his article *Whose Responsibility to Protect? The Duties of Humanitarian Intervention*, Pattison presents four approaches on potentially assigning the R2P. The options are making humanitarian intervention the responsibility of:

1. The intervener likely to be most effective;
2. The intervener that is responsible for causing the crisis;
3. The intervener that has a special bond with those suffering the humanitarian crisis;
4. An institutionalized duty to intervene (Pattison, 2008a, p.264).

For the argument in this thesis, it is not necessary to go deeper into the agency question debate regarding the R2P. It is important to acknowledge that the R2P as designed by the ICISS and affirmed by the UN General Assembly and the UN Security Council is not completely flawless. Implementation will remain challenging as long as there is no special

¹⁰ For a detailed discussion on the intersection between legitimate and legal military intervention see Amnéus dissertation *Responsibility to Protect by Military Means – Emerging Norms on Humanitarian Intervention* (Amnéus, 2008).

institution solely focused on ‘timely and decisive’ responding to humanitarian crisis situations.¹¹

Ciarán Burke (2009) presents another concern; that the whole R2P concept is flawed because of the inherent power dynamics between states. It might be considered to be a universal concept by the ICISS and the UN, but it will always be the powerful states that will end up with the responsibility to intervene. For example, it is never Algeria that will intervene in France, or Finland in Chechnya. Burke takes a realist approach that “...unless states’ vital interests are at stake, they will not intervene if this risks soldiers’ lives or incurs serious costs.” (Burke, 2009, p.64) He also states that changing the terminology from ‘intervention’ to ‘protection’ does not affect the legitimacy, legality or justifiability of the act in question (ibid, p.63). In other words, the R2P is considered to be a ‘liberal’ or ‘western’ concept and lacks the support to actually make practical implementation possible.

Ban Ki-Moon responds to such criticisms by emphasizing that the concept of the R2P is definitely not confined to Africa or the global South. It was in fact the Constitutive Act of the African Union that endorsed a similar form of the R2P in 2000 already, five years before the R2P was affirmed at the World Summit. The ICISS commission was co-chaired by Australian Gareth Evans and Algerian Mohamed Sahnoun, and was geographically extremely diverse with members from all over the world (Ban, 2009, pp.5-7). As Ban argues: “The worst human tragedies of the past century were not confined to any particular part of the world. They occurred in the North and in the South, in poor, medium-income and relatively affluent countries” (ibid, p.5) Thus, every state has a stake in upholding the global concept of the R2P.

The Consequences of the Responsibility to Protect

While the previous sections have established that the R2P is a universally accepted concept, the question that remains is *why* it is so important to have this responsibility to protect. One can take a realist approach and claim that powerful states will act only according to their own national interests and priorities security rather than ideals or moral beliefs. In the North Korean case, one could argue that non-proliferation is more essential than reacting to the emerging humanitarian crisis, thus prioritizing national security over the R2P. However, this thesis will argue that human dignity has a worth above all prize, that it must always be respected and that it cannot rationally be sacrificed for any other value. To support this claim, the following section will discuss the moral philosophy presented by Immanuel Kant in which he discusses the value respect for humanity and the concept of duty.

Kant and the Responsibility to Protect

The premise of this thesis is that the Responsibility to Protect is more important than maintaining the status quo, that is denuclearizing the North Korean peninsula or negotiating a non-proliferation treaty with the DPRK regime while not resolving the humanitarian crisis. This claim will be established through the use of Immanuel Kant’s moral philosophy in which he argues that through the pure practical reason that is present in each person, there are grounds for viewing each as possessed of equal worth and deserving equal respect (Johnson,

¹¹ For a more detailed discussion on the agency question see for example Bellamy (2005), Pattison (2008a; 2008b), Roff (2009); and Tan (2006).

2008). In order to understand Kant's moral philosophy adequately, it is vital to elaborate on his ideas of the Categorical Imperative and the concept of duty that he developed in his well-known work *The Groundwork of the Metaphysics of Morals* (hereafter Groundwork).

This section will be structured as follows: Firstly, the important distinction between Hypothetical and Categorical Imperatives will be made, followed secondly by a more detailed description of the three formulas that collectively form Kant's Categorical Imperative. Thirdly, the concept of 'duty' will be addressed, with a specific emphasis on the difference between perfect and imperfect duties, and between duties to oneself and duties to others. Hereafter, it will be argued that the responsibility to protect is in fact a 'Kantian' duty to protect and that it is more important to perform this duty than to maintain the status quo.

Before the commencement of the detailed discussion of Kant's moral philosophy, it is important to emphasize that the objective of this section is not to give a fully comprehensive, complex and 'philosophical' reading of Kant's Groundwork. The Categorical Imperative and the concept of duty will be used merely as support for the 'moral' case of the Responsibility to Protect. Or, to use Kantian terminology, this discussion of Kant's work is not an end in itself, but rather it is just a means. For a more detailed discussion on how to interpret Kant's moral philosophy, please refer to philosophers as Thomas Hill Jr. (2009), Robert Johnson (2009, 2008), Allen W. Wood (2009, 2008), Richard Dean (2009, 2006), Carla Bagnoli (2006), and others who have contributed to the debate regarding Kantian ethics and on whose work this theoretical argument is based.

Hypothetical versus Categorical Imperatives

What distinguishes human beings from animals is their capacity to choose to act on the basis of policies, plans, and practical principles, and the ability to set an *end* and then devise a *means* to achieve that end (Johnson, 2009, p.21; Wood, 2008, p.67). Where animals only make choices responding to desires, human beings act through choices based on reasons that are affected, but not determined, by non-rational desires. Principles of reason that tell us what we "ought" to do, or "must" do take the form of *imperatives* (Hill, 2009, p.5). A Hypothetical Imperative is a conditional command of reason to require the agent to do something, but only on the condition that the agent wills the end in question (Wood, 2008, p.67). For example, if you see an apple in a tree and desire to eat it (the *end*), you will have to devise a *means* to get the apple. The required action or means (climbing a ladder to pick the apple [the imperative]), is only valid as long as you will (desire) the *end*, thus only as long as you *will* the apple. Therefore, the imperative is conditional and thus hypothetical.

A categorical imperative, by contrast, is not conditional on a prior end. Its function is not to advise us how to reach some prior end, but instead to command us how to act irrespective of our wants or our subjective ends, therefore it is a *moral* imperative (ibid, p.67). Moral "ought" judgments are commandments of reason as opposed to rules of skill and councils of prudence (Kant, 1785, 4:p.416, cited in Hill, 2009, p.6). Kant gives the following example to illustrate his argument: "You ought not to make false promises to borrow money you have no intention of repaying" (ibid, p.6). This is a principle that does not depend on a specific condition or a specific end. It would be irrational not to conform to this commandment, because it would lead to a chaotic and unwanted situation if every rational human being would make false promises when it comes to repaying borrowed money. Kant

explained these types of *moral* principles by laying out the three formulas in what he labeled the “Categorical Imperative” (Hill, 2009, p.6). In short, the Categorical Imperative can be defined as the standard of rationality from which all moral commandments are derived; the actions one “ought” to do.

The Three Formulas of “the Categorical Imperative”

The Categorical Imperative is built on three formulas, which can be seen as different ways of stating the fundamental principle of morality. The first formula consists of the *Formula of Universal Law* (hereafter FUL): “Act only in accordance with that maxim through which you at the same time can will that it become a universal law” (Kant, 1785, 4:p.421, cited in Wood, 2008, p.66), and its variant the *Formula of the Law of Nature* (hereafter FLN): “So act, as if the maxim of your action were to become through your will a universal law of nature” (Kant, 1785, 4:p.421, cited in Wood, 2008, p.66). The idea behind these formulations is that a moral proposition that is true must be one that is unconditional, and therefore that a moral *maxim*¹² is universal, can be applied to all rational beings, and as a consequence becomes a *law*.¹³

The second formula of the Categorical Imperative is *the Formula of Humanity as an End in Itself* (hereafter FHE), which states: “So act that you use humanity, as much in your own person as in the person of every other, always at the same time as an end and never merely as a means” (Kant, 1785, 4:p.429, cited in Wood, 2008, p.66). Just as with the first formula, there are many different interpretations of how to accurately read and understand this statement. With ‘end in itself’, Kant aims at the idea that there are certain requirements or principles that are built into any rational deliberation about what to do which cannot be ignored in a rational way. In combination with humanity, this means that due to our rationale nature, human beings have”...specific duties to develop our own powers of rationality, to give weight to others’ choices and concerns, and to treat others with respect” (Kant, 1785, 4:p.429, cited in Wood, 2008, p.84). By treating people as ends and not using them merely as means to satisfy one of our desires, we show respect to others and to humanity. Carla Bagnoli gives a clear description of Kant’s FHE¹⁴. She explains that according to Kant:

“...humanity is what characterizes us as persons; it consists in the capacity to decide what is valuable and what is not. This decision is not a mere whim, but the very capacity for rationally ends of one’s own. Kant calls “dignity” the peculiar kind of value that persons embody insofar as they are themselves sources of value. Originating value is a law-like activity: it requires that we are capable of setting ends by conceiving maxims that can be willed as universal laws. We are capable of self-legislation and therefore of prescribing obligations for ourselves.” (Bagnoli, 2006, pp.3-4)

¹² Principles that are valid for some person or finite set of persons are *subjective* practical principles or *maxims* and principles that are valid for every rational agent Kant terms objective rationale principles or *laws* (Johnson, 2008).

