

**SOVEREIGNTY IN INTERNATIONAL POLITICS: AN ASSESSMENT OF  
ZIMBABWE'S OPERATION MURAMBATSVINA, MAY 2005**

by

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Submitted in accordance with the requirements

For the degree of

**MASTER OF ARTS**

In the subject

**INTERNATIONAL POLITICS**

at the

**UNIVERSITY OF SOUTH AFRICA**

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October 2014

## DECLARATION

I, Chidochashe Nyere, declare that '**Sovereignty in International Politics: An Assessment of Zimbabwe's Operation Murambatsvina, May 2005**' is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

Signature:

Date:

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## **Acknowledgements**

‘There is nothing I cannot master with the help of the One who gives me strength’ (Phil 4:12). First and foremost, I would like to thank God who has endowed me with wisdom and intelligence to carry out this research; without God’s providence and guiding strength I would have done nothing.

Secondly, my gratitude goes to my supervisor Dr. Everisto Benyera for the immense support and encouragement he rendered to me in the course of my research project. You always challenged me and encouraged me to strive for excellence and, your personal example to me made the journey more bearable.

Thirdly, I would like to acknowledge and say a special “thank you” to my wife, Vimbai Nyere who has been unwaveringly supportive and encouraging in the duration of this research; Vimbai, *ko ndaizovei usipo nhai mumwe wangu?*

I would also like to extend my sincere gratitude to the Zitron family for their continued friendship and encouragement in the duration of my studies. I truly appreciate you Anne-Marie and Leodeggar for your invaluable support.

I would like to acknowledge the help that I received from my friends, mentors and fellow academics; special mention goes to Prof Maurice Vambe (Unisa) Dr Christabelle Moyo (Unisa), Dr Prudence Khumalo (Unisa), Mr Kunofiwa Tsaurai (Unisa) and Mrs Buhle Makamanzi-Mpofu. I also appreciate the help I received from the staff of the Department of Political Sciences (Unisa), particularly from Mr Avapfani Solomon Mudau.

Lastly I would like to thank my parents Plaxedes and Lawrence Nyere, for the nurturance, support, encouragement and values of discipline and perseverance that they inculcated in me, *Amai na Baba ndinotenda; Nyamuzihwa!* ‘And so glory be to God our Father, forever and ever. Amen’ (Phil 4:20).

## **Acronyms and Abbreviations**

AAI	Action Aid International
AIDS	Acquired Immunodeficiency Syndrome
ANC	African National Congress
AU	African Union
BEAM	Basic Education Assistance Module
BUTA	Bulawayo Upcoming Traders' Association
CHRA	Combined Harare Residents Association
CNN	Cable News Network
COHRE	Centre on Housing Rights and Evictions
CoLH	Constitution of Lancaster House (1979)
COIS	Country of Origin Information Service
CoZ	Constitution of Zimbabwe (2000)
CoZ	Constitution of Zimbabwe (2005)
CoZ	Constitution of Zimbabwe (2013)
GNU	Government of National Unity
GoZ	Government of Zimbabwe
ESAP	Economic Structural Adjustment Programme
HBC	Home-Based Care
HE	His Excellency
HIV	Human Immunodeficiency Virus
HRW	Human Rights Watch
IDMC	Internal Displacement Monitoring Centre
IGO	Intergovernmental Organisation
ICISS	International Commission on Intervention and State Sovereignty
IRIN	Integrated Regional Information Network
ISS	Institute of Security Studies
LEDRIZ	Labour and Economic Development Research Institute of Zimbabwe
LHC	Lancaster House Conference
LRF	Legal Resources Foundation
MDC	Movement for Democratic Change
MDGs	Millennium Development Goals
NAONGO	National Association of Non-Governmental Organisations
NATO	North Atlantic Treaty Organisation

NDP	National Democratic Party
NGO	Non-Governmental Organisation
OG/HK	Operation Garikai/Hlalani Kuhle
OM	Operation Murambatsvina
OVC	Orphans and Vulnerable Children
PF	Patriotic Front
PToW	Peace Treaty of Westphalia (1648)
RF	Rhodesian Front
R2P	Responsibility to Protect
SAPP	Southern Africa Partnership Programme
SPT	Solidarity Peace Trust
UDI	Unilateral Declaration of Independence
UK	United Kingdom
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
UNSE	United Nations Special Envoy
USA	United States of America
VOA	Voice of America
WHO	World Health Organisation
WMD	Weapons of Mass Destruction
WOZA	Women of Zimbabwe Arise
WSSD	World Summit on Sustainable Development
ZADHR	Zimbabwe Association of Doctors for Human Rights
ZANLA	Zimbabwe African National Liberation Army
ZANU	Zimbabwe African National Union
ZANU (PF)	Zimbabwe African National Union - Patriotic Front
ZAPU	Zimbabwe African People's Union
ZLHR	Zimbabwe Lawyers for Human Rights
ZIPRA	Zimbabwe People's Revolution Army
ZNSA	Zimbabwe National Statistics Agency
ZCBC	Zimbabwe Catholic Bishops' Conference
ZCTU	Zimbabwe Congress of Trade Unions
ZDF	Zimbabwe Defence Forces

ZPP Zimbabwe Peace Project  
ZRP Zimbabwe Republic Police

## **Summary**

Many scholars perceive state sovereignty as absolute, inviolable, indivisible, final, binding and stagnant. That perception emanates from *inter alia* political, social, cultural and environmental contexts of the modern era. Most literature converge that the doctrine of sovereignty first received official codification at the Peace Treaty of Westphalia in 1648. Contemporary international norms, particularly the Responsibility to Protect (R2P) doctrine, are arguably an environment and culture of current global politics. With human rights and democracy having taken centre-stage in contemporary political discourses, sovereignty is affected and influenced by such developments in international politics. Hence the argument that globalisation, among others, has eroded, weakened and rendered the doctrine of sovereignty obsolete. This study, using Zimbabwe's Operation *Murambatsvina* as a case study, demonstrates that sovereignty is neither unitary in practice, nor sacrosanct; it is dynamic and evolves, thus, in need of constant reconfiguration. To this end, the study uses the qualitative research methodology.

## **Key Words**

Constitution of Zimbabwe (CoZ), Globalisation, Human Rights, Operation *Garikai/Hlalani Kuhle*, Operation *Murambatsvina*, Responsibility to Protect (R2P), State Sovereignty, United Nations (UN), Violence, Zimbabwe.

**Dedication**

I dedicate this work to Tinodiwa Theo Nyere and Tinokutenda Matipa Nyere my beautiful children; Daddy loves you very much. This work is inspired by you, the thought of you propels me to excel and strive for excellence.

**Preamble**

'It would be impossible to have a society of sovereign states ... unless each state, while claiming sovereignty for itself, recognised that every other state has the right to claim and enjoy its own sovereignty as well' (Wight 1977:135).

## CHAPTER ONE: INTRODUCTION

### 1.1 Introduction

Globalisation has among other impacts, widened, deepened and sped-up worldwide interconnectedness (Baylis 2011:16), thereby condensing the world into what the popular cliché refers to as the ‘global village’. Despite the processes and merits of globalisation, states continue to jealously guard against any threats to their sovereignty, whether perceived or real. Generally defined state sovereignty implies power to control what happens in a state’s jurisdiction. Seemingly ‘absolute’ power (as once implied by sovereignty at the inception of the 1648 Peace Treaty of Westphalia) has been restricted and curtailed in the present and increasingly globalising world. It can be argued that communication technology has rendered governments powerless as they cannot effectively control information relayed and communicated to and from their jurisdictions, yet control over some jurisdiction is a necessary component of state sovereignty. Recent developments in the international political discourse, for example, the concept of Responsibility to Protect [henceforward R2P] (United Nations Summit 2005), have been interpreted as another indicator that state sovereignty is withering. The international community of states has a platform and can now legally intervene in the domestic affairs of another, under certain conditions, if approved by the United Nations Security Council (henceforward UNSC). The concept of R2P has had some impact on the traditional understanding of nation-states’ sovereignty. The intersection between R2P and the doctrine of state sovereignty is under-investigated<sup>1</sup>. In the face of globalisation, and the processes and norms associated with it, the evaluation of the doctrine of state sovereignty becomes compelling.

The modern understanding of sovereignty was permeated by the ideology of absolutism. Born out of modernism, sovereignty was portrayed as an absolute principle, indivisible, sacrosanct, stagnant, final and infinitely binding, hence perceived as a doctrine (Krasner and Froats 1996:4; Krasner 2001:99; Osiander 2001:272). Sovereignty practised today has to adapt to contemporary ideologies

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<sup>1</sup> See for example similar arguments advanced by Bajoria and McMahon (2013), King (2013), Murray (2014) and Williams (2010).

such as pluralism and democracy if it is to remain relevant. Contemporary society is permeated by pluralism. Thus sovereignty which is absolute and final is affected by the ideologies and values espoused by pluralism in contemporary society. Pluralism recognises and accepts various ideologies, preferences, perceptions and options to simultaneously, if not equally, be at play (Bahramiang and Ingram 2000; Connolly 2005:131; Eisenberg 1995:2). Therefore in the frameworks of pluralism, sovereignty is just one among many concepts, principles, ideologies and, or even, opinions and preferences. This bears directly on the indivisibility, sacrosanctity and finality of the modern understanding of sovereignty. States and heads of governments, astute as they are, are aware of the precarious position advanced by pluralism which the doctrine of sovereignty is subjected to and finds itself embedded in.

Some governments, such as Zimbabwe, Afghanistan and Iraq among others (Ditshwanelo 2006), stand accused of 'abusing' the privilege and protection that comes with sovereignty and committed crimes against humanity and gross human rights abuses (Amnesty International 2005; Human Rights Watch 2005, 2013; United Nations 2005). Seemingly Zimbabwe (2005) and Iraq (2001) adopted a different interpretation of sovereignty to that which their critics embrace. Arguably shrewd and cunning statecraft is needed to interpret sovereignty which is loaded with modern absolutist undertones, and played out in contemporary pluralistic society. In the exploration and assessment of the doctrine of sovereignty, this study will investigate Zimbabwe's May 2005 Operation *Murambatsvina*<sup>2</sup> which was justified<sup>3</sup> on the premises that it was within the sovereign rights of the state of Zimbabwe<sup>4</sup> to

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<sup>2</sup> *Murambatsvina* translates to 'drive out the filth' in the Shona language of Zimbabwe; it is officially translated as 'Operation Clean-Up' (Vambe 2008:7). Operation *Murambatsvina* is also translated as 'Operation Restore Order' (Tibaijuka 2005:62). These phrases all referring to Operation *Murambatsvina* will be used interchangeably in this research.

<sup>3</sup> It is imperative to note, from the onset, that this research assumes that the justification of Operation *Murambatsvina* provided by the GoZ is logical and therefore correct. As such, it seeks to interrogate the interpretation of state sovereignty according to the GoZ.

<sup>4</sup> This is evidenced by the remarks made by President Robert Mugabe in response to critiques of his Government-led Operation *Murambatsvina* at the 60th Session of the United Nations General Assembly on the 18<sup>th</sup> of September 2005 barely three months after the infamous Operation *Murambatsvina*. The basic justification was that it was within the sovereign rights of the state of Zimbabwe to carry out an operation such as the '*Murambatsvina* programme' to use the words of President Mugabe in that address. For the full text of Mugabe's UNGA 2005 speech refer to:

[http://www.zanupf.org.zw/index.php?option=com\\_content&view=article&id=74](http://www.zanupf.org.zw/index.php?option=com_content&view=article&id=74)).

determine its trajectory on urban dwelling<sup>5</sup> (Chimedza 2008:100; Mlambo 2008:19; Mhiripiri 2008:152,156), enforcing the rule of law (Mhiripiri 2008:153) and regulation of processes of commerce (Vambe 2008:76). Yet the execution of Operation *Murambatsvina* was condemned and described as gross human rights abuses, even by the United Nations (Tibaijuka 2005).