¹³ For a more detailed description of the first formula I refer to Richard Galvin (2009) and Allen W. Wood (2008, pp.66-74) who take a critical look at the several possible interpretations of *maxims* and contradictions within the formula.

¹⁴ For more elaborate discussion on the FHE and its controversies, see Richard Dean (2008; 2006).

The third formula of the Categorical Imperative consists of the *Formula of Autonomy* (hereafter FA): "...the idea of the will of every rational being as a will giving universal law" (Kant, 1785, 4:431, cited in Wood, 2008, p.66), and its variant, the *Formula of the Kingdom of Ends*¹⁵ (hereafter FKE): "act in accordance with the maxims of a member giving universal laws for a merely possible kingdom of ends" (Kant, 4:439, cited in Johnson, 2008). While the FA appears at a first glance very similar to the FUL, its goal is to combine the FUL principle (a law valid universally for all rational beings) with the concept found in the FHE that states that every rational nature has absolute worth as an end in itself (Wood, 2008, p.75). The difference is, however, that the FA focuses on our status as universal law *givers* instead of universal law *followers* (Johnson, 2008). Johnson (2008) explains that the idea behind the FKE is that our fundamental moral obligation is to act only on principles which could earn acceptance by a community of fully rational agents, each of whom have an equal share in legislating these principles. All members of the Kingdom are united by the fact that they are bound by the FHE (Holtman, 2009, p.107). In brief, all rational beings live in a community where they are governed by laws of their own making that reflect their mutual status as ends. This community is what Kant calls the Kingdom of Ends (Holtman, 2009, p.107).¹⁶

Kant's Concept of 'Duty'

The everyday meaning of the word 'duty' is that which one feels bound to do. Basically it refers to actions that we unwillingly or grudgingly undertake often even enforced by external coercion. The Kantian concept of duty refers, however, to autonomy and the free self-direction of one's life (Wood, 2008, pp.158-59). To act from duty is to do something because you know that an objectively, universally moral principle demands it, which gives you a good reason for deciding to do it, and then making yourself do it.

Kant makes a distinction between several types of duties (see figure 1.2). The first is the split between *juridical* duties, discussed by Kant in the Doctrine of Right, and *ethical* duties, discussed in the Doctrine of Virtue (Kant, 1797, 6:219-220, cited in Wood, 2008, p.161). "Juridical duties are duties that may be coercively *enforced* from outside the agent, as by civil or criminal laws, or other social pressures" (Wood, 2009, p.229, emphasis added). Ethical duties, however, cannot be enforced but rather should be derived through one's own reason (*ibid*). Within the ethical duties, a fourfold classification of duties exists, resulting from the intersection between two divisions. There is a split between duties to oneself and duties to others (Guyer, 1998, 2004). These different duties are subsequently divided in perfect and imperfect duties. Within the duties to others, perfect duties are referred to as duties of respect, while imperfect duties are referred to as duties of love. As will be argued, the Responsibility to Protect is based on the moral concern of the FHE. Therefore the analysis will focus on the concept of ethical duties – though for an exhaustive explanation of the juridical duties, please refer to Paul Guyer (1998, 2004) and Allen Wood (2008).

¹⁵ The *formula of the Kingdom of Ends* is also known as the *formula of the Realm of Ends*, "Act in accordance with maxims of a universally legislative member for a merely possible realm of ends" (Kant, 1785, 4:439, cited in Wood, 2008, p.66). This is a different definition, but it has the same meaning. Throughout the Categorical Imperative literature these definitions are used interchangeably.

¹⁶ For a more detailed and critical description of the relation between the FA and the FKE, please refer to Holtman (2009) and Johnson (2008).

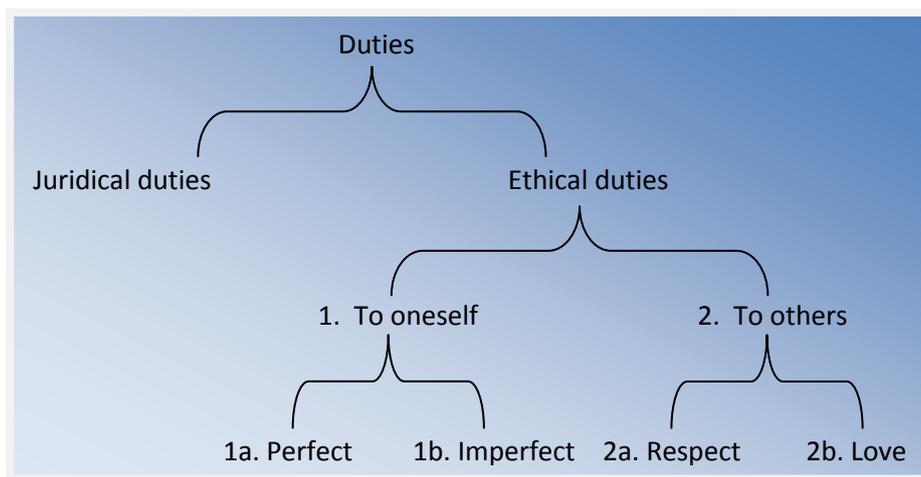


Figure 2.1: Kant's classification of duties (Wood, 2009, p.230).

Within the category of ethical duties, it is important to distinguish between the two *ends* that are also duties for human beings. According to Kant, the supreme principle of the doctrine of virtue is to “...act in accordance with a maxim of *ends* that it can be a universal law for everyone to have” (Kant, 1797, 6:395, cited in Wood, 2009, p.231). In accordance with this principle, a human being is an end for himself as well as for others. Therefore, the *end* of the duty to oneself is ‘our own perfection’ and the *end* of the duty to others is ‘the happiness of others’ (Wood, 2008, p.167).

Ethical Duties – To Oneself

For Kant, there is no direct duty to promote one’s own happiness, since this is something we inevitably pursue without the constraint of duty (Wood, 2008, p.171). Wood emphasizes that there might be an *indirect* duty to promote one’s own happiness, but only when it falls under the heading of promoting either one’s own self-perfection or the happiness of others (ibid). Duties to oneself are thus not about self-interest, nor about promoting one’s own welfare, but rather about self-perfection and being worthy of one’s own humanity (Wood, 2009, p.235).

Kant makes an important distinction between perfect and imperfect duties. This distinction is essential because failure to perform a perfect duty is morally blameworthy or a *vice*, while failure to perform an imperfect duty is not morally culpable, it is merely meritorious when one does perform it. In other words, *perfect* duties are limiting (negative) duties that forbid a human being to act contrary to the end of one’s nature (own perfection) and so have to do merely with one’s moral self-preservation. (ibid, p.236), whereas *imperfect* duties are “...ends that we are required to have regarding our own perfection, whose promotion in action is meritorious, but the failure to promote them is never blamable (ibid, p.243). An example of a perfect duty to oneself is to refrain from suicide. It forbids us to commit suicide because this is not resulting in one’s own perfection (Johnson, 2008). An example of an imperfect duty to oneself is to develop one’s talents (ibid). Attempting to improve our skills to play the piano are an imperfect duty, since improvement is meritorious, but failing to become a concert pianist is not morally blamable. Making the effort to develop one’s talents is good enough.

Ethical Duties – To Others

Regarding duties to others, Kant states that “...our self-love cannot be separated from our need to be loved by others as well; we therefore make ourselves an end for others” (Kant, 1797, 6:395, cited in Wood, 2008, p.167). Following the FUL, the only way this maxim can be made binding is through its qualification as a universal law, hence through our will to make others our ends as well (ibid). In other words, the only way we can have respect from others is if we respect others as well.

Just as within the duties to oneself, within the duties to others, Kant makes a distinction between perfect and imperfect duties, or in this case duties of *respect* and duties of *love*. The duty of respect follows from the claim that humanity in the person of every rational being has *dignity* – that is, a worth that is above all price, that must always be respected and cannot rationally be sacrificed in exchange for any other value (Wood, 2009, p.245). *Respect* is the proper rational attitude toward something that has objective value, and *contempt* is treating something as without value. Therefore, treating any rational human being as if they lacked dignity is to treat them with contempt (ibid). The duty of respect is a perfect duty because Kant emphasizes that what is most fundamental to our duty to respect others is our duty to preserve *their* self-respect. Rational human beings have a perfect duty to avoid doing anything that would cause them to lose respect for themselves as rational beings with dignity (ibid). A famous example of a duty of respect is to refrain from making promises that you have no intention of keeping (Johnson, 2008). Making false promises is treating people with contempt and therefore without value and without respect for their dignity as rational beings. The duty of respect forbids us to take actions that harm the happiness of others.

The duty of love is also known as the duty of beneficence. To be beneficent is to promote, according to one’s means, the happiness of others in need without hoping for something in return. The point is not to try to improve others by promoting what we think they should have as their ends, but at present do not have (Baron & Seymore Fayme, 2009, pp.213-14). We cannot precisely tell others what to do, as this would be paternalistic. Since there is no strict set of guidelines that tells us how to promote the happiness of others, it cannot be a narrow or perfect duty. The duty of love is the imperfect duty to contribute to the happiness of others. Doing so is only meritorious and it is not morally culpable when one fails to do so (Johnson, 2008).

The Responsibility to Protect: a ‘Kantian’ Duty to Protect

The following section will argue that the *Responsibility to Protect* is in fact a *duty* to protect, according to Kantian ethics. Following Kant’s concept of duty, and supported with his idea of the Categorical Imperative, the roots of the Responsibility to Protect can be traced back to the duty of respect (see Figure 2.2). The argument that the R2P is an ethical duty to others that is morally blameworthy when it is not upheld leads to the conclusion that the international community has the moral obligation to act against the severe human rights violations occurring in North Korea. This section will show first why the R2P is an ethical duty and not a juridical duty, second explain why it is a duty to others and not a duty to oneself, and third elaborate on the statement that the R2P is a duty of respect and not a duty of love. The combination of Kantian morals and the Responsibility to Protect from now on will be referred to as “the Kantian R2P”.

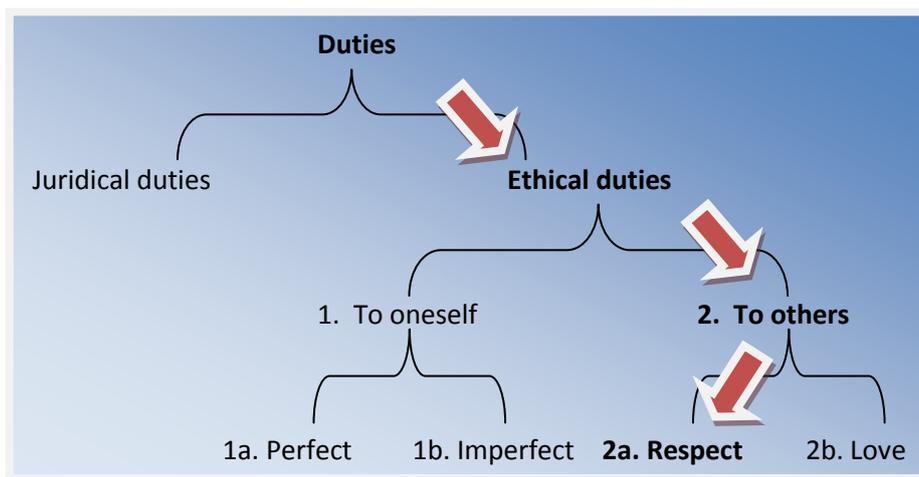


Figure 2.2: Kant's classification of duties – a duty to protect

The Kantian R2P – An Ethical Duty

If a juridical duty is a duty that may be coercively enforced from outside the agent for example by civil or criminal laws (Wood, 2009, p.229), then one must conclude that the R2P is not juridical because it cannot be enforced by law. Although the concept was endorsed by the UN General Assembly in 2005 and reaffirmed by the UN Security Council in 2006 through resolution 1674, it cannot be considered legally binding – even though it reflects world opinion (International Coalition for the Responsibility to Protect, 2010). There is, however, a moral or ethical argument to be made for the R2P. Even though the principle cannot be enforced by, for example, the international court of justice, the members of the UN General Assembly and the UN Security Council did support the idea of the R2P based on moral grounds (ibid). The R2P can also be considered as supportive of one of the *ends* that Kant lays out as the supreme principle in his Doctrine of Virtue - that is, the happiness of others (Wood, 2009, p.231).

The Kantian R2P – A Duty to Others

Subsequent to the idea that the R2P is supporting of the *end* of happiness of others, the R2P is a duty to others and not a duty to oneself. The R2P is not about self-perfection, as we are not trying to be better people with more moral worth. To the contrary, the R2P focuses on protecting populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We have to protect people because people deserve our protection out of respect for humanity. Therefore, it is the task of each state to use appropriate and necessary means to uphold their own responsibility and to assist other states in upholding their responsibility (International Coalition for the Responsibility to Protect, 2010). If states want to be protected against atrocities such as genocide and crimes against humanity, and they want to be assisted in their protection, it means that, following Kant's FUL, they have to assist others as well. This is supported by Kant's statement that "...our self-love cannot be separated from our needs to be loved by others as well" (Kant, 1797, 6:395, cited in Wood, 2008, p.167), and that based on the idea of universality we therefore have to make others our ends as well (ibid).

The Kantian R2P – A Duty of Respect

If we accept the idea that the R2P is a duty to others, the final distinction that has to be made is between a duty of respect and a duty of love. Carla Bagnoli argues in her paper on humanitarian intervention that there is a strict moral duty to intervene when fundamental human rights are violated (Bagnoli, 2006, p.119). As explained earlier, it appears that the R2P cannot be equated to humanitarian (military) intervention. Instead, this thesis takes a broader and more moderate approach to the concept of ‘protection’. Nevertheless, parts of Bagnoli’s arguments, also based on Kantian ethics, hold true when it comes to this interpretation of the R2P. Therefore, the aforementioned analysis appears to agree with Bagnoli’s argument that the R2P follows from respect for humanity and hence is not a matter of charity (ibid, p.118).

If we acknowledge that there is a duty to protect human rights grounded on a respect for humanity, it would be inappropriate to say that we have merely a *permission* to protect. “Morality does not simply ‘allow’ us to respect people: it demands, it requires, it commands that we do so” (Bagnoli, 2006, p.121). Referring back to Kant’s FHE where he states that human beings have “...specific duties to develop our own powers of rationality, to give weight to others’ choices and concerns, and to treat others with respect” (Kant, 1785, 4:429, cited in Wood, 2008, p.84), it becomes clear that respect for humanity (a respect for human dignity), is a value that has a greater moral worth than any other value. If one does not want to be treated with contempt, one should also not treat others with contempt.

Bagnoli states that human rights are necessary to express who we are and to exercise our rational agency, and that humanity is the criterion for membership in the moral community. This community is regulated by moral norms to which all members, as free and rational agents who are capable of self-legislation, are accountable (Bagnoli, 2006, pp.126-27). The community Bagnoli is referring to is Kant’s “Kingdom of Ends,” where every member must act on principles that could earn acceptance from a community of fully rational agents, all of whom have an equal share in legislating these principles (Johnson, 2008). Therefore, “...every human being has a legitimate claim to respect from his fellow beings and is in turn bound to respect every other” (Kant, 6:462, cited in Bagnoli, 2006, p.127).

An additional reason that the R2P should not be a duty of love or beneficence is that states would or could have the option to remain neutral, or to ‘look the other way’ when severe human rights violations occur. Were the R2P a duty of love, their neutrality would not be morally objectionable (ibid, p.118). In short, the R2P is a duty of respect according to Kantian ethics, because it is a moral or ethical duty to others that is morally culpable if not discharged. The following section will provide a more elaborate discussion as to why neutrality and the principle of nonintervention are not desired and do not converge with the R2P as a duty to protect.