On the one hand, Zimbabwe's self-justification was based on the exclusivity of sovereignty and on the other hand, the international community of states have the right to intervene in a state's domestic jurisdiction if that state is unable or unwilling to protect its citizenry (International Commission on Intervention and State Sovereignty 2001:xi) as was seemingly the case with Zimbabwe's Operation *Murambatsvina*. The tool for such an intervention is R2P and the multilateralism of the UN is the platform. The R2P doctrine evolved from the doctrine of sovereignty and is designed precisely to mitigate and curb governments' abuse of, or unwillingness to protect their citizens.

This study seeks to investigate and determine if the doctrine of sovereignty indeed permitted, protected and justified the Government of Zimbabwe's (henceforward GoZ) Operation *Murambatsvina*. Zimbabwe is a signatory country to the United Nations Charter. As a member-state of the United Nations (henceforward UN), Zimbabwe subjects herself to the rules, norms, and regulations that guide and govern interstate relations as promulgated and embodied by the UN. This study will investigate Zimbabwe's argument that Operation *Murambatsvina* was justified by the doctrine of state sovereignty, against the UN definition of state sovereignty as enshrined in the UN Charter, specifically Articles 2(1)<sup>6</sup>, 2(7)<sup>7</sup> and 78<sup>8</sup>. This will

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<sup>5</sup> This position was further mirrored in President Mugabe's 26<sup>th</sup> Independence Celebrations Address on the 18<sup>th</sup> of April 2006 arguing that Operation *Murambatsvina* was a success as it was meant to be succeeded by Operation *Garikai/Hlalani Kuhle* meant to resettle displaced people as a result of the former operation. Mugabe argued that the operations that his government carried out were a consolidation and actualisation of the sovereign people of Zimbabwe's independence. For the full text of that speech please refer to: ([http://www.zanupf.org.zw/index.php?option=com\\_content&view=article&id=71](http://www.zanupf.org.zw/index.php?option=com_content&view=article&id=71)).

<sup>6</sup> Article 2(1) of the UN Charter reads: 'The Organisation is based on the principle of the sovereign equality of all its Members' (<http://www.un.org/en/documents/charter/chapter1.shtml>).

<sup>7</sup> Article 2(7) of the UN Charter reads: 'Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII' (*ibid*).

enable the study to make a critical investigation of Zimbabwe's Operation *Murambatsvina*. Despite the biased composition of the UNSC (Chandler 2008:27; Chomsky 2008:12,16; Mhiripiri 2008:153), the UN is generally accepted as an arbiter to international grievances of its member-states. This study will also investigate whether or not Operation *Murambatsvina* warranted the application of R2P. Sovereignty is premised on exclusivity while the R2P doctrine is premised on inclusivity. Are these two doctrines compatible, complimentary, reconcilable or otherwise? If Operation *Murambatsvina* warranted international intervention, was it rendered? If so how, and if not, why not?

## 1.2 Background to the Research

On the 19<sup>th</sup> of May 2005 with little, if not without warning at all, the GoZ embarked on an Operation it called 'Operation *Murambatsvina*' (Chari 2008:105; Mhiripiri 2008:149; Nyamanhindi 2008:118). The GoZ demolished and destroyed what it termed 'illegal structures' which included houses in residential areas and market stalls that were used for informal trade and commerce. Admittedly some of those structures were in undesignated areas and some were of poor structural quality and inhabitable standards. Operation *Murambatsvina* was also presented as a clean-up operation to clamp down on crime and to get rid of 'dirt' (Chari 2008:112; Musiyiwa 2008:65). The irony of the definition of 'dirt' in the view of the GoZ is that it refers to human beings (Vambe 2008:135). Vambe further argues that the post-colonial state of Zimbabwe has a tendency to assign an identity of 'human dirt' to those it considers dissident (*ibid*). As such, Operation *Murambatsvina* exposed the idea that the 'dirt' it sought to clean-up was human beings that were considered to be 'illegally' settled in urban areas. In Chapter Four this work will demonstrate that part of the 'human dirt' that 'illegally' inhabited urban areas was a result of state-led violence that was termed *Gukurahundi*<sup>9</sup>. This operation affected specifically the Matabeleland

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<sup>8</sup> Article 78 of the UN Charter reads: 'The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality' (<http://www.un.org/en/documents/charter/chapter1.shtml>).

<sup>9</sup> *Gukurahundi* is translated to mean 'the wind that blows away the chaff before the rains' (Hill 2003:77). In essence it was a violent series of terror attacks perpetrated by 'dissidents' on civilians and later by the state on both the dissidents and civilians as claimed by the GoZ, but mainly on civilians as attested by the Catholic Commission for Justice and Peace (CCJP 2007) report.

and Midlands areas of Zimbabwe in the period 1982-1984 (Benyera 2013:106). Therefore, it can be argued that *Gukurahundi* produced some of this 'human dirt' that needed cleaning up in Operation *Murambatsvina*.

Operation *Murambatsvina* was officially ended on the 25<sup>th</sup> of June 2005 (Chari 2008:110) exactly 37 days after its official commencement, yet its negative effects were arguably still felt and experienced in December 2013. Operation *Murambatsvina* was a legitimate government's operation to rid urban areas of clutter and 'dirt'. Sekesai Makwavarara, a spokesperson for the government-appointed Commission that managed the Harare City Council at the time of Operation *Murambatsvina*, stated this position (Nyamanhindi 2008:119 citing *The Herald*, 19 May 2005:1). The GoZ further claimed that it was within its sovereign rights to determine its trajectory concerning urban dwelling structures and commerce. Power to control what happens in a state's jurisdiction is a corollary of state sovereignty.

The United Nations Human Settlements Programme (UN-Habitat), the Labour and Economic Development Research Institute of Zimbabwe (LEDRI), and the Country of Origin Information Service [COIS] in its report (2006:68), the Internal Displacement Monitoring Centre [IDMC] in its report (2008:22), *inter alia*, are some of the organisations that publicly and vehemently spoke out against Operation *Murambatsvina*, citing the massive human rights abuses. In other words, contrary to the GoZ's denial of committing human rights abuses in its Operation *Murambatsvina* the impact and consequences of that operation indicate gross human rights abuses. This fact was claimed and proved by various other international, regional and local civil-society organisations.

The GoZ sturdily claimed that Operation *Murambatsvina* was justifiable according to the doctrine of state sovereignty and hence the international community had no legitimate right to intervene in such domestic affairs of Zimbabwe as Operation *Murambatsvina*. This necessitates and compels an investigation of the very doctrine of sovereignty that the Zimbabwean government claimed to justify its actions given the contestations that arose from civil society organisations and the international

community at large. The GoZ, in its defence, highlighted the exclusive notion of non-interference in the domestic affairs of sovereign states as espoused by Article 2(7) of the UN Charter. Civil society organisations who made their cases based on human rights abuses and the international community of states as represented by the UN argued from a humanitarian (Mhiripiri 2008:149) and people-centred approach as espoused by the R2P doctrine. What doctrine should take precedence, and whose understanding should matter in a case such as Operation *Murambatsvina*? Hence the main research question reads: Was Operation *Murambatsvina* justifiable under the doctrine of state sovereignty as was insinuated and claimed by the GoZ?

### **1.3 Statement of the Problem**

The problem relates to the openness of the concept of state sovereignty to abuse by governments. This instrumentalisation of international principles such as state sovereignty has resulted in its abuses and this leaves even the development of other concepts such as the R2P, equally open to instrumentalisation. The abuse of state sovereignty can be traced to the Berlin West Africa Conference 1884-1885 (Ilife 1979; Pakenham 1992; Chamberlain 2010). The conference partitioned Africa and divided it among sovereign European states. The conference marked the beginning of conquering and colonising sovereign African and Asian countries. This event also signalled the start of varying interpretations of state sovereignty. This gave credence to the perception that state sovereignty is an instrument that can be used for subjugation and repression of one government by another or a group of people on another. It can be suggested that it also created the impression that sovereign states can do as they please and not be held accountable for their actions by anyone.

The Peace Treaty of Westphalia (1648) achieved through the adoption of the doctrine of sovereignty (Makinda 2001:406; Krasner 2006:86), initiated the end of European wars of conquest. Thus the Peace Treaty of Westphalia initiated the end of territorial conquests and interstate wars of that time. However, a number of governments, particularly the GoZ in its May 2005 Operation *Murambatsvina* (Ditshwanelo 2006; Tibaijuka 2005), allegedly abused the privilege and protection that comes with state sovereignty and committed human rights abuses and crimes

against humanity (Citizenship and Immigration Canada 2005; National Council of Resistance of Iran Foreign Affairs Committee 2001; United States Institute for Peace 2008). The GoZ believed that it was within its sovereign rights to carry out Operation *Murambatsvina*. Yet the execution of the operation was marred by violence perpetrated by the state on its citizenry, including deaths<sup>10</sup> of innocent civilians. This calls for an evaluation of the doctrine of state sovereignty and its credibility, or lack thereof, in contemporary international politics. The doctrine of sovereignty remains central and crucial to attaining and maintaining world order, peace and development (Kegley 2009:27).

The GoZ used the doctrine of state sovereignty as the justification on which it carried out Operation *Murambatsvina* in May 2005 after domestic and international condemnation of the exercise. In the event that a government commits human rights abuses in the processes of implementing its policies, as was seemingly the case with Operation *Murambatsvina*, it can be argued that seemingly there is no recourse for the abused citizens. This suggests that the doctrine of state sovereignty is open to various interpretations rendering the concept open to abuse by states. This study seeks to interrogate the basis of the justification that the GoZ advanced.

The law of nations as espoused by the UN seem to offer a standard definition of state sovereignty as enshrined in its Charter Article 2(7), however the standard definition seemingly is not standardly interpreted and applied. Political realism as the dominant international relations theory endorses the doctrine of state sovereignty as it is premised on it. Political realism seemingly justifies the varied interpretation of state sovereignty and hence maintains the status quo that no state should interfere in the domestic affairs of another. It perpetuates and maintains the status quo in the domain of international politics.

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<sup>10</sup> Of the deaths reported as a result of OM, three involved children, one child was hit by a truck, and the other was hit by falling debris. A woman also died as a result of being hit by falling debris (Tibaijuka 2005:62).

## 1.4 Objectives of the Study

The study aims to:

- Discuss the evolution, contestations and fluidity of the doctrine of state sovereignty
- Discuss the [in]compatibility of state sovereignty and R2P doctrines
- Discuss the GoZ's interpretation of sovereignty
- Discuss the political implications of Zimbabwe's May 2005 Operation *Murambatsvina* on state sovereignty and the R2P doctrine

## 1.5 Research Question

This study will discuss the contestations inherent in the doctrines of sovereignty and R2P using Operation *Murambatsvina* as an example. Of particular interest it seeks to answer the following question:

Was Operation *Murambatsvina* justifiable under the doctrine of sovereignty as was insinuated and claimed by the GoZ?

The question necessitates an inquiry into the environment of international political relations, as Operation *Murambatsvina* proved to be of interest to academia, international organisations, governments, political practitioners, human rights activists and interest groups to name a few. The following sub-questions will enable the study to critically discuss and analyse the extent to which Operation *Murambatsvina* was justified by the doctrine of state sovereignty as was argued by the GoZ.

### 1.5.1 Sub-Questions

1. Does political realism, liberalism and constructivism sufficiently answer the questions and problems related to sovereignty in international politics? Is realism perpetuating and hence maintaining the status quo of anarchy in the international political realm? Does liberalism provide a more plausible way of conceiving interstate phenomena? Does constructivism provide for better solutions to issues

of social nature such as the doctrines of sovereignty, R2P and Operation *Murambatsvina*?

2. Since the GoZ used the doctrine of sovereignty as the justification on which it mandated itself to carry out Operation *Murambatsvina* in May 2005, what exactly is this doctrine of sovereignty? How does sovereignty justify a government's domestic policy in the event that, in the processes of implementing its policies, abuses are committed, intentionally or unintentionally?
3. What are the GoZ's understanding, interpretation and stance on the doctrine of sovereignty? Is the GoZ's stance and position valid and justifiable according to the laws of nations as espoused by the UN?
4. What was Operation *Murambatsvina* about? What were the objectives of Operation *Murambatsvina* and what means were used to achieve those objectives? Were these objectives met? Was the operation justifiable from legal, political and ethical perspectives?