The Kantian R2P - Sovereignty and Neutrality

Harking back to the earlier discussion on state sovereignty and neutrality, it is important to clarify why claims of sovereignty or neutrality are morally unacceptable objections to make if we accept that one has a duty to protect. One problem with claiming that the R2P is in fact a *duty* to protect is that it seems unclear whose duty this actually is. The international community as a whole is not a functional institution or agent that has the potential to protect populations against severe human rights violations. As long as there is no

specific agent who has the moral duty to act, it becomes problematic to state that the duty to protect is a strict or a narrow duty (Bagnoli, 2006, p.122; Tan, 2006, p.86). States seem to have the option to claim neutrality based on the nonintervention principle and the idea of state sovereignty – which is unacceptable based on a Kantian reading of morality.

International relations are premised on the idea that states have sovereign political authority over their territories, and the principle of nonintervention protects this sovereignty. As explained earlier, the core idea of the R2P is also to strengthen state sovereignty. Michael Walzer (1980) writes that the principle of sovereignty: “...derives its moral and political force from the rights of contemporary men and women to live as members of a historic *community* and to express their inherited culture through political forms worked out among themselves”(Walzer, 1980, p.211, in Tan, 2006, p.91). However, Walzer also notes that when human rights abuses in a state are so extreme as to make any talk of community or self-determination “cynical and irrelevant,” that state forfeits its claim to sovereignty, and international action, under the right conditions, may be taken against it to end the abuses. In other words, in case a state does not uphold its responsibility to protect its own population against genocide, war crimes, ethnic cleansing and crimes against humanity; sovereignty is trumped by the Kantian R2P. Protecting people is in that case more important than the principle of state sovereignty and the principle of nonintervention (Bagnoli, 2006, pp.117-18).

Just like there is a right to nonintervention born from sovereignty, there is also a right to neutrality which is linked to sovereignty. In that case, if “terrible” human rights violations constitute sufficient grounds to override the claims of sovereignty in one case, they should also be sufficient enough to override the claims of sovereignty in the other (Tan, 2006, p.94). When we agree that severe human rights violations lead to a duty to protect, we cannot accept that states take a ‘neutral’ position just because of a lack of a responsible agent. The duty to protect derives from the commitment to human rights, and this commitment can overrule the right of states to remain neutral (ibid, p.92). The Kantian duty to protect is a duty of the entire international community. It is a duty that the international community has out of respect for humanity. Therefore, the entire international community is morally culpable or blameworthy until they take the necessary steps to assign and allocate the responsibilities to facilitate the discharge of the collective duty (Bagnoli, 2006, p.121). In short, if human rights violations are severe enough to take precedence to state sovereignty, they are also severe enough to override state neutrality. The R2P is a *duty* to protect and this duty cannot be averted by claiming neutrality.

The Aid Community and the Kantian R2P

It was established earlier that there are three different types of humanitarian assistance provided by the international community: 1. multilateral aid provided by the WFP; 2. bilateral agreements between North Korea and South Korea, and North Korea and China; and 3. aid delivered by the NGO community. All parties have different motives regarding why and how they assist the North Koreans. In this section, these differences will be scrutinized closely and subsequently coupled with the Kantian R2P. To determine their compliance it will be demonstrated that the international community, South Korea and China are all bound by the R2P, and that Kantian ethics can be applied to their motives, but in markedly different ways.

Humanitarian Assistance Motives of the International Community

While this thesis has used the World Food Programme (WFP) as a unit of analysis that characterizes the international community, it is important to point out that the WFP is made up of different partner countries, all with strategic social, political, economic and security interests. As a result, the motives for involvement in North Korea can be seen as two-fold: humanitarian and political. The WFP declares in its mission statement that its core policies are to save lives in refugee and other emergency situations; to improve the nutrition and quality of life of the most vulnerable people at critical times in their lives; and to help build assets and promote the self-reliance of poor people and communities, particularly through labor-intensive works programmes (World Food Programme, 1994). Its mission is to feed the most vulnerable and to try to end human suffering. It is clear that the people of North Korea need assistance and the WFP is the representative organization of the international community to provide this assistance. However, the WFP is a multilateral organization that is dependent on voluntary contributions from its member states. Individual states will have to attribute resources to the WFP so that they can provide the necessary humanitarian assistance. While all the individual states affirmed the Responsibility to Protect in the UN General Assembly in 2005 and thereby agreed to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, member states have strategic interests in North Korea which affect the ways in which humanitarian contributions are distributed. Also, exactly how every state will go about upholding its R2P is not solidified within the UN General Assembly agreement, although they have agreed to act in accordance with Chapters VI and VIII of the UN Charter. Therefore, different member states may exercise their R2P in drastically different ways, and with drastically different outcomes.

Aside from the international community's involvement premised on the R2P and humanitarian reasons, there are also political reasons for its partaking in relief efforts. The humanitarian crisis in North Korea cannot be separated from the country's perceived 'pariah' status and the nuclear security threat that it poses to the outside world. As a result, the international community must, in its efforts to assist the population, deal with a regime that is responsible for the creation of the world's most militarized society. North Korea has a million-strong army and claims to be in possession of nuclear weapons. Therefore, any humanitarian assistance must be contextualized within the current political situation of North Korea. It can hardly be seen as a secret, then, that donor countries hoping to help with the humanitarian crisis would prefer to do so in a more stable and open political environment. It is not a surprise, therefore, that many donor countries would support a regime change that would neutralize the threat. Of course, though, among donor states and concerned parties there does not seem to be a consensus on whether to push for regime collapse or rather attempt to stabilize the situation.

In the North Korean case, it is difficult to distinguish the fine line between donor countries' political motives and humanitarian reasons for involvement, given that the two areas overlap. As a result, there has, in recent years, been significant debate regarding the idea of a forced regime change in North Korea for humanitarian purposes. For example, as Haggard and Noland (2007, pp.209-242) claim, the only way to resolve the humanitarian crisis is when the regime changes its *juche* or self-reliance ideology. As a result of maintaining its *juche* policy, North Korea, ironically, has become more reliant on external involvement, i.e. the outside world has to step in when North Korean agricultural or economic

production experiences a shock – for example, due to changing trade-relations or weather conditions. That said, however, history has shown that it is extremely unlikely that the regime will switch policy positions and let go of its self-reliance ideology, as the state's existence is premised upon it. As a consequence, many argue that the only solution to the humanitarian crisis is a regime change, although the question remains if that can happen without international pressure.

In view of the fact that many members of the international community seem to feel that a policy or regime change in North Korea would improve the current situation, they apply a protection strategy that involves pressure and conditional aid. The WFP requests to monitor its relief operations, first of all because the organization is accountable for what happens to aid provided by its donors, but secondly in order to keep the *regime* accountable for its actions, which in no small part adds legitimacy to the argument for a regime change. Target groups are defined and if aid does not reach the intended beneficiaries – as a result of government interference – the WFP can try to hold the regime accountable. The international community tries to hold the regime responsible for its actions as well and institutes sanctions in attempts to influence the government's behavior. The fact that these sanctions are often ineffective can be attributed (in part) to South Korea and China acting as suppliers of last resort.

The International Community's Motivations and the Kantian R2P

Examining the actions of the international community towards North Korea from a Kantian R2P perspective, it becomes clear that the international community is obliged to provide assistance to the people of North Korea since they are bound by Kantian morals. All member states of the UN General assembly affirmed the R2P, and as demonstrated earlier in this thesis, therefore have a moral *duty* to protect – a duty that derives from a commitment to human rights grounded on a respect for humanity. This respect for humanity has greater moral worth than any other value. If people in the international community want to be treated with respect, they should also treat the people of North Korea with respect and for that reason they have the duty to act. The international community does not have the option to look the other way and let the North Koreans starve, because they are bound by Kantian ethics.

Humanitarian Assistance Motives of South Korea

The South Korean government takes a particular and unique approach to humanitarian assistance in North Korea for a variety of reasons. As Sunim Pomnyun (2009) – chairman of Good Friends – argues, for the South Koreans the idea behind the provision of unconditional aid is fourfold. First of all, South Korea follows the principle that humanitarian aid should not be strictly tied to political affairs. The people in North Korea are not only their neighbors; they are family members, South Korea's 'brethren'. Essentially, humanitarian aid should continue in consideration of poor conditions (Pomnyun, 2009). Second, unconditional aid is a matter of international obligation and prestige. The South Korean government cannot ignore human suffering, simply because they disagree with the Northern regime (*ibid*). Thirdly, unconditional aid is a component of the unification strategy; in case the two Korea's ever unify, the act of helping the population of North Korea while they are in distress will ostensibly gain support from the North Korean population and help to increase acknowledgement by the international community that the North and South should be one country (*ibid*). Fourthly, South Korea has a minor economic interest in maintaining relations

with Pyongyang without creating unnecessary tension, because under the umbrella of former president Kim Dae-jung's "Sunshine Policy"¹⁷ the South Koreans developed, albeit limited, private sector trading with or investing in North Korea.

The standpoint of the South Korean government has powerful consequences for the larger picture of the humanitarian crisis. By providing unconditional bilateral aid, the South Koreans appear to be indirectly supporting the North Korean government and keeping the regime in power. It also provides the regime the opportunity to erode further the modest and ineffective monitoring system implemented by the WFP. The North Korean government can choose not to comply with the demands made by the WFP because they have alternative sources of supply offered to them by South Korea as well as China (Haggard & Noland, 2005, p.32). In other words, South Korea's good will, tempered to support their 'brethren' in the North, has the unintended consequence of undermining the WFP's attempts to uphold norms embodied in international agreements to which South Korea is a party (ibid).

South Korea's Motives and the Kantian R2P

Applying the Kantian R2P to South Korea's policies, the question arises if they are morally blameworthy for the prolonged suffering of the people of North Korea. Looking at the facts, it is clear that South Korea has humanitarian motives for their actions. The South Koreans do not use the people of North Korea as a means to an end – quite the opposite. The political or economic interests of South Korea are irrelevant when it comes to humanitarian assistance, as the aid comes without any conditions attached. The South Koreans try to relieve the suffering of their neighbors, and in that way they are upholding their Kantian duty to protect. In the best-case scenario, South Korean aid reaches the most vulnerable victims of the crisis, and acts as an effective way to improve the situation on a short-term. Sadly though, in a less positive scenario, the actions of the South Koreans indirectly support the regime and undermine relief efforts of the international community. In this way, the South Koreans might actually be prolonging the humanitarian crisis. If we agree that the South Koreans are upholding their duty to protect, it points out the predicament of this case that being bound by Kantian ethics unfortunately does not always lead to a desired outcome, in this case resolving the humanitarian crisis.

Humanitarian Assistance Motives of China

Similarly to the South Koreans, China upholds bilateral aid agreements with Pyongyang without conditions, although with seemingly different motives. The amount of aid and trade between China and North Korea is unclear, but research by Marcus Noland shows that the North Korean regime has the option to fall back on the Chinese government whenever the international community implements sanctions or takes restrictive measures regarding the provision of humanitarian assistance¹⁸. The motives of the Chinese government are of a

¹⁷ In an April 4, 1998, speech, President Kim stated that his Sunshine Policy he "seeks to lead North Korea down a path toward peace, reform and openness through reconciliation, interaction and cooperation with the South." The policy is based on three basic (1) an intolerance of any armed provocation by North Korea; (2) an acknowledgment that South Korea will not attempt to absorb or undermine North Korea; and (3) a commitment by South Korea to actively seek opportunities for cooperation and reconciliation with North Korea (Havel et al., 2006, p.78).

¹⁸ Noland (2008) shows in his working paper 'The (Non) Impact of UN Sanctions on North Korea', that the imposition of UN Security Council sanctions on North Korea had no perceptible effect on North Korea's trade with its two largest partners, China and South Korea. He states that "if sanctions are toothless or major powers

different nature, however. Whereas the South Koreans claim to act out of humanitarian beliefs, the Chinese do not appear to be so compassionate and interested in the well-being of the people of North Korea¹⁹. Rather, their political and national security interests are of higher importance. Because South Korea has close ties with the US, politically, economically as well as military, there are about 29,000 US troops and marines located along the DMZ and in various other places south of the 38th parallel (Bajoria, 2009). As a result, North Korea can be viewed as a “buffer zone” between China and the western world. Keeping the North Korean communistic regime in charge will automatically keep South Korea and the US at a fair distance, making the Sino-North Korean border of less importance to the Chinese government. China can thus afford to position its troops elsewhere (ibid).

Furthermore, the economic interplay between China and North Korea must be underscored. China is North Korea’s largest trading partner, but is of minor significance to the Chinese economy. In 2006, North Korea ranked 65th among China’s export markets – smaller than Bulgaria, Egypt and Hungary. As a source of import, it ranked 64th – lower than Gabon, Peru, or Belgium (Chanlett-Avery & Nanto, 2010, p.32). Therefore the economic interest to China is not very strong, and therefore it is unlikely that it is the primary reason of China’s continuing support of the regime. However, by strategically providing bilateral and unconditional aid, as well as vetoing sanctions against North Korea in the UN Security Council (Noland, 2008, p.10), the Chinese can undercut the international community’s efforts to apply pressure to the North Korean regime and thus indirectly protect their own borders.

China’s Motivations and the Kantian R2P

From a Kantian R2P perspective, China’s strategy is hard to justify. While it may be true that the people of North Korea are helped through the unconditional aid of China, at the same time China is actively trying to keep the North Korean regime in power. Seemingly, China acts out of political and national security interests, i.e. out of self-interest and in doing so they use the people of North Korea as a means, thereby standing in direct contradiction of Kant’s second formula of the Categorical Imperative that states that one should “...use humanity, as much in your own person as in the person of every other, always at the same time as an end and never merely as a means” (Kant, 1785, 4:429, cited in Wood, 2008, p.66). It would appear, therefore, that even the well-meaning ends of Chinese intervention are not based upon Kantian morals, but rather upon self-interest. Given that China affirmed the R2P but is not acting in accordance to Kantian ethics, nor upholding its Kantian R2P, they are morally culpable for the prolonged suffering of the people of North Korea.

Humanitarian Assistance Motives of the NGO Community

Because the role of the NGO community in North Korea is limited, and more importantly because the NGO community has not (nor should it) affirmed the R2P, the moral Responsibility to Protect must be viewed in a different light. As highlighted earlier, the North Korean regime has made it extremely difficult for NGOs to function in the country and to provide effective and efficient humanitarian assistance. As a result, many NGOs have decided

acquiesce in the face of such provocations, it makes deterring North Korea all the more difficult in future conflicts as well as establishes an unwelcome precedent for other countries contemplating emulation” (Noland, 2008, p.2).

¹⁹ For example, the Chinese authorities repatriate North Koreans who crossed the border illegally and in so doing condemn them to incarceration in labor-training facilities in North Korea (Haggard & Noland, 2010, p.2).

to suspend their operations and to leave the country. Nevertheless, the remaining NGOs work to provide humanitarian assistance to whomever they can, playing a crucial role in aid provision in an otherwise closed country. The NGO community that is active in North Korea can be expected to act solely out of humanitarian principles, as they have no other motives than to relieve the suffering of the people of North Korea.

As previously contended, NGOs are not bound by the R2P, since they never affirmed this doctrine in the UN General Assembly. NGOs work on a voluntary basis and can thus not be held responsible when they decide to suspend their activities. Seen from a Kantian R2P viewpoint, the NGOs in North Korea therefore are not morally culpable. Nevertheless, because of the important role that NGOs play in the aid assistance in North Korea, and because the NGO community takes a different approach to the international community they must be included in the analysis of a Kantian R2P.

How to Change the Status Quo: Alternative Solutions

Given that the status quo does not seem to resolve the current humanitarian crisis, it is important to examine if there are any viable alternative solutions to the humanitarian crisis in North Korea. In the following section, the possibilities and likely results of a larger international alliance among the international community, South Korea and China will be discussed. Seemingly, a combination of the WFP and South Korean aid might be fruitful in providing more efficient humanitarian assistance and, with support of China, the North Korean government might be forced to change their problematic policies.

Alternative A:

South Korea and the World Food Programme synchronize their policies and work in collaboration.