## **1.6 Definitions of Key Concepts**

In order to better understand the doctrine of sovereignty, it is important to understand the implied notions of sovereignty as well. In clearly laying out the ground for this research, this study will recognise and adopt the following definitions of sovereignty and the implied notions thereof.

### **Autonomy**

Sovereignty implies some sort of autonomy of the political unit involved. Hoffman (2007:12) describes autonomy as a concept that denotes 'self-government' and 'independence'. In as much as sovereign states are autonomous, they however are inter-dependent. States, for example, need each other to form alliances, bilateral trade agreements, and multilateral trade agreements amongst others. Autonomy in international politics denotes the possible functioning of a state independent of another more than the inability to function in the total absence of other states to

trade and partner with.

## **Globalisation**

Globalisation has to do with a border-less world of political, social, economic, cultural and technological interaction, to mention a few aspects; thus globalisation is 'the shrinkage of the globe as a result of trading, technology (in particular the computer revolution) and cultural exchange' (Hoffman 2007:63). With globalisation, states are permeable and borders become insignificant as the power of globalisation transcends state borders. King and Kendal (2004:140) describe globalisation as 'the increasing worldwide integration of economies'.

## **International Norms**

Norms in general are rules or patterns of behaviours that are accepted and expected in a particular society (Honderich 1995:626; Lacey 1986:161). Thus, international norms are rules and patterns of behaviours accepted and expected in interstate relations. These rules and patterns of accepted and expected behaviours are designed to regulate and maintain order in relations between states in the international system. In determining what passes as international norms, this study first and foremost recognises the UN as the best platform for multilateral representation and agreements with a global reach. This study therefore accepts international norms to be those promulgated by the UN. The particular international norms that are of interest to this study – as they have a bearing on the doctrine of sovereignty - are: Human Security, Responsibility to Protect and Human Rights amongst others.

## **Power**

Hans Morgenthau (1955:26) defines power as 'man's control over the minds and actions of other men (*sic*)'. Power is the ability to influence others even to the extent of making others do something or act in a way that they otherwise would not have done. This indicates that power is a relational concept. One has power in so far as it is exercised over another (Kegley 2009:27). Power can be conceived and

measured by military force and economic activity. 'Throughout history the decisive factor in the fates of nations has usually been the number, efficiency, and disposition of fighting forces; national influence bears a direct relationship to gross national strength; without that, the most exquisite statesmanship is likely to be of limited use' (Sullivan 1990:76). Power can also be palpable in religious circles (Gallagher and Ashcraft 2006:3). Very often religious leaders are in positions of immense influence of the people they lead, and that influence can be translated into political power (Piscatori 1992; Saliba 2003:56; Woodhead and Heelas 2000:44).

### **Responsibility to Protect (R2P)**

For the purpose of this study the concept of Responsibility to Protect (R2P):

Insists that states have primary responsibility for protecting their own citizens. However, if they are unwilling or unable to do so, the responsibility to end atrocities and mass killing' is transferred to the wider 'international community' (Bellamy and Wheeler 2011:512).

Cunliffe (2011:1) contends that 'at the core of the doctrine is the idea that states have to maintain minimal standards of human security with respect to the population on their territory'. The R2P is a UN gazetted criterion of intervention in the domestic affairs of a state by the community of world states as adopted by the 2005 UN World Summit (Reus-Smit 2011:286).

### **Sovereignty**

Krasner (1999:28) defines sovereignty as 'the capacity to act within a territory'. Sovereignty is an attribute of the state. In other words sovereignty is power to govern a state. Sovereignty can also be understood as the ability to 'regulate relations across borders' (Krasner 1999:29). It is 'a concept that denotes absolute power'; power as exercised and possessed by the state (Hoffman 2007:171). Sovereignty is also the distinctive and distinguishing characteristic of international politics; 'a defining characteristic of a sovereign-based system is the absence of authoritative central institutions' (Brown 2002:6). The UN recognises the autonomy of each state and accepts that the final and highest arbitrator in a state is, in fact, that state's government (UN Charter: Article 2(7)); thus the UN affirms and

recognises the doctrine of sovereignty.

## **State**

Mann (in Lauchmann 2010:1), defines a state as 'a territorially demarcated area over which it [state] claims a monopoly of binding and permanent rule-making'. In the realm of international politics, states are the primary subject matter and therefore international politics concerns itself primarily with the relations between states. The state, which is geographically defined and bound, also implies the people (masses/populace) of that particular state as represented by its head of state.

### **1.7 Research Methodology**

International politics as a branch of the broader social sciences is very dynamic in the sense that it deals with constantly changing circumstances, interpretations of fluctuating circumstances and fluid human conditions. Human beings are changing beings for 'to be is to change' (Kegley 2009:31). Human circumstances and conditions are not static. These circumstances and societal conditions are sometimes quantifiable and other times not. Human beings have varying values, standards and cultures as well. These human elements cannot be negated in social science research if meaningful outcomes are to be achieved (Gibbs 2007:2).

Mouton (2001:369) advances that a research design is defined as a 'set of guidelines and instructions to be followed in addressing the research problem'. In affirmation of this assertion, Kruger (2001:46) avers that a 'research design is the plan according to which researchers obtain participants (objects) and collect information from them'. As such, the research design of this work is presented in the form of a literature review which involves current literature on state sovereignty, R2P and Operation *Murambatsvina*.

The research methodology that informs social science research/ers, must take into cognisance these social facts of human living. This research used the comparative genealogical approach. This study, respectively, investigated and analysed literature

on the doctrines of sovereignty and R2P, and Zimbabwe's Operation *Murambatsvina*, as was publicly available. Thus the study was primarily desktop research. The contents of books, reports, internet and web-based documents, journals, scholarly and scientific articles were analysed.

### **1.7.1 Qualitative Research Methodology**

Qualitative research, among other things, emphasises the analysis of documents, methods of observation and interviews, and interrogation of primary and secondary sources such as newspapers and books (Gibbs 2007:3). This is the methodology that this research followed. The researcher made independent interpretations of the contents of these sources since qualitative research is axiological or value-laden (Herr and Gary 2005:5). It seeks to interpret and understand the background presented by social phenomena (Babbie and Mouton 2001:49; Gibbs 2007:2; Kant 2011:70-72). This study is of a qualitative nature. As such the research was interested, not only in scientifically factual information, but values and cultural circumstances that surrounded those facts of social life. The goal of qualitative research, as contained herein, was describing, understanding and explaining, rather than prediction.

This research used the genealogical approach and made primary use of the qualitative methodology as it better tackles issues of social phenomena. The genealogical approach helped to systematically track down the development of the doctrine of sovereignty as there was traceable comparison of the fluidity of sovereignty between different segments of time. Newspaper articles, books, reports of various Non-Governmental Organisations were consulted in the interrogation of Operation *Murambatsvina*.

The main advantage of the genealogical approach was that it enabled the researcher to make a comparative analysis of the development of the doctrine of sovereignty across space and time. The major disadvantage of this approach was actually its strength. Its weakness was in its strength in that as it enabled and allowed the researcher to make a comparative study of sovereignty across time and space, the researcher tended to discard some vital information that was negated by

the approach itself as it does not exhaustively study accumulative phenomena in entirety. Therefore some articles and reports on Operation *Murambatsvina* that were deemed to not concern the main subject matter, were negated.

### **1.8 Limitations of the Study**

The concept of sovereignty is very broad and detailed; it spans over at least four centuries and has undergone many phases and thus it has seen many changes. This study cannot therefore explore all possible meanings and implications of sovereignty on contemporary global politics. It will focus on the meanings of sovereignty as played out in the initial era of the doctrine's inception (modern era) and compare it to the contestations of sovereignty as played out in contemporary international relations forums, particularly the GoZ's stance from the year 1980 to December 2013. This is admittedly to the exclusion of otherwise valuable contributions and literature that the doctrine of sovereignty has to offer to the field of international politics.

Another limitation that faces this study is that international relations' rational theories (realism, liberalism, Marxism) are premised on the very doctrine of sovereignty that this study seeks to investigate. Employing these theories will in some way hinder the effective scholarly inquiry on sovereignty as the theories affirm, by assumption, the principles of sovereignty.

This study was carried out between 2012 and 2013 and the data it gathered was processed in the year 2014. Operation *Murambatsvina* was carried out in 2005. It is almost a decade since it happened and so the memories that people have of that event have somewhat altered and they are likely to remember it differently and sometimes with much less accuracy and clarity. In other words the passage of time alone since the operation was carried out is itself a limitation because that could result in respondents passing on inaccurate and non-factual information. It was with this in mind that the researcher opted for a desk top research, rather than interviews with victims of Operation *Murambatsvina*.

Operation *Murambatsvina* was carried out within the geographic space of Zimbabwe. As such the geography that was affected was primarily in the political demarcations and boundaries of the state of Zimbabwe. However the populace that was affected by the operation was of varied nationalities. Residents of Zimbabwe, who came from Malawi, Zambia, Mozambique, Rwanda and Burundi among other countries<sup>11</sup>, were also affected and some were even forced to go back to where they originally came from. As such, it was impossible for this study to determine the extent to which Operation *Murambatsvina* affected such people. It was also beyond the scope of this work to investigate the effects of Operation *Murambatsvina* on the receiving countries of the people who left Zimbabwe and returned to their respective countries as a result of Operation *Murambatsvina*.

Another limitation that was faced by this study was the political climate in Zimbabwe. It is almost taboo to discuss political issues that seem to challenge or question the status quo in Zimbabwe. As such one finds that there are not many respondents who are willing to discuss and reveal their experiences of the operation. There is generally a founded fear in Zimbabwe that political research could be used to 'flash out' dissenting views to the status quo and this necessitated desk top research rather than field research. In Zimbabwe it is generally accepted that when one is asked about contentious political issues, one will tend to give the 'correct' answer which may not always be the truth for fear of repercussions that may come as a result of telling the 'unofficial truth' (Benyera 2013:258).

## **1.9 Chapter Outline**

### **1.9.1 Chapter One: Introduction**

Chapter One introduces the rationale of the study. The statement of the problem and objectives of the study are articulated in order to demonstrate the contribution that the study seeks to make in the discourse on sovereignty and R2P. Key concepts that constitute the study are defined and limitations of the study are identified. In this

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<sup>11</sup> The Tibaijuka (2005:35) report submitted that some tens of thousands people of Malawian, Mozambican, Zambian origin had established themselves for decades, and in some cases for generations in Zimbabwe.

chapter, the research methodology is outlined and the theoretical framework discussed. Overall Chapter One outlines the background of this research and explains why the research is important. It also outlines the problem that the research seeks to solve and/or provide answers to.

### **1.9.2 Chapter Two: Theoretical Framework**

In Chapter Two, this study will explore, in detail, the theoretical framework that informs this research. This study acknowledges that realism is a dominant theory in the field of international relations. Thus, realism informs international political thought and action, and as such, this discourse begins its argument from realism. By way of critiquing realism the study will juxtapose it with liberalism and constructivism. That stated, Chapter Two will respond to questions such as: Does political realism sufficiently answer the questions and problems related to sovereignty in international politics? Or is realism perpetuating, and hence maintaining the status quo of anarchy in the international political realm?

### **1.9.3 Chapter Three: Literature Review**

Chapter Three will outline the history and origins of the doctrine of sovereignty as it is popularly conceived. The chapter seeks to understand, explain and unpack the widely yet ambiguously articulated Westphalian doctrine of sovereignty. Sovereignty, as a concept and principle, has come to mean different things to different people, in different historical epochs operating under different socio-economic and geo-political circumstances. This chapter will highlight how the modern era influenced the understanding that sovereignty is unitary, inviolable, indivisible and absolute. The chapter will also discuss sovereignty as responsibility. Of necessity, the discussion on state sovereignty will evolve into the discussion on R2P. The Chapter will also by way of introducing Operation Murambatsvina, interrogate literature on Operation Murambatsvina.