Haggard and Noland emphasize that the policies of the South Korean government are disappointing since they ignore international humanitarian norms and undermine the relief efforts of the international community (Haggard & Noland, 2005, p.23). A joint operation between South Korea and the WFP would be beneficial in several ways. First of all, South Korean experience in North Korea would be of invaluable assistance to the WFP. Combining the networks of the international community and the South Koreans most likely would result in reaching a larger share of the most vulnerable and intended beneficiaries in the DPRK (ibid, p.37). Secondly, South Korean assistance would benefit from more stringent rules focused on targeting and monitoring. By following the same guidelines as the international community, aid efficiency could be increased. Thirdly, removing South Korea as a supplier of last resort for the North Koreans would limit the North Korean's option of avoiding international pressure. If the North Koreans cannot turn to South Korea when they do not want to comply with WFP regulation the only option is to turn to China. Beijing, however, may on its own turn want something in return (for example more financial compensation) for their assistance. In other words, by creating a larger alliance the leverage on the regime would be increased, and the options to escape sanctions would be limited.

This WFP-South Korean alliance seems to have two possible outcomes. First, the North Korean government would be forced to change its policies and comply in more instances with humanitarian norms regarding aid deliverance. Alternatively, North Korea

would strengthen its ties with China and become more dependent on Chinese assistance and trade, thereby escaping international pressure. Given the regimes previous actions the second option – unfortunately – seems to be more realistic.

Alternative B:

South Korea, China and the international community form an international alliance to maximize leverage over North Korea.

The second alternative solution to the humanitarian crisis would involve a full-scale international embargo. In order to establish this type of restriction, there must be a strong ‘international alliance’, including the international community, South Korea AND China. This option seems unlikely, although not completely impossible. China has stated several times that it believes that a denuclearized peninsula would be the best alternative, and even though they might prefer to have a “friendly” country serving as a buffer-zone, the option of having a nuclear war on the Asian continent is not appealing (Haggard & Noland, 2007, p.239). On the other hand, Beijing has repeatedly opposed harsh economic sanctions to protect the North Korean regime (Bajoria, 2009; Noland, 2008, p.3). However, in case that the North Koreans continue to threaten with nuclear weapons, a full-scale international embargo could remain one of the options. Haggard and Noland estimate that in the event that trade and remittances were cut off completely, efforts to trade by sea will be met with interdiction and North Korea would experience worse economic performance than during the crisis of the mid-1990s in that case the likelihood of regime change would be over 40 percent in the first year, with a virtual certainty of collapse in the medium run (Haggard & Noland, 2007, p.223; Noland, 2003).

In the case of an international embargo, there appear to be two plausible scenarios that would precede the collapse: First, the North Koreans would find no other way out and decide that compliance with the international alliance is the best solution. They would reverse their ideology of self-reliance; modify their policies on human rights, and increase imports and exports. This scenario of course does not guarantee a regime change, or even a North Korea permanently free from hunger, but the relaxation of social control and establishment of fundamental rights of a free and open society are a necessary prerequisite for such a change to occur (Haggard & Noland, 2007, p.242). In other words, the opening of the government and the economy would be a start and, with help from the international alliance, the humanitarian crisis could be resolved. On the other hand, the second scenario is more dire. An alliance could end up in a game of “who blinks first” to see who will back down first in a standoff over the starvation of the North Korean people. The international alliance could force a complete embargo, by implementing political and economic sanctions and withdraw all humanitarian assistance. The North Korean government has previously shown willingness to hold its own population hostage to the humanitarian impulses of outsiders (Haggard & Noland, 2005, p.11). They demonstrated in the 1990s that they are willing to sacrifice the people of North Korea for its political and ideological beliefs and if the international alliance will not play by their rules, it is not unlikely that the country will face more starvation. As the starvation in North Korea reaches record highs, the government would be forced to make a change in a positive direction, to keep its people from dying.

Trying to force policy or regime change by entering a stare-down is hazardous, because it requires taking the risk that the regime will let its people starve. The only way for

the international community to win this stare-down with the North Korean government is by showing the same willingness as the regime, to let the people of North Korea starve. Only when the regime realizes that the international alliance will not give in, and that the regime is following a path of self-destruction, might they capitulate. However, until they reach that point, many lives will be jeopardized - exactly what the alliance cannot allow because they are bound by the R2P. They have a duty to protect, a Kantian duty of respect – and as established previously in this thesis – that is more important than any other value, such as national political or security interests. The international alliance cannot use the people of North Korea as their means to a greater goal, as it goes against their moral and humanitarian values.

Conclusion: Stuck in a Quagmire

This thesis has laid out the status quo in the DPRK, the moral responsibilities of the international community and the different alternatives to resolve the current humanitarian crisis in order to address the research question of how and to what extent can the international aid community best provide humanitarian assistance and uphold their Kantian Responsibility to Protect, given the circumstances that the North Korean regime is unwilling or unable to protect its people from a humanitarian crisis? The analysis has demonstrated that the best possible and most feasible alternative (“cooperate” with the North Korean regime and target and monitor aid as much as possible), unfortunately, does not resolve the humanitarian crisis. The status quo is not ideal, but it appears to be close to the most suitable option. Given the circumstances, the only viable option the international community seems to have is to form an alliance with South Korea, and ideally also with China, but subsequently still play by North Korea’s rules. By creating one front, they can try to generate as much leverage as possible, without pushing too hard and jeopardizing the people of North Korea. Continued targeting of the most vulnerable population and monitoring aid effectiveness – in so far as the regime allows it – will hopefully help as many people as possible. Any country that signed the R2P should follow the Kantian duty to protect, which inevitably disallows them to be “tough enough” to force the North Koreans to play by the international rules.

Paradoxically, given the circumstances, the only way the international community can assist the people of North Korea is by accepting the rules of the North Korean government and in so doing, (indirectly) support the regime and its policies – consequently prolonging the humanitarian crisis. If a regime change is truly a prerequisite to resolving the suffering of the people of North Korea, the only solution is to act inhuman (by Kantian standards) and let people starve.

A regime change might lead to improved conditions in the country, but there is, of course, no guarantee that such will be the case. The Kantian duty of respect does not allow for a utilitarian approach²⁰ to a humanitarian situation. Resolving the crisis is not, nor can it be, a matter of which alternative would lead to fewer casualties. It is simply not possible to

²⁰ Utility is the consequentialist doctrine that seeks to maximize the enjoyment of a good for the most number of people. In the context of the R2P, a utilitarian requirement would be to maximize overall human rights enjoyment by either engaging in or refraining from protective actions, the use of which depends on the nature and severity of the human rights violations (Heinze, 2003, p.86).

estimate how many people would die, if the international community enters a stare-down with the regime, and it is also impossible to calculate how many people would be saved by not having the current regime in charge in the future.

Thus, the international community finds itself in a moral quagmire. The only way to uphold the R2P and end the humanitarian crisis in North Korea is by disregarding Kantian ethics and ignoring the duty to protect. However, overlooking Kantian ethics is exactly the one thing the international community cannot do. Respect for humanity is of higher moral value than any other value, and so disregarding this respect for humanity, or treating humanity with contempt, is morally culpable. If one does not treat others with respect, one cannot in turn expect to be treated with respect. There is simply no way out of this predicament as long as the international community is required to uphold the Kantian R2P.

One small and equally disheartening caveat must be added to this bleak analysis. While this thesis has examined the doctrine of the Responsibility to Protect from a moral philosophical perspective, there is nevertheless a difference between morality and politics. Letting people starve might be against Kantian ethical values – and against every other moral value imaginable – but as history has shown time and again, political decisions are not always based on morals. Money plays a role, just as national political and security interests are important. The WFP is dependent on donations made by member countries, and without sufficient resources the people of North Korea cannot be helped out. While international support for humanitarian assistance to North Korea has always had its ups and downs, one cannot expect that the international community to eternally keep assisting a country that keeps refusing to respect international humanitarian norms. Eventually, or inevitably, money or patience will run out, and individual country's material and political interests will win out over the plight of the North Korean people. This means, then, that while playing the “who blinks first” game might be immoral, politically it can still be a feasible option – even if it means using the people of North Korea as a means to an end. Either way, the North Korean people will not, and cannot, benefit from the best of intentions of the international community to keep them from starving at the hands of a corrupt and brutal dictatorship.

Executive Summary

In 1948, Kim Il-sung established the Democratic People's Republic of Korea and introduced a national ideology referred to as *juche*, typically translated as "self-reliance." Its core concept is the ability to act independently without regard to outside interference. North Korea is characterized by a complete absence of political and civil freedom and rights. Reports of Human Rights Watch and Amnesty International state that there is no freedom of speech, religion, assembly, and movement. Violators can end up in political prison camps, or "labor-training centers" (where they are exposed to extreme deprivation with respect to food, medical treatment, torture and public executions). Besides the gross violations of human rights, North Korea has a one million strong army and is known as world's most militarized society. Through several tests the regime has proved that it possesses nuclear weapons and so far has refused to sign a non-proliferation treaty.

Even though the government has actively pursued its *juche* ideology, it has needed the support of external parties for its survival. Until the collapse of the Soviet Union in the early 1990s, the country was highly dependent on trade with and aid from their communist allies. Even though China replaced the Soviets as the main supplier of food and energy in the 1990s, it was not enough to divert one of the worst famines of the 20th century in which approximately 600.000 to 1 million North Koreans, or about 3 to 5 percent of the population, perished. The Great Korean Famine can partly be contributed to heavy floods in 1995 and 1996, but North Korea experts Haggard and Noland argue that the lack of timely and decisive response and the military-first policy on the side of the government have without a doubt severely added to the severity of the crisis.

15 years after the start of the first famine, the country still has not completely recovered. On the contrary, research in 2008 has shown that the country was once again facing food shortages, and the latest reports in 2010 indicate that North Korea is on the brink of a new famine. Letting 600.000 to 1 million people die without adequate response from the government should be considered as a crime against humanity. In order to avoid another humanitarian crisis, it is up to the international community to act. Therefore, this thesis addresses the question: How and to what extent can the international aid community best provide humanitarian assistance, and uphold their Kantian Responsibility to Protect, given the circumstances that the North Korean regime is unwilling or unable to protect its people from a humanitarian crisis? In order to do so, this thesis examines the doctrine of the Responsibility to Protect (R2P), as well as a moral basis for the doctrine, making use of Immanuel Kant's ethics and his concept of "duty".

The question: "How to respond to gross and systematic violations of human rights that affect every precept of our common humanity?" led to the establishment of the ICISS in 2000. The report served as the basis for the affirmation in 2005 by the UN General Assembly of the Responsibility to Protect. The ICISS identified three elements in the R2P: the responsibility to prevent, the responsibility to react and the responsibility to rebuild. The provisions that were finally accepted at the 2005 World Summit and reaffirmed by the UN Security Council are built on 3 pillars: 1. the protection responsibilities of the State; 2. international assistance and capacity-building; and 3. timely and decisive response. It must be emphasized that the R2P is a way to strengthen state sovereignty and that intervention is only a last resort in case a state

is “manifestly failing” to protect its population from genocide, war crimes, ethnic cleansing or crimes against humanity. R2P critics argue that the doctrine is failing to address the problem of “agency” and that implementation is therefore challenging.

Kant’s moral philosophy is used to demonstrate that the R2P is not just a responsibility but that it is in fact a *duty* to protect. The three formulas Kant presents in his Categorical Imperative show that human dignity is of greater value than any other, that it must always be respected and that it cannot rationally be exchanged for any other value. The analysis demonstrates that the R2P is an ethical duty (a duty of respect towards others), and therefore it becomes clear that the R2P is based on the respect for human dignity. Subsequently, the R2P is of higher moral worth than any other national interest, such as domestic or international security or political strategizing. From this reasoning follows the concept of a Kantian R2P, that is the responsibility to protect based on Kantian ethics. When one does not uphold this Kantian R2P, one is morally culpable.

Linking the theory of the R2P with the real world, it becomes clear that the North Korean population needs to be protected from its government by the international community. It is the responsibility, the obligation, the *duty* of the international community to act. However, even if such a duty does exist, it is exercised in different ways and with different motives by members of the international community based on their individual political or social motivations. Multilateral aid is provided through the World Food Programme, mainly grounded on humanitarian beliefs to support the most vulnerable people at critical times in a crisis. However, WFP support is conditional, in that it must target the most vulnerable and it must monitor its operations in the recipient country – two rules with which the most secretive society in the world will not comply. A feature of the WFP is that it is dependent on donations made by its member states, and each individual state might have political and economic motives to support the people in North Korea. Haggard and Noland claim that the only way to resolve the humanitarian crisis is through regime change, and it is not a secret that many countries would prefer a neutralized regime in North Korea.

South Korea provides humanitarian assistance mainly through bilateral aid. It claims that aid should not be attached to political affairs, and in support of its ‘brethren’ aid to North Korea comes without any restrictions. This approach goes against international humanitarian norms and undermines the targeting and monitoring strategy of the WFP, thus making the assistance of the international community less effective and giving the North Korean regime an escape from international pressure.

Similar to South Korea, China also has a bilateral agreement with the DPRK. The amount of trade is considered as a state-secret, but there are signs that the North Korean regime can fall back on the Chinese government whenever necessary. China is also North Korea’s largest trading partner, a point that makes North Korea dependent on the Chinese. The main reason that China keeps a close relation to the DPRK is that the country functions as a buffer-zone between China and the western world.

The international community is obliged to provide assistance to North Korea because it is bound by Kantian morals. All UN member states have affirmed the R2P and therefore have a moral *duty* to protect the people of North Korea. However, examining the situation from a Kantian R2P perspective it becomes clear that there are different approaches to

providing humanitarian assistance, and unfortunately, following Kantian ethics does not always lead to a desired outcome. The South Koreans try to relieve the suffering of their neighbors in part because they feel bound by the Kantian R2P, but sadly enough, their approach might actually prolong the crisis in North Korea because untargeted assistance indirectly supports the regime. China's unconditional aid, based on national political interests, has the consequence that the Chinese are using the people of North Korea as a means to an end, and therefore they are not upholding their Kantian R2P – making them morally culpable for the suffering of the people of North Korea.

There are two alternatives to the status quo, both of which aim to prompt a change in the current regime's policies, or the complete downfall of the government. The first option is an alliance between the international community and South Korea that focuses on targeted aid with strict monitoring. The downside to this option, however, is that North Korea develops a greater dependency on China. The second alternative is an international alliance (the international community + South Korea + China) resulting in a full-scale international embargo. This option has the possible outcome of a regime change, or, more negatively, a stare-down between the alliance and the North Korean government – in which either the alliance will stop providing aid, or the regime will hold its population hostage to the humanitarian impulses of outsiders. In this “who blinks first” game, the international community cannot win, because Kantian morals will prevent them from letting the people of North Korea starve. The only outcome of this quandary can be that the international community continues to help the North Korean population as much as possible on the terms of the regime, thereby indirectly supporting the government and thus prolonging the humanitarian crisis. The international community finds itself in a quagmire, given that the only way to end the suffering is to be inhuman and let the people starve. As long as the international community is resolved to uphold the Kantian R2P, the humanitarian crisis in North Korea will not, and cannot, be resolved.

Bibliography

- Amnesty International, 2010. *Amnesty.org*. [Online] Available at: <http://www.amnesty.org/en/region/north-korea/report-2009> [Accessed 4 May 2010].
- Amnéus, D., 2008. *Responsibility to Protect by Military Means - Emerging Norms on Humanitarian Assistance*. Stockholm: Department of Law - Stockholm University.
- Bagnoli, C., 2006. Humanitarian Intervention as a Perfect Duty: A Kantian Argument. In T. Nardin, ed. *Humanitarian Intervention: NOMOS XLVII*. New York: New York University Press. pp.117-42.
- Bajoria, J., 2009. *Council on Foreign Relations - The China-North Korea relationship*. [Online] Available at: <http://www.cfr.org/publication/11097/> [Accessed 10 May 2010].
- Ban, K.-m., 2008. Secretary-General Defends, Clarifies 'Responsibility to Protect'. In *Responsible Sovereignty: International Cooperation For a Changed World*. Berlin, 2008. U.N. Department of Public Information.
- Ban, K.-m., 2009. Sixty-third session *Implementing the responsibility to protect*. Report of the Secretary-General. New York: U.N. United Nations - General Assembly.
- Baron, M. & Seymore Fayme, M., 2009. Beneficence and Other Duties of Love in The Metaphysics of Morals. In T.E.J. Hill, ed. *The Blackwell Guide to Kant's Ethics*. 1st ed. West Sussex: Blackwell Publishing Ltd. Ch. 10. pp.211-28.
- Bellamy, A.J., 2005. Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq. *Ethics and International Affairs*, 19(2), pp.31-53.
- Burke, C., 2009. Replacing The Responsibility to Protect: The Equitable Theory of Humanitarian Intervention. *Amsterdam Law Forum*, 1(2), pp.61-87.
- Cha, V.D. & Kant, D.C., 2003. *Nuclear North Korea: A Debate on Engagement Strategies*. New York: Columbia University Press.
- Chanlett-Avery, E. & Nanto, D.K., 2010. *North Korea: Economic Leverage and Policy Analysis*. CRS Report for Congress. Washington DC: Congressional Research Service.
- Chinoy, M., 2008. *Meltdown: The Inside Story of the North Korean Nuclear Crisis*. New York: St. Martin Griffin.
- Creswell, J.W., 2007. *Qualitative Inquiry & Research Design*. 1st ed. Thousand Oaks: Sage Publications.
- Fitzpatrick, M., 2009. Stopping Nuclear North Korea. *Survival*, 51(4), pp.5-12.