#### **1.9.4 Chapter Four: Situating Operation Murambatsvina in the History of the Zimbabwe Sovereign State System**

Chapter Four seeks to situate and articulate the position of the GoZ on sovereignty. The chapter will outline a brief history of Zimbabwe in demonstration that Operation *Murambatsvina* was a carefully orchestrated operation designed to enforce, in the view of the GoZ, its domestic and international sovereign authority. In the deliberations, it seeks to interrogate what informs the GoZ's stance and position on sovereignty. Is the GoZ's stance and position valid and justifiable according to the laws of nations as espoused by the UN?

#### **1.9.5 Chapter Five: The Analysis of Zimbabwe's May 2005 Operation Murambatsvina**

Chapter Five seeks to analyse Zimbabwe's Operation *Murambatsvina* in and through the prism and frameworks of the doctrine of sovereignty. Furthermore, the chapter seeks to extract lessons that could be used in policy formulation and implementation of the state sovereignty/R2P framework, from the limitations of the application, or lack thereof, of R2P on the Zimbabwe Operation *Murambatsvina* of May 2005. Hence the research questions in this chapter are, among others: What was Operation *Murambatsvina* about? What were the objectives of Operation *Murambatsvina* and what means were used to achieve those objectives? Were the objectives of Operation *Murambatsvina* met? Was Operation *Murambatsvina* justifiable in legal, humanitarian, political and ethical terms?

#### **1.9.6 Chapter Six: Conclusion**

Chapter Six will present the main research findings. It will also offer the conclusions of the whole discussion as contained and demonstrated in the study. It is in this chapter that the study will offer some recommendations for further research areas on the doctrine of sovereignty. In conclusion this chapter will, in light of the transpired research and arguments, ask whether or not the research has arrived at what it set out to do. Have the research questions been answered? What is the way forward?

## CHAPTER TWO: THEORETICAL FRAMEWORK

### 2.1 Introduction

International relations as a field of study has various theories or paradigms of conceiving inter-state political phenomena. There is a wide array of divergent and convergent views proposed by various theorists such as, among others, realists, liberalists, institutionalists, Marxists, feminists, regionalists and constructivists. This study will make primary use of constructivism in the analysis of the doctrine of sovereignty. It will argue its case against the backdrop of realism and liberalism; thereby, situating the doctrine of sovereignty in international relations. In this chapter, the study seeks to *inter alia* highlight what each of the three theories is about in the field of international relations. Secondly, this chapter will show what each theory's assumptions and propositions are on sovereignty. Thirdly, this chapter seeks to highlight the relevance, or lack thereof, of the propositions and assumptions of each theory in the context of the doctrine of sovereignty. It should be borne in mind from the very onset of this study that the doctrine of sovereignty, chronologically, came into existence before the theories of political realism and liberalism.

Popular literature on sovereignty, portray the doctrine of sovereignty's beginnings as in the year 1648, the year the Peace Treaty of Westphalia was signed. This study will demonstrate later in Chapter Three that the doctrine of sovereignty as is erroneously and popularly conceived did not begin with the Peace Treaty of Westphalia. Nonetheless, preliminarily, this study recognises that 1648 signifies the official codification of the doctrine of sovereignty. The academic study of international relations began only in the year 1919 (Ziegler 1987) as efforts to curb and mitigate the chaos of World War I. International relations theorising thus started only around the year 1919. However, it does not mean that intellectual origins of political realism and liberalism only started in 1919. Political realism and liberalism as theories of international relations are premised on and assume the very doctrine of sovereignty that this study seeks to analyse. This in itself could be a challenge. This study cannot effectively use these theories to analyse the very doctrine that they are premised on. Despite the fact that it is chronologically the newest and latest of the theories, constructivism proves to be an effective analytic tool as it is reflective and reflexive on

and of its own processes of epistemology, ontology and methodologies. Constructivism not only takes cognisance of its ontological and epistemological assumptions, but the cultural and political environments that inform its epistemology and ontology. Constructivism also recognises the cultural and political environment that surrounds the phenomena it seeks to investigate. Political realism and liberalism are used as forerunner theories of constructivism in this study. Thus, this chapter will logically and sequentially explore the theory of realism and liberalism first, before engaging in constructivism.

## **2.2 Realism: Its Assumptions and Propositions on Sovereignty**

Realism is considered to be the historically dominant and oldest theory of international politics. Realism seeks to explain the frequent scenarios of war and conflict in the international realm of politics. Realism also seeks to understand the causes of war so as to find solutions, if any, to the issues of conflict (Elman 2007:11; Nau 2012:29). Thucydides, Niccolo Machiavelli, Thomas Hobbes and Jean-Jacques Rousseau are some of the founding figures of the theory of realism (Balogun 2011:56-57; Dunne and Schmidt 2008:92; Kegley 2009:27). Realism as a theory is very broad with three main variations, namely classical realism, structural realism or neo-realism and contemporary realism<sup>12</sup>. Realism is 'based on the premise that world politics is essentially and unchangeably a struggle among self-interested states for power and position under anarchy, with each competing state pursuing its own national interest' (Kegley 2009:27). According to realism states are the most important actors on the world stage and they answer to no higher political authority (Kegley and Wittkopf 1993:499). Litfin (1997:172) avers that 'sovereignty is the bedrock assumption of realism'. It is the distinguishing characteristic of states as it confers on them 'supreme power over their territory and populace, and no other actor stands above them wielding the legitimacy and coercive capability to govern the global system' (Kegley 2009:27). Thomson (1995:213, 215) concurs with the view that realism assumes that sovereignty is the bedrock of statehood, conversely, 'the essence of sovereignty is the state's ability to make authoritative decisions, in

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<sup>12</sup> These distinctions or classifications of realism are based on 'periodisation': classical realism up to the twentieth century, structural or modern realism from 1939-79 and contemporary or neo-realism from 1979 onwards, as articulated by Dunne and Schmidt (2008:95).

the final instance, the decision to make war'. This alludes to what Makinda (2001:404) refers to as the anarchic nature of the international system under realism as each state recognises no higher authority. This study will briefly explore the different strands of realism before exploring its gist and its bearing on sovereignty.

### **2.2.1. Classical Realism**

Classical realism explains that politics is but a show of what human nature is. 'Politics, like, society in general, is governed by objective laws that have their roots in human nature' (Morgenthau 1955:4). Human nature is competitive, power-hungry, egotistic and domineering. It is the nature of human beings to seek their own survival even in selfish ways. Elman (2007:12), similarly, notes that classical realism is saturated in the selfish human condition. Human beings, according to Hans Morgenthau (in Sullivan 1990:75; Kegley 2009:28; Balogun 2011:57), have an inherent 'lust for power'. The realist assumption on corrupt human nature is reinforced by Kegley (2009:28) noting that 'people are by nature narrowly selfish and ethically flawed and cannot free themselves from the sinful fact that they are driven to watch out for themselves and to compete with others for self-advantage'. In other words, it can be argued that realism perceives humanity as selfish, sinful and corrupt beyond redemption.

Classical realism emphasises the negative behaviour of human beings. It is convinced of an innate and inherent evil human nature. However human beings can be caring, loving, protective and altruistic as Kegley and Wittkopf (1993:20) contend. It can be suggested that this is positive and good behaviour. Jean Jacques Rousseau argued that man (*sic*) was by nature good (Grimsley 1983:47). Is this not a direct contrast and in opposition to what realism claims and assumes about human nature? In the processes of socialisation one can on the one hand learn goodness, kindness, politeness, empathy and courtesy, and on the other hand one can also learn hostility, arrogance, impunity and evil. Good (positive) and bad (negative) behaviour is learnt. The social conditioning determines the outcomes of individuals' behaviours, hence social psychology argues that human behaviour is learnt.

Whether good or bad, human behaviour is learnt<sup>13</sup>.

In line with social psychology's claim that all human behaviour is learnt behaviour, later in this chapter, this study will demonstrate that constructivism as a theory of international relations encapsulates and defensibly substantiates this claim. Not all of the human condition is evil and wretched in human beings' experience. In fact, Kegley (1995:4) argues that human nature is essentially good and altruistic. People are capable of collaboration and mutual aid. Part of the human condition is that human beings seek identity and belonging, thus, common purpose and unity. Admittedly human beings can be whim-some and precarious. In one moment they are caring and loving, and in another, cursing and fighting. It can therefore be argued that there must be some ethical standards to adhere to for both kinds of behaviours. Dunne and Schmidt (2008:96) concede that classical realism engages in moral philosophy and ethics as opposed to merely following the dictates of human nature without standards. Thus the argument made by realism on the corruptible and evil human nature cannot be consistently and logically sustained.

### **2.2.2 Structural Realism/Neo-Realism**

Structural realism is also referred to as neo-realism in various literature (Dunne and Schmidt 2008:98; Balogun 2011:59; Behr 2010:197; Kegley 2009:30). Waltz (1990:58), arguably one of the chief proponents of structural realism, asserts that the absence of 'social structure' that is, 'institutionalised restraints and institutionalised methods of altering and adjusting interests', are fertile conditions that breed war. This position is similarly argued by Onuf (2011:89). Within states, there are structures for social, political, economic and cultural organisation. Yet between states there are no such mechanisms. As such the absence of such mechanisms is a structure in its own right. Structural realism in some respects converges with classical realism as it evolves from classical realism. According to Dunne and Schmidt (2008:98), structural realism attributes 'state-security competition and inter-state conflict to the lack of an overarching authority above states and relative

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<sup>13</sup> Social psychology argues that all of human behaviour is learnt, whether good or bad, or positive or negative (Baron *et al* 2002:85-90).

distribution of power in the international system'. Elman (2007) and Griffiths (2007:13) concur with this view. It can be argued that structural realism is concerned with the lack of an overarching global governing structure or system; this points to the anarchic structure of the international system.

Chris Brown (2002:6) argues that anarchy is the underlying factor in structural realism. There is a shift in structural realism from the position advanced by classical realism on human nature. Instead, it is the structure and system in which international politics is conducted that is flawed as it lacks an overall authority. Kegley (2009:27) avers that as anarchy is the 'absence of a higher authority to which states can turn for protection and resolve disputes', this means that global politics becomes an arena for unending power struggles which is ruled by the dominating state(s). As such Wendt (1992) asserts that 'anarchy is what states make of it'. Balogun (2011:43) concurs with this view and argues that 'a sovereign state cannot tell another how to conduct its business; neither could it be told how to conduct its own'. It can be argued therefore that power struggles are the order of the day in the international domain of politics. This suggests that there is need for regulatory structures in international politics as the outcomes of the international order are determined by the structures that govern and regulate conduct in the international domain.

Arguably, anarchy is a structure in itself<sup>14</sup>, as affirmed by some liberalists who advance the argument that anarchy is some form of order (Kegley 2009:36; Kegley and Wittkopf 1993:32). The possibility of states' use of force in order to advance their interests culminates in every state worrying about its own survival resulting in anarchy being perpetuated<sup>15</sup>; conversely anarchy perpetuates the notion of self-help as there is no central and effective authority to appeal to (Nau 2012:29). Hierarchy, a structure in its own right, is a basis for domestic order. In the presence of an overarching authority or world government, hierarchy follows. It is the duty of the hierarchy to distribute power in order to balance power (Balogun 2011:59). In line with this argument Dunne and Schmidt (2008:91-99) argue that super-powers

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<sup>14</sup> Anarchy is referred to as 'ordered' anarchy because states follow commonly acknowledged standards [customary international law] even in the absence of hierarchical enforcement (Kegley 2009:36).

<sup>15</sup> Kegley (2007:35) defines anarchy as 'a system made up of competitive interacting actors in the absence of supervisory governing institutions to regulate the units' competition'.

determine the structure of international politics thereby suggesting that super-powers, as a way of balancing power, distribute power. Realists would argue that such kind of structural arrangement ensures security among states. Is security achievable by having an overarching global-governing system? If this were true, as Chandler (2011:29) would point out, would there be intra-state conflicts as the world has witnessed in Sierra Leone, Sudan and South Sudan or the Democratic Republic of Congo (DRC) and Ethiopia, for example? Hierarchy is not a sure guarantee for order, and also not a guarantee that war will be eliminated in the domestic realms of states and jurisdictions, and neither will hierarchy guarantee order and the elimination of war in the international realm. The reason states would want to seek and safeguard their own power is that they are solely concerned about their own survival. In affirmation of this line of thought, Sullivan (1990:76) advances the argument that:

Throughout history the decisive factor in the fates of nations has usually been the number, efficiency, and disposition of fighting forces; national influence bears a direct relationship to gross national strength; without that, the most exquisite statesmanship is likely to be of limited use.

This could present a challenge. The possibility of states' use of force in order to advance their interests culminates in every state worrying about its own survival. It can be suggested that in the midst of all the power politics, it is security that states seek more than power itself. In corroboration of this view, Waltz (1979:47) argues that states are rather 'security maximisers' than they are 'power maximisers'. This position is similarly argued by Dunne and Schmidt (2008:99), with Reus-Smit (2001:211) sharing similar statements. As each state amasses power for its own protection, it inevitably threatens another. This leads to what Wheeler and Booth (2008:261) term the 'security dilemma', as each state is only concerned with its own survival and security. Baylis and Rengger (1992:29) and Makinda (2001:404) concur with this position. Nau (2012:29) reinforces the view that states are in perpetual suspicion of one another, thus, they face the security dilemma. The assumption made by structural realism that all states have similar sets of interests, to maximise their own power and to ensure their survival, is suspicious. It is more the anarchic structure of international politics that conditions states to be inclined to pursue what they deem security for their survival than the position that all states have similar interests.

### **2.2.3. Contemporary Realism**

Contemporary realism argues that not all states have a similar set of interests and 'places domestic politics as an intervening variable between the distribution of power and foreign policy behaviour' (Dunne and Schmidt 2008:99). Contemporary realism looks to the leaders' and statesmen's (*sic*) perceptions on political relations between states, as a means of balancing power. The perceptions of leaders of states have a bearing on the conduct of the particular leaders in the international political arena. States do not only differ in terms of their interest(s), they also differ in ways in which they 'extract and direct resources from the societies they rule' (*ibid*). Leaders are informed by their environment and upbringing, hence not all leaders seek power for conquest. The leader's ability to rule and harness the necessary resources for the states' survival informs his/her interactions in the international political climate.

### **2.2.4 Critique of Realism**

Realism in all its strands affirms the doctrine of sovereignty. It asserts that sovereign states are the principal actors in international politics and therefore 'a state's survival is its first and ultimate responsibility which cannot be compromised or put to risk' (Kissinger: 1977:204; Dunne and Schmidt 2008:93). It also argues that sovereign states, as building blocks in the domain of international politics, must pursue power. They do so through the sovereign or statesperson who must 'calculate rationally the most appropriate steps that should be taken so as to perpetuate the life of the state in a hostile and threatening environment' (*ibid*). This suggests a perpetually hostile environment, one without any cooperation and rapport. It can therefore be argued that realism does not account for cooperation on non-political power struggles or low politics. In divergence from realism, Sterling-Folker (2006:57) argues that in recent years there has been considerable collaboration between states on environmental and international trade and economic matters, for instance. It can also be suggested that as state-centric, realism primarily concerns itself with inter-governmental relations, yet the international stage of politics is shared by various non-state actors.

Lakoff (2011:182) is of the view that war is always a looming danger in international

politics. Realism accepts that the use of military force to any magnitude (if necessary) is part of ensuring the survival and security of the state and therefore postulates that war cannot be ruled out. In affirmation of this position Jackson and Rosberg (1986:4) argue that 'over several centuries the number of independent political entities has been remarkably reduced by force or by threats of force, as weaker states have been incorporated into stronger ones'. In realism the element of statism becomes very apparent; 'statism is a term given to the idea of the state as the legitimate representative of the collective will of the people' (Dunne and Schmidt 2008:93). This further confirms its root assumption on the doctrine of sovereignty.

Realism accepts that the 'sovereign' or statesperson has legitimate power to act on behalf of, and over people of a particular state. This implicitly means that it recognises the need for some authority to govern over people in the domain of the state. Yet, it is sceptical of global institutions like the UN for realists 'do not believe it is prudent for a state to entrust its safety and survival on another actor or international institution' (*ibid*). Hoogensen (2005:59) describes this realist notion as the refusal 'to be contingent upon a moral code emanating from anything other than the tangible needs of the state'. This conception of realism points to a condition or structure of anarchy in the international political realm. Anarchy is a 'theory that opposes all forms of rule over individuals' (Hoffman 2007:6). The realist argument is that international politics is conducted in an arena without a sovereign, absolute state-person or government or authority and that therefore anarchy is at play. This seems to imply that, the international political arena is one of lawlessness and disorder. It distinguishes between domestic and international politics arguing that in the international domain of politics each state considers itself the highest power and arbitrator and it is not answerable to any other, hence anarchy exists. In the domestic domain, however, it is rather different because the state itself rules over everyone in its domain (Dunne and Schmidt 2008:93).

Realism comes across as selective in the application and the enforcement of law. While it recognises the need for a sovereign and a hierarchy in the domestic domain, it fails to recognise that same need in the international domain. Hierarchy is believed to bring about law and order in the domestic domain. If this were true, would it not also bring law and order in the international domain? It can be argued therefore that

realism is selective when it comes to law enforcement. It refuses to be contingent on the idea of law enforcement in the international domain but adopts law enforcement through the sovereign in the domestic domain. Is this not why some governments get away with grievous crimes? Governments could very well argue that according to realism's line of thought whatever happens in the domestic jurisdictions has nothing to do with the international community. Yet the forces of globalisation are such that it is impossible for people not to stay interconnected even when separated by vast distances. It can be further argued that in some sense realism perpetuates the status quo of how international politics have been conducted traditionally. The realist stance makes it difficult, if not impossible, for the international community to call to account states that abuse their citizens and hence their state sovereignty. It also makes it difficult for sovereigns to account to one another as there is no obligation on any party to do so. Yet in this global age, one of democracy and human rights, accountability is a necessity.

States could abuse people in their domains as alluded to in Chapter One, and realism would blindly look away as it cannot question what happens in another's domestic jurisdiction. As will be demonstrated in Chapters Three, Four and Five, it can be argued that the GoZ may have benefited from the status quo of not being answerable to anyone in the face of the alleged human rights abuses it committed in the implementation of Operation *Murambatsvina*.

While realism affirms the concept of sovereignty, it also challenges it. Is it possible that the same legitimacy and recognition given to the state, by realism, be accorded to a global/universal/international institution like the UN? In the event that the same kind of authority or power recognised to belong to a state by realism, be accorded to the UN, would that bring about peace and security to the world? In an anarchic environment war and disorder erupt. As confirmed by Dunne and Schmidt (2008:93), 'self-help is the principle of action in an anarchical system'. Yet anarchy causes war. The realist theory does not explain why in the domestic domains of states, religious, ethnical and tribal conflicts and civil wars break out even in the presence of an absolute and sovereign authority and government. It can thus be argued that the presence of a sovereign does not necessarily translate into the observation of law, order, peace and tranquillity in a state.

It is apparent that realism finds it irreconcilable for a state to trust any other state or institution when it comes to safeguarding state interest(s) (Dunne and Schmidt 2008:93; Dunne and Schmidt 2011:95; Morgenthau 1955:25). This makes cooperation difficult if not impossible. Yet international political history including World War I and II, the Cold War and contemporary global challenges like terrorism and environmental degradation resulting in global warming, require and compel states and global civil society to cooperate and collaborate to mitigate the dire effects thereof.

### **2.3 Liberalism: Its Assumptions and Propositions on Sovereignty**

The theory of liberalism prides itself as the contemporary alternative to the dominant realist theory. Some proponents of liberalism argue that it is a challenge and response to the unresolved issues that besiege realism (Kegley 2009:32). It is also referred to as idealism in various literatures (Balogun 2011:55; Kegley and Wittkopf 1993:20; Beardsworth 2011:227). John Locke, Adam Smith and Immanuel Kant are the three most prominent figures who represent classical liberalism. Sterling-Folker (2006:55) asserts that liberalism and realism converge 'in their shared focus on nation-state as the central actor in contemporary world politics'. Thus, by implication liberalism recognises and affirms the doctrine of sovereignty. Thomson (1995:213) observes that 'for liberal interdependence theorists sovereignty is defined in terms of the state's ability to control actors and activities within and across its borders'. Liberalism, like realism, assumes that the salient and primary actors in the international political realm are, in fact, sovereign states.

#### **2.3.1 Classical Liberalism**

Liberalism does not dismiss the starting premise of realism which states that politics has a lot to do with human nature. For liberalism human nature is self-seeking and acquisitive, but most importantly, human nature is rational (McCullough 2010). Rationality forms the basis of law. Law comes into play when people come into what

Immanuel Kant calls the 'social contract'<sup>16</sup>. Zacher and Matthews (1995:109) note that 'international relations are gradually becoming transformed such that they promote greater human freedom by establishing conditions of peace, prosperity and justice'. This is in line with what Kegley (2009:33) argues, that liberalism is about the promotion of human freedom and human rights ahead of national interests. Burchill (2001:33) argues that liberalism believes that the prospects for the elimination of war lie with a preference for democracy, collective security and free trade.

Hoffman (1987:396) affirms that liberalism suggests that real political development has to do with human emancipation, freedom and liberty. He notes that 'the essence of liberalism is self-restraint, moderation, compromise and peace' (*ibid*). Instead of attributing international conflict to the inherent lust for power as proffered by realism, liberalism seeks to reform those conditions that promote peace. Roosevelt (in Kegley 2009:33), a former American president guided by liberal values, asserted that 'the continued maintenance and improvement of democracy constitute the most important guarantee of international peace'. Burchill (2001:31) reinforces that democratic principles help 'the spread of legitimate domestic political orders that will eventually bring an end to international conflict'. It could be suggested that the application of democratic principles in the international political order would likely yield the same results as attained in the domestic political order in the form of legitimate authority and perpetual peace. Hobson (2000:65) agrees with Burchill's view arguing that since at the centre of liberalism are values of negotiation, discussion, dialogue and tolerance, peace and democracy are likely to be achievable in the international order. Nau (2012:36) further agrees with the view that these values seek to promote interdependence rather than independence as advocated by realism. Dunne (2008:112) concurs with most liberal exponents that liberalism is about personal and individual liberty, freedom, promotion of free trade in the world market, dignity, personal restraint, dialogue, discussion and equality. Liberalism, as opposed to state-centric realism, is said to be individual-centric (Hobson 2000:65). This theory or conception of international relations has to do with individual freedom, rights and liberty. Yet, as argued by Hobson (2000:65), the essence of international politics is

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<sup>16</sup> Social contract is entered into by individuals who are well informed of what the contract entails and therefore are legally bound and obligated to honour their part of the contract (Jansson 1994). The social contract will be discussed in some detail in Chapter Three, 3.5.1 Discontention and Opposition to Absolutism.

exactly the opposite: 'troubled peace, at best, or the state of war'.

Liberalism is not blind to the anarchic world of international politics as described by realism. It accepts that anarchy is in fact part of the global political system and contends that anarchy is orderly and that it is some form of order (Kegley 2009:36). It also argues that in the anarchic environment of world politics, human beings must eventually take centre stage. This could suggest that cumulative progress is essential in human affairs (Keohane 1990:174; Burchill 2001:33). Liberalism recognises what realism describes, but contends that the anarchic and hostile situation can be transcended. Peace is possible and human beings should aspire to live in perpetual peace. The basis of liberalism is equality and liberty for all. On the one hand, realism argues that there can be no law and order in an environment that has an absence of a central authority and on the other, liberalism argues that the situation described by realism (on international politics) is only but as a result of ideas and that ideas can change<sup>17</sup>. The world can be re-created or re-invented in the conceptualisation of liberalism. Thus Kant (1927), as cited by Dunne (2008:112), argues that perpetual peace is at the centre of actualising liberal ideologies. It is vital for individuals to consciously choose the path to peace and equally essential for states to consciously enter federal contracts with other states to put an end to war and the need to create republican constitutions. It can be suggested that the formation of the UN is in some respects a result of such efforts. In agreement with Kant's consciousness, Woolf (1991:37) asserted that prosperity and peace needed some 'consciously devised machinery'. Luard (1992:465) agrees with this view. Dunne (2008:116) observes that liberal states tend to cooperate more with other liberal states, for example the USA and Canada converge on economic and political affairs. The principles that Immanuel Kant advocates for are basically that people should consciously agree to abolish war and that the agreements should be legally binding resulting in contracts/agreements becoming laws.

Kant (1927:23) believed that to 'act in such a way that you always treat humanity, whether in your own person or in the person of another, never simply as a means, but always at the same time as an end' would ensure that human beings become salient

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<sup>17</sup> Liberalism in this regard converges with constructivism which also asserts that ideas are social constructs and thus ideas can change (Barnett 2008:162).

agents and as such their interests and aspirations should be put first in all political dialogues, deliberations and considerations. This view is shared by McCullough (2010:22) who argues that the application of this principle in politics implies that 'every action which by itself or by its maxim enables the freedom of each individual's will to exist with the freedom of everyone else in accordance with a universal law is right'. The freedom of individuals can never be over-emphasised as far as liberalists are concerned. Liberalism is about progress in a peaceful manner, a proposition that is held in suspicion by realism. It also recognises that governments should not intervene to the extent of infringing on individuals' rights. It articulates basic human rights that all people have the right to education, free press, religious tolerance, freedom of association, freedom of expression and speech. The right to own property and the means of production are some issues advocated for by liberalism. Another distinctive feature of liberalism is its promotion of free trade which is market-based and market-run, rather than controlled and therefore monopolised markets. Dunne (2008:118) argues that the state possesses some authority vested in it by the people whose basic rights it must uphold and not abuse. It can be argued that this is responsible sovereignty. It can be debated that the state should only regulate the processes and order in its domain and not control and abuse people in the process. Liberalism is about the rights of individuals. Community rights should not take precedence at the expense of individual rights. It is prescriptive as opposed to realism which is descriptive. Liberalism should be understood in the context that it is 'domestic' in its origins<sup>18</sup>.

In any given state, individuals have different preferences and options. Some are well-nurtured and some ill-nurtured. Some are trigger-happy and some are peaceful (Dunne 2008:110). As such the securing and guaranteeing of the liberties of individuals in a society can be a huge challenge because at any given time individuals' liberties will clash and be in conflict with others. The outcomes of a state are determined by the state's identity. Liberal states tend to have a liberal outlook and therefore engage with the rest of the world on the premises of their outlook. However, this proposition does not always consistently play out in the practise of liberal states' foreign policies. Liberal states by and large engage with one another on relatively

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<sup>18</sup> In order to ensure domestic order in the 19<sup>th</sup> century governments had to come up with new strategies that included representative democracy, social contract and constitutionalism (McCullough 2010:9).

amicable grounds. When it comes to non-liberal and non-democratic states, liberal states are known to deal heavily with them. It could be argued that it renders liberal states hypocritical in the view of realists. Liberalism would differ with realism in that it uses the domestic paradigm to engage with the international. It is the state's prerogative to regulate and therefore foster toleration of individuals in the domestic domain; a model that can be applied to the international domain. States can create an environment of liberality and compromise when engaging with other states in the international domain. Whilst realism attributes war to anarchy, liberalism attributes it to imperialism. Imperialism 'denotes political domination or economic exploitation' (Hoffman 2007:81).

Liberalism emphasises the rights of individuals and that when governments intervene and intrude on these rights, conflict and war erupt. Will this not be the same when supranational structures intervene in sovereign states' jurisdictions? When states meddle in the domestic affairs (often in pursuit of dominating others by forceful means) of other states, conflict and war erupts. Liberalism underscores the principle of non-interference in individual rights. However, one cannot help but notice the irony that riddles the ideology of liberalism as executed by the so-called liberal states. The United States of America, arguably perceived as the most liberal of states, still went ahead and invaded Afghanistan (2001) and Iraq (2002) for what it believed to be in the best interest of the USA even without the authorisation of the UNSC (McCormack 2011:37). Since liberalism is about non-interference in the private lives of individuals, why not avoid interfering in the jurisdictions and domains of independent sovereign states?

Liberalism argues that in an environment where free-markets exist, healthy competition flourishes where 'free trade would create a more peaceful world order', (Dunne 2008:113). It is imperialism that causes war and tension and this in turn perpetuates anarchy. Economic emancipation of individuals as well as collectives is at the centre of liberalism. Does free-trade and free-markets equate to fair-trade? Seemingly liberalism assumes that free-trade translates to fair-trade and believes that free-trade opens competitive markets and that trade would bring individuals of various communities/nationalities together. As a conception of international politics, it makes it possible for states to enter into dialogue and discussion and it enables states to come

to mutual understanding. It fosters cooperation and respect for one another, whether state, individual or transnational/multinational corporations.

### **2.3.2 Neoliberalism**

Neoliberalism, like classical liberalism, seeks to promote international cooperation. It is sometimes referred to as neoliberal-institutionalism (Kegley and Wittkopf 1993:31) or neo-idealism (Weber 2001:56). Neoliberalism, like neorealism, embraces the assumption that the creation of international structures can solve international disputes and foster international cooperation (Kegley and Wittkopf 1993:30; Hobson 2000:64). This seems to be Clark's (1999:76) point of departure when he argues that 'it is thus not international relations that establish the condition of anarchy, but instead it is anarchy that gives birth to international relations'. This view aligns with neo-liberalism in that Clark recognises that anarchy precedes international relations, and thus, anarchy compels states to work together for the common good. Overlapping interests of states could provide for an opportune environment for cooperation and collaboration by forming supranational institutions. It can be argued that commerce can reduce conflict as it fosters interaction. As such Kegley (2009:33) makes the observation that neoliberalism fosters cooperation and collaboration especially around issues of trade and commerce. Neoliberalism argues in favour of exploiting those overlapping interests<sup>19</sup> to foster relations between states as espoused by the UN, and non-state actors as depicted by multinational corporations (Kegley 2007:37; 39; Kegley and Wittkopf 1998:140). While anarchy is central in realist perspective, reciprocity is the central notion that liberal ideology seeks to promote (Nau 2012:36). The more they interact the more states stand to cooperate and reciprocate one effort with another.

### **2.3.3 Critique of Liberalism**

Comparatively, liberalism is prescriptive<sup>20</sup> of the issues and problems arising in

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<sup>19</sup> The overlapping interests include but are not limited to, capitalist markets, military technology, natural environment, education and knowledge (Sterling-Folker 2006:56).

<sup>20</sup> Liberalism as a theory suggests alternative ways of thinking and engaging in interstate power politics contrary to what realism argues.

international politics, whereas realism is descriptive<sup>21</sup>. Liberalism is more appealing to progressive economies as it essentially emanates from economics more than it is from politics. The liberty of individuals is hailed as an achievement brought by the culture of human rights and embraced by liberalism. This liberty is not only for the individual who is said to be free or at liberty but also for other individuals within a community of individuals. It can be argued that it fosters collective emancipation and development. Liberalism is axiological, value-laden and value-based in nature. It seeks to instil values of mutual respect and tolerance both in the domestic order as well as in the international order. It also seeks to promote values of self-respect and respect of others including respect of property. Liberalism makes important contributions to the economic paradigms. Admittedly market-based systems are not immune from monopolies as market-based trade can be controlled by monopolies as well. There are many big conglomerates and franchisees that practically dictate market trends. Large firms have greater market power than smaller ones, a fact that remains unchecked by liberalism. Free trade does not necessarily translate to fair trade. Liberal democracies seemingly engage with one another on relative amicable grounds as they recognise each other's legitimacy. Kegley and Wittkopf (2008:143) affirm that 'liberal democracies have not gone to war with each other'. Sterling-Folker (2006:56) also reinforces this view that 'democracies appear to be pacifist in their foreign relations with one another'. The liberal pacific relations should be hailed, upheld and even adopted by all states.

There are however, some inconsistencies within the liberal tradition. Burchill (2001:37) notes that, liberal democracies engage with non-liberal states on realist, anomic and anachronistic terms. The rule of law is emphasised by liberalism and it is the impetus to economic growth and freedom. Liberal states pride themselves in stability internally and peace in their international relations (Fukuyama 1989:3-18 cited in Dunne 2008:113). Yet history proves the contrary though, that liberal states are as ruthless as any other towards non-liberal states. Thomson (1995:229) posits that:

The end of the cold war has brought increasing calls for collective intervention on behalf of human rights. Yet, Great Powers have always violated the non-intervention norm when it was in their interests to do so, acting collectively when possible (Holy Alliance, UN Security Council) but unilaterally when

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<sup>21</sup> Realism describes phenomena as it appears in international relations. As a theory, realism is descriptive rather than normative or constitutive.

necessary.

To confirm Thomson's observation, the USA (liberal state) for example, dealt heavily with Afghanistan, Pakistan and Iraq in the wake of what it (USA) called terrorist attacks on the September eleventh (9/11) 2001. Where was the restraint that liberalism promotes? Where was the tolerance and dialogue in the case of the invasion of Iraq in 2003? Thus the liberal ideology falls short when dealing with pragmatic issues. Taylor and Curtis (2008:323) argue that 'there are fears of an increased tendency for the USA to act without UN authorisation' and the USA's National Security Strategy of 2002 proves it. George Bush (cited in Taylor and Curtis 2008:323), the then President of America, is on record saying 'we will be prepared to act apart when our interests and unique responsibilities require'. This further proves the realist position that sovereignty as possessed by individual states breeds anarchy as each state wants to survive by furthering its national interest(s) and as it looks out solely for itself. Liberalism argues that anarchy and power politics can be curbed by economic and commercial collaborative activities given that competition subsides as markets take centre stage in global politics. Burchill (2001:37) affirms this proposition arguing that 'free-trade would also break down the divisions between states and unite individuals everywhere in one community'. This proposition seemingly suggests that sovereignty is not the salient element in international politics as realism contends. The liberal assumption downplays the importance of sovereignty whilst what liberalism advocates for in terms of global institutions of government is actually an affirmation of the doctrine of sovereignty. Creating supranational structures to regulate activities such as politics, trade, and economic activity, to mention a few aspects, assumes that those supranational structures are accorded sovereign power to enact and enforce the agreements that states become signatories to.

Hierarchy is an affirmation of sovereignty. Morgenthau (1948:259) cited in Rudolph (2005:2) supports this position and argues that the supreme authority implied by sovereignty logically means that 'no two or more entities - persons, groups of persons, agencies - can be sovereign within the same time and space'. Hierarchy is therefore reciprocally affirmed by sovereignty. In a hierarchy the top is the highest and hence the final authority beyond which there is no other. Hypothetically arguing, if the UN is to be the supranational structure to regulate and govern inter-state relations, it means

that the UN will have to be 'sovereign' for it to be able to enact, enforce and arbitrate between states. This is not to suggest that liberalism envisions the UN as the world government. However, liberalism does not seem to answer these questions raised. It can be concluded that liberalism in fact operates on double standards, what it criticises in realism, is what it indirectly seeks for its consolidation.

#### **2.4 Constructivism: Its Assumptions and Propositions on Sovereignty**

This study has so far established that realism describes inter-state relations, while liberalism prescribes behaviour for inter-state relations. In this section of the study, it will be argued and demonstrated that constructivism is best suited to analyse the doctrine of sovereignty as constructivism investigates and seeks to understand phenomena in entirety. Constructivism is also referred to as social constructivism or the identity perspective in various literature (Barnet 2011:150; Reus-Smit 2001:215; Hobson 2000:145; Nau 2012:12). This study recognises and concedes that constructivism - as an analytic framework - is not itself unitary. Constructivism is varied and divergent. For the purposes of this research, this study will focus on the core ideas as proffered by various strands of constructivism. Constructivism recognises that states are the principal actors in world politics (Reus-Smit 2001:210) and thus affirms the doctrine of sovereignty. This work argues that the concept of sovereignty itself is a social construct and that constructivism endorses sovereignty. Alexander Wendt is one proponent who is considered the father of social constructivism in international relations discourse (Nau 2012:47-48).

According to Barnett (2011:150) constructivism as a theory of international relations rose to prominence in the early 1990s after the demise of the Cold War. It can also be traced back to the 1980s emerging from the neo-neo debate. Reus-Smit (2001:210) and Nau (2012:47) concur with this view. As opposed to substantive theories of international relations such as realism, constructivism is more of a social theory. It is concerned with the relationship between agents and structures. Some scholars like Onuf (1998:58) even argue that constructivism is not a theory *per se* but 'makes it feasible to theorise about matters that seem to be unrelated because the concepts and propositions normally used to talk about such matters are also unrelated'. For the

purposes of this study, constructivism as a social theory is concerned with the relationship between states and non-state actors (agents), and conditions of international political relations (structures).

Constructivism succinctly and boldly challenges rationalist theories<sup>22</sup> (realism, neo-realism, liberalism, neo-liberalism, institutionalism) and quips that rationalist theories are excessively materialistic. Rationalist theories in general erroneously assume that states/actors/individuals [collectively referred to as agents as proposed by Onuf (1998:59)] always 'rationally pursue their power or utility-maximising preferences or interests' (Hobson 200:145; Reus-Smit 2001:211). Thus, rational theories assume that agents' preferences are exogenous and immune to social interaction. The implication of this rationalist position is that agents' preferences are external and pre-determined before actors (both individuals and states) are socialised. Constructivism argues that agents are socialised first and in the process of socialisation acquire identity. Onuf (1998:59) agrees with this view and argues that 'people make society, and society makes people. This is a continuous, two-way process'. Identity is acquired in and through, amongst other things but not restricted to, cultural structures, community association, and the external environment. Political rationalist theories seem to ignore, if not negate, the influences that such social norms, ideas, social structures and the environment play in the identity of agents and the external behaviour thereof. 'States do not *a priori* know what their interests are' (Hobson 2000:146), meaning that states do not have knowledge of their interests prior to socialisation. Thus, socialisation and in the view of this study, enculturation play a salient part in the formation of agents' interests. States' interests, according to constructivists, are determined and informed by social normative structures (Barnett 2011:155; Hobson 2000:146; Nau 2012:46; Reus-Smit 2001:214). Structures come about as a result of intended deliberations and ideas that encompass such deliberations. It is worthwhile to discuss how ideas influence social action as contained in the structures that govern them.

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<sup>22</sup> Political rationalist theory should not be confused with the English philosophical rationalism (Hobson 2000:145).

### 2.4.1 Ideas

According to Nau (2012:45), ideas 'define or construct the identity of actors, and these identities in turn interpret or give meaning to the material capabilities and institutional behaviour of states'. Ruggie (1998:856) concurs with this view and argues that 'constructivism is about human consciousness and its role in international life'. It can be deduced that the consciousness that Ruggie speaks of is actually ideas as they are contained in human beings' consciousness. This further suggests that reality is contained in consciousness. In other words reality is constructed, as Barnett (2011:155) would argue. Nau (2012:45) echoes the same view that 'just as anarchy is a key concept in the realist perspective and reciprocity is a key concept in the liberal perspective, construction of identities is a key concept in identity perspectives'. Reality does not exist exogenously somewhere as it is what an individual makes sense of and interprets. Reality therefore is relative and may appear objective to the individual who perceives it, but not necessarily so for the next person. To this effect Barnett (2011:155) argues that:

Our mental maps are shaped by collectively held ideas such as knowledge, symbols, language, and rules. Idealism does not reject material reality but instead observes that the meaning and construction of that material reality is dependent on ideas and interpretation.

Constructivism recognises that 'actors are not born outside of and prior to society ... actors are produced and created by their cultural environment' (Barnett 2011:155). Nau (2012:45) reinforces this view arguing that 'identities are collective or shared, not autonomous, and can be constructed only through repetitive social interactions ... these identities then shape or give meaning to material and institutional realities'. Legro (2005:1) warns that 'ideas do not always shift in the direction of harmonious engagement'. This can be interpreted as the cause of disagreements, contention and contestations in international relations. Legro's observation makes for an important contribution to international politics. He argues that even with noble ideas, differences of opinion on the implementation of such ideas still exist. Some things are dependent on human consensus and some are not. Constructivism is interested in issues that are dependent on human agreement and consensus as it is such issues that affect human society specifically and exclusively. Mountains, rivers, seas, trees and animals, to mention a few, exist independent of human agreement and consensus and these are

natural facts. Whether or not human beings are present or agree about them, natural facts remain.

Issues of terrorism, war, conflict, refugees, nationality, sovereignty, state security, national interest(s) and globalisation are issues that are human-dependent. This 'historically produced and culturally bound knowledge enables individuals to construct and give meaning to reality ... existing categories help us to understand, define, and make sense of the world' (Barnett 2011:155). Similarly Nau (2012:45) contends that 'power and institutions are not objective but subjective or intersubjective realities'. These sorts of issues are social constructs of the human mind. It does not mean therefore that because such issues are social constructs of the human mind, they do not exist. They exist in so far as there is agreement and consensus among human beings. Human beings are not always in agreement, they sometimes differ, as such constructivists:

Reject the unity of science thesis, that is, that the methods of the natural sciences are appropriate for understanding the social world ... Humans reflect on their experiences and use these experiences to inform their reasons for their behaviour. Atoms do not (Barnett 2011:157).

There are some social constructs 'that now appear to us as natural and are now part of our social vocabulary. Sovereignty did not always exist; it was a product of historical forces and human interactions that generated new distinctions regarding where political authority resided' (Barnett 2011:156). Hobson (2000:157) echoes this view and argues that 'sovereignty is not a material foundation but a social construction'. Cognisant that socially constructed reality may not always be acceptable and legitimate everywhere all the time, there is a need for international political actors to engage with one another with an open mind.

What realists may perceive as hostile treatment from a foreign state, liberals may see it as an opportunity to engage in dialogue. Constructivism sets the tone for dialogue in pursuit of understanding another's position. Barnett (2011:156) is of the view that 'a world of Mahatma Gandhis will be very different from a world of Osama bin Ladens'. Elsewhere Barnett (2008:163) argues 'the social construction of reality also shapes what is viewed as legitimate action'. Legitimacy follows social construction, or does it? Does the end justify the means? Or are there legitimate rules of engagement in

obtaining an end? Are there certain actions that are simply unacceptable? For example, was the invasion and violation of Afghanistan's state sovereignty, by the USA, in search of Osama Bin Laden a justifiable means of ending terrorism? Was violating the state sovereignty of Iraq in the belief and suspicion that Iraq had weapons of mass destruction (WMD) a justifiable means of ensuring world security and peace by the USA? Constructivism will argue that there must be some actions that are unacceptable despite the end intended. The USA's decision to go into Iraq without the consent of the UNSC not only meant that the operation was to be costly for the USA because it did not have any other nation supporting and therefore financing the operation, as confirmed by Barnett (2008:163). The decision was illegal under international law. Could the actions of the USA be a reflection of the identity of the USA? An exploration of the concept of identity in constructivism beckons.

#### **2.4.2 Identity**

According to Wendt (1995:87), 'identities are the basis of interests'. Constructivists argue that culture informs the meanings that people give to their actions (Reus-Smit 2001:217; Barnett 2011:156). 'The norms of the international system condition the social identity of the sovereign state' (Reus-Smit 2001:217). Hobson (2000:146), in corroboration of this view avers that 'norms constantly mould and re-mould states through processes of socialisation'. Hence, it can be argued that constructivism can explain change and progressive development in the social sphere of human life in general, and the political sphere in particular (the end of World War II and the Cold War for example). Identities inform interests and, in turn, actions (Reus-Smit 2001:217). As such, 'identities change in line with normative structural changes' as affirmed by Hobson (2000:146). Reus-Smit (2001:221) asserts that 'ideas change, norms evolve, and culture transforms' and by so saying encapsulates the contention regarding the doctrine of sovereignty. State and sovereignty are mutually defining concepts/entities. Thus, as maintained and explained by constructivism, these two concepts (state and sovereignty) can change, evolve and transform. Weber (2001:60) echoes this view that identities and interests in international politics are not stable but that they have no pre-given nature. 'This is as true for the identity of the sovereign nation-state as it is for the identity of international anarchy' (*ibid*).

Sovereignty did not always exist, and 'weapons of mass destruction' (WMD) are fairly recent phenomena. Concepts such as sovereignty are 'orienting concepts that can have any number of meanings' (Barnett 2011:157). In other words, domestic and international domains of states are imaginary social constructs. To this effect Hobson (2000:159) contends:

'Normative statecraft' refers to the processes by which the state creates an *imaginary* domestic political community or nation that *appears* as unified and harmonious. The political community or nation is according to Benedict Anderson (1983) *imagined* because it does not exist as a complete or unified totality, given that it is incoherent and constantly fragmented.

Hence social constructs or socially created reality, such as the doctrine of sovereignty, have the propensity and capacity to evolve and change. As such 'states and non-state actors have rival interpretations of the meanings of these concepts and will fight to try to have their preferred meaning collectively accepted' (Barnett 2011:157). Additionally socially constructed reality depends on consensus. This means therefore that the interpretation of socially constructed reality can and will vary depending on who interprets it and for what purposes.

As will be demonstrated later in this study sovereignty can be interpreted from various angles and for various objectives. Some argue that sovereignty is responsibility, others that it is supremacy and yet others contend that sovereignty is power and self-rule. While all these interpretations can be validated and corroborated, it remains then that sovereignty is in fact dynamic as it can mean various things to different people in different historical epochs. To confirm and substantiate this position, Barnett (2011:160) advances the argument that:

The Peace of Westphalia helped to establish sovereignty and the norm of non-interference, but in recent decades various processes have worked against the principle of non-interference and suggested how state sovereignty is conditional on how states treat their populations, best known as a responsibility to protect.

This observation by Barnett epitomises what this work subscribes to, that sovereignty is best understood in the frameworks of constructivism. What constructivism emphasises is that social constructions come and go. Alternative ways such as

engaging in dialogue and communication are imperative as advocated for by Barnett (2011:164) and Nau (2012:45). Constructivism also holds the view that the environment 'can construct the actors' identities and interests' (Barnett 2011:159). The logic of appropriateness is what constructivism proffers. In other words; given who (state) we are (identity), what is it (action) that we do (appropriate action) under the circumstances is what informs constructivist thinking. *Agere sequitur esse* is a Latin axiom meaning 'action follows being' – one acts in accordance with one's identity as one's identity influences choices and shapes one's actions. Nau (2012:47) echoes this view that 'actors behave on the basis of how they construct their identities'. Reus-Smit (2001:218) in agreement with the constructivist view contends that ideas 'define the meaning and identity of the individual actor and the patterns of appropriate economic, political, and cultural activity engaged in by those individuals'.

Constructivism esteems the logic of appropriateness as opposed to the logic of consequences proffered by the rational choices theory. Identity informs what actions a state (agent) undertakes in given circumstances (structures). As such, the social structures and individual identity have the potential of curtailing agents' behaviour. Nau (2012:45) contends that 'states have independent or internal identities that allow them to think creatively and shape or change the social discourse in which they are involved'. In other words, these identities influence states' behaviours in their external relations. Thus, constructivists as argued by Reus-Smit (2001:219), emphasise 'the social determinants of social and political agency and action'.

### **2.4.3 Agents**

People, as active participants in society, are agents (Onuf 1998:59). For the purposes of this study, agents will also mean states as these are governments and are representatives of various peoples in their jurisdictions and respective political border demarcations. Thus in this study, people, states and agents are concepts that will be used interchangeably. In essence these concepts point to one reality - that of agency.

As such, agents and structures are interlinked through 'the mean' or put differently through rules. Onuf (*ibid*:80) further states that:

The co-construction of people as social beings and of society is a continuous process. Rules are central to this process because they make people active participants (or agents) in society, and they give any society its distinctive character (or structure). Rules define agents in terms of structures, and structures in terms of agents ... As rules change in number, kind, relation and content, they constantly redefine agents and structures, always in terms of each other.

Thus rules are emphasised as the link between agents and structure. On the one hand the issue of rules suggests that the agents have choices to make; implying that one may follow rules or ignore them with consequences, sometimes unintended. On the other hand, it is the structure of society that gives rise to, and informs rule-making. Hence, 'rules link agents and structures in a common process of constitution' (Onuf 1998:81). This brings this discussion to focus in some detail on the structures that constructivism investigates, discusses and advocates for.

#### **2.4.4 Structure**

According to Wendt (1995:58), 'structures of human association are determined primarily by shared ideas rather than material forces'. Nau (2012:48) echoes similar statements. In line with Wendt's thought, Onuf (1998:61) asserts that 'rules and related practises frequently form a stable (but never fixed) pattern suiting agents' intentions, regardless of whether those rules are followed by design or accident'. As such, both Wendt and Onuf argue that social structures are premised on rules, and rules are a result of ideas. Rules form and shape institutions and hence structure is a construct of the mind. As affirmed by Gould (2003:83), 'structures exist because agents see patterns to which they impute structure'. Elsewhere Wendt (1995:73) asserts that constructivists 'argue that material resources only acquire meaning for human action through the structure of shared knowledge in which they are embedded'. Normative and ideational structures shape the social identities of political actors (Reus-Smit 2001:217).

Rationality forms the basis of law. Law comes into play when people enter into what Kant calls the 'social contract'<sup>23</sup>. Zacher and Matthews (1995:109) note that

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<sup>23</sup> Social contract is entered into by individuals who are well informed of what the contract entails and therefore are legally bound and obligated to honour their part of the contract (Jansson 1994).

'international relations are gradually becoming transformed such that they promote greater human freedom by establishing conditions of peace, prosperity and justice'. This is as a consequence of the changing attitudes resulting from ideas that are born out of, and in turn shape, social societal structures; a phenomena that constructivism calls the mutual or substantive definition of terms. Cumulative progress is essential in human affairs as affirmed by Keohane (1990:174) and Burchill (2001:33). In line with this thought, constructivism acknowledges and recognises what political realist theories, particularly realism and liberalism, describe. But constructivism believes that the anarchic and hostile situation of international politics can be transcended. Peace is possible and human beings should aspire to live in perpetual peace. On the one hand, realism argues that there can be no law and order in an environment that has an absence of a central authority. On the other, constructivism in agreement with liberalism argues that the situation described by realism (on international politics) is but a result of ideas and ideas can change. The world can be re-created or re-invented in the conceptualisation of social constructivism. It can hence be argued that 'anarchy is what states make of it' (Wendt 1992).

According to Weber (2001:60), 'if states behave conflictually toward one another, then it *appears* that the 'nature' of international anarchy is one of conflict. If states behave cooperatively towards one another, then it *appears* that the 'nature' of international anarchy is cooperative'. As espoused by scholars like Barnett (2011:159), 'the cultural context shapes not only identities and interests of actors but also the very strategies they can use as they pursue their interests'. This position confirms the fact that the external environment, be it culture, politics, and social norms, inform, shape and determine the possible routes that agents can follow. It can be suggested that the trajectory that an agent follows is determined by the societal structures created by human consensus. Barnett (2011:151) intones that, of the various plausible explanatory frameworks and theories:

Some drew from sociological theory, emphasising how structures constrain and constitute (or construct) the identities and interests of actors. Other drew from critical theory and the desire to uncover the power behind seemingly value-neutral concepts such as sovereignty and recovering the meanings that actors give to their activities.

For a long time international relations theorising has been dominated by political

rational theories. Ruggie (1983:201) affirms that - in line with the view proffered by constructivism - the state system 'has been organised according to alternative principles'. This position is corroborated by Barnett (2011:152) who argues that perhaps most critically, 'the modern international system begins with the end of feudalism and the emergence of sovereignty'. According to Waltz (1979:59), sovereignty is the 'defining organising principle of the modern states-system'. Ashley (1984:33) avers that neo-realism treated 'basic concepts of international relations, such as sovereignty, as if they are natural and thus fails to recognise how they are socially and culturally produced within a historical context'. Nau (2012:46) concurs with this view and submits that 'we cannot touch sovereignty the way we can a tank or building. But sovereignty still exists and exerts a powerful influence on international behaviour and outcomes'.

To further corroborate this view, Kratochwil (1991:47) argues that:

The rules of sovereignty not only regulate state practices but also make possible the very idea of a sovereign state. Furthermore, rules are not static but are revised through practice, reflection and arguments by actors regarding how they should be applied to new situations.

Thus rules should be interpreted, and we 'cannot know the meanings of rules from the outside looking in, but rather need to see the world as it is understood by the participants' (Barnett 2011:153). The basic claim that constructivism is premised on is that 'social forces such as ideas, knowledge, norms, and rules influence states' identities and interests, and the very organisation of world politics' (Barnett 2011:150). Nau (2012:45) shares this view and argues that shared knowledge 'shapes shared identities that define them [actors in international relations] and their counterparts'. In turn, as corroborated by Barnett (2011:150) 'societies shape identities, interests and capacities of individuals'. Nau (2012:45) further contends that 'these identities may be adversarial and distrustful, or they may be friendly and cooperative'.

For social constructivism 'anarchy in international affairs is not fixed' hence, the argument advanced by Wendt (1992) 'anarchy is what states make of it'. Barnett (2011:150) further reinforces the position that 'ideas define the international structure'

and it is that structure [anarchy<sup>24</sup>] that 'shapes identities, interests, and foreign policies of states'. Conversely, 'states and non-state actors reproduce that structure – and at times transform it' (*ibid*). Onuf (1998:62) argues that scholars who call international relations anarchic are not arguing that anarchy is an absence of rules, as that would be chaos not anarchy; 'instead, they seem to be saying that structure and especially a stable pattern of unintended consequences, rules the day'. Elsewhere Barnett (2011:152) argues that 'structures are also defined by ideas, norms, and rules'. In other words, structures contain normative and material elements.

#### **2.4.5 Critique of Constructivism**

Realism and liberalism both rely on causal reasoning; *X* causes *Y*. The constructivist approach on the other hand relies on constitutive reasoning; '*X* and *Y* constitute or mutually cause one another rather than one factor causing the other sequentially' (Nau 2012:13). As such, in constitutive reasoning, 'causes emerge from cumulative practices and narratives, not from independent and sequential events' (*ibid*:47). Reus-Smit (2001:218) concurs with the constructivist view that 'agents and structures are mutually constituted. Normative and ideational structures may well condition the identities and interests of actors, but those structures would not exist if it were not for the knowledgeable practices of those actors'. In corroboration of this view, Gould (1998:80) asserts that agents and structures 'each constitute the other' and 'simultaneously, agents and structures enable and constrain each other'. Constructivism, thus, is a befitting analytic framework to analyse the doctrine of sovereignty. Following the path paved by constructivism, the doctrine of sovereignty is constitutive; sovereignty and the state are mutually defining concepts. State defines sovereignty, so too is state defined by sovereignty. Constructivism is axiological in nature. It is value-laden and value-based. Like liberalism, it seeks to instil values of mutual respect and forbearance both in the domestic order as well as in the international order. It also promotes values of self-respect, respect of others and respect of property. It can be argued therefore that constructivism presumes that world politics can change for the better as opposed to realism that makes no room

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<sup>24</sup> Waltz argued that the structure of the international system had amongst other elements 'anarchy'. Realism and liberalism converge on this point that the structure and environment of international relations is anarchic, thus, anarchy defines international relations theories (Barnett 2011:151).

for change and advancement from evil and the pervasive and corrupted human nature.

Sovereignty as possessed by individual states breeds anarchy as each state wants to survive by furthering its national interest(s) and looks out for itself alone as argued by realism. Constructivism counter-argues the position of realism and advances the idea that anarchy and power politics are as a result of the manner in which actors think about them. It can be suggested that actors can choose to think about anarchy differently as an opportunity of collective engagement and thus change the view that world politics is about conquest, power and domination. International political actors can also embrace that world politics is about what is important to society, peace, prosperity, progress and the good of all concerned.

Hobson (2000:157) advances a challenge to constructivism. He argues that state identity formation 'necessarily leads to exclusion, repression, violence and the marginalisation of minorities' (*ibid*). In this sense, it can be argued that constructivism views the construction of state identity in negative terms. The argument that Hobson advances reveals that the logic of representation makes arbitrary distinctions between 'us' and 'them' and between 'self' and 'other'. This can be argued as a limitation of the social constructivist/identity perspective theory. Domestically states 'draw boundaries within society in order to repress those groups that do not conform to the pure notion of the self' (*ibid*:159). In the international domain states create 'the appearance of a *threatening* other' and by so doing 'the state is able to confer the appearance of unity upon the self' (*ibid*). The international realm of politics is a result of the constructed self-identity of states. As such anarchy is not an external factor but a projection of the internal factors of states. In other words, anarchy of necessity constitutes the international order.

The creation of supranational structures to regulate activities such as politics, trade, and economics, to mention a few aspects, assumes that the created supranational structures are accorded sovereign power to enact and enforce the agreements that states become signatories to. This suggests hierarchy and it is an affirmation of sovereignty. Morgenthau (1948:259) cited in Rudolph (2005:2) supports this position when he argues that the supreme authority implied by sovereignty logically means that

'no two or more entities - persons, groups of persons, agencies - can be sovereign within the same time and space'. Thus hierarchy is reciprocally affirmed by sovereignty. In a hierarchy, the top is the highest and the final authority beyond which there is no other. It can be argued that if the UN is to be that supranational structure to regulate and govern inter-state relations, it means that it will have to be 'sovereign' in order to be able to enact, enforce and arbitrate in and between states. This suggests that there is need for law and legitimate authority to enforce order in inter-state political relations.

## **2.5 Conclusion**

This chapter argued that realism seeks to explain phenomena as observed in the political world. It demonstrated that realism upholds that human nature is corruptible. Since human nature can be corrupted, realists cannot trust anyone else but themselves in the way they conduct politics in the international realm. It was noted, however, that realism does not account for altruistic humanitarian action.

This chapter also argued that liberalism is prescriptive of the issues and problems arising in international politics, whereas realism is descriptive. It is more appealing to progressive economies as it emanated from international markets. The liberty of individuals is hailed as an achievement brought by liberalism and such liberty is not only for the individual, but for other individuals as well. As such, liberalism promotes peace and liberty for all. The rule of law is emphasised by liberalism and is the impetus to economic growth and freedom. It was observed that even though liberal states pride themselves in internal stability and pacific foreign relations, history proves the contrary as liberal states can be as ruthless towards non-liberal and non-democratic states.

The chapter also argued that constructivism emphasises ontology as opposed to epistemology which is emphasised by rational theories (realism, liberalism, Marxism). Comparatively, constructivism is both descriptive and prescriptive of the issues and problems arising from international politics. Constructivism is axiological in nature; it is value-laden and value-based. Like liberalism, it seeks to instil values of

mutual respect and tolerance both in the domestic order and international order. It seeks to promote values of self-respect, respect of others and respect of property. Thus, constructivism, like liberalism, promotes peace and liberty for all.

It was also observed that sovereignty is a social construct. Therefore it is not materialistic or atomist and hence it is best examined