- Freedomhouse.org, 2010. *Freedomhouse.org*. [Online] Available at:
<http://www.freedomhouse.org/template.cfm?page=22&year=2008&country=7424>
[Accessed 4 May 2010].
- Good Friends: Center for Peace, Human Rights and Refugees, 2010. No.335. *Weekly Newsletter*, March. pp.1-7.
- Guyer, P., 1998, 2004. *Routledge Encyclopedia of Philosophy*. [Online] Available at:
<http://www.rep.routledge.com/article/DB047SECT10> [Accessed 4 March 2009].
- Haggard, S. & Noland, M., 2005. *Hunger and Human Rights: The Politics of Famine in North Korea*. Washington DC: U.S. Committee for Human Rights in North Korea.
- Haggard, S. & Noland, M., 2007. *Famine in North Korea: Markets, Aid, and Reform*. New York: Columbia University Press.
- Haggard, S. & Noland, M., 2008. *Famine in North Korea Redux*. Working Paper. Washington DC: Peterson Institute for International Economics.
- Haggard, S. & Noland, M., 2010. *Economic Crime and Punishment in North Korea*. Working Paper. Washington DC: Peterson Institute for International Economics.
- Haggard, S., Noland, M. & Weeks, E., 2008. *North Korea on the Precipice of Famine*. Policy Brief. Washington DC: Peterson Institute for International Economics.
- Havel, V., Bondevik, K.M. & Wiesel, E., 2006. *Failure to Protect: A Call for the UN Security Council to Act in North Korea*. Washington DC: DLA Piper US LLP U.S. Committee for Human Rights in North Korea.
- Heinze, E.A., 2003. Waging War for Human Rights: Toward a Moral-Legal Theory of Humanitarian Intervention. *Human Rights & Human Welfare*, 3, pp.83-94.
- Hill, T.E.J., 2009. Introduction. In T.E.J. Hill, ed. *The Blackwell Guide to Kant's Ethics*. 1st ed. West Sussex: Blackwell Publishing Ltd. pp.1-16.
- Hill, T., 2009. Kant and Humanitarian Intervention. *Philosophical Perspectives*, 23(1), pp.221-40.
- Holtman, S., 2009. Autonomy and Kingdom of Ends. In T.E.J. Hill, ed. *The Blackwell Guide to Kant's Ethics*. 1st ed. West Sussex: Blackwell Publishing Ltd. Ch. 4. pp.102-17.
- Human Rights Watch, 2006. *A Matter of Survival - The North Korean Government's Control of Food and the Risk of Hunger*. New York: Human Rights Watch Human Rights Watch.
- ICISS, 2001. *The Responsibility to Protect*. Commission Report. Ottawa: International Development Research Centre The International Commission on Intervention and State Sovereignty.

- International Coalition for the Responsibility to Protect, 2010. *responsibilitytoprotect.org*. [Online] Available at: <http://www.responsibilitytoprotect.org> [Accessed 16 March 2009].
- Johnson, R., 2008. *Stanford Encyclopedia of Philosophy*. [Online] (1) Available at: <http://plato.stanford.edu/entries/kant-moral/> [Accessed 1 March 2009].
- Karon, T., 2001. *Lessons of the Srebrenica Genocide*. [Online] Available at: <http://www.time.com/time/world/article/0,8599,169877,00.html> [Accessed 21 March 2009].
- Korean Ministry of Unification, 2010a. *Ministry of Unification - Humanitarian Cooperation*. [Online] Available at: http://www.unikorea.go.kr/eng/default.jsp?pgname=AFFhumanitarian_assistance [Accessed 10 May 2010].
- Korean Ministry of Unification, 2010b. *Ministry of Unification - North Korea - Tables & Charts*. [Online] Available at: <http://www.unikorea.go.kr/eng/default.jsp?pgname=NORtables> [Accessed 10 May 2010].
- Lumsdaine, D. & Schopf, J.C., 2007. Changing values and the recent rise in Korean development assistance. *The Pacific Review*, 20(2), pp.221-55.
- Noland, M., 2003. *Famine and Reform in North Korea*. Washington DC: Peterson Institute for International Economics.
- Noland, M., 2008. *The (Non) Impact of UN Sanctions on North Korea*. Working Paper. Washington DC: Peterson Institute for International Economics.
- Pattison, J., 2008a. Whose Responsibility to Protect? The Duties of Humanitarian Intervention. *Journal of Military Ethics*, 7(4), pp.262-83.
- Pattison, J., 2008b. Legitimacy and Humanitarian Intervention: Who Should Intervene? *The International Journal of Human Rights*, 12(3), pp.395-413.
- Pomnyun, S., 2009. *GoodFriends.or.kr*. [Online] Available at: <http://goodfriends.or.kr/eng/> [Accessed 7 May 2010].
- Reed, E.P., 2004. Unlikely Partners: Humanitarian Aid Agencies and North Korea. In C.-y. Ahn, N. Eberstadt & Y.-s. Lee, eds. *A New International Engagement Framework for North Korea?* Washington D.C.: Korea Economic Institute of America. pp.199-229.
- Roff, H.M., 2009. Response to Pattison: Whose Responsibility to Protect? *Journal of Military Ethics*, 8(1), pp.79-86.

- Seok, K., 2010. *Human Rights Watch - North Korea*. [Online] Available at: <http://www.hrw.org/en/news/2010/04/14/handling-next-north-korean-famine> [Accessed 7 May 2010].
- Smith, H., 2002. *Overcoming Humanitarian Dilemmas in the DPRK (North Korea)*. Special Report. Washington DC: United States Institute of Peace.
- Snyder, S., 2003. The NGO Experience in North Korea. In G. Flake & S. Snyder, eds. *Paved with Good Intentions: The NGO Experience in North Korea*. Westport, CT: Praeger Publishers. pp.1-14.
- Stake, R.E., 1995. *The art of case study research*. 1st ed. Thousand Oaks: Sage Publications.
- Tan, K.-C., 2006. The Duty to Protect. In T. Nardin, ed. *Humanitarian Intervention: NOMOS XLVII*. New York: New York University Press. pp.84-116.
- U.N. General Assembly, 2005. *World Summit Outcome*. New York: U.N. U.N. General Assembly.
- U.N. Security Council, 2006. *Resolution 1674*. New York: U.N. U.N. Security Council.
- Washington National Cathedral, 2008. *Forum Transcript*. [Online] Available at: <http://www.nationalcathedral.org/learn/forumTexts/SF080120T.shtml> [Accessed 6 May 2010].
- Weiss, T.G., 2001. Researching Humanitarian Intervention: Some Lessons. *Journal of Peace Research*, 38(2), pp.419-28.
- Wood, A.W., 2008. *Kantian Ethics*. Cambridge: Cambridge University Press.
- Wood, A.W., 2009. Duties to Oneself, Duties of Respect to Other. In T.E.J. Hill, ed. *The Blackwell Guide to Kant's Ethics*. 1st ed. West Sussex: Blackwell Publishing Ltd. Ch. 11. pp.223-51.
- World Food Programme, 1994. *wfp.org - mission statement*. [Online] Available at: <http://www.wfp.org/about/mission-statement> [Accessed 10 May 2010].
- World Food Programme, 2009. *General Regulations, General Rules, Financial Regulations, Rules of Procedure of the Executive Board*. Rome, Italy: World Food Programme.
- World Food Programme, 2010. *wfp.org - korea democratic people republic dprk*. [Online] Available at: <http://www.wfp.org/countries/korea-democratic-peoples-republic-dprk> [Accessed 10 May 2010].
- Yim, E.S., 2009. North Korea halts foreign food-aid programme. *The Lancet*, 373, p.1416.
- Yin, R.K., 2003. *Case study research: Design and Method*. 3rd ed. Thousand Oaks: Sage Publications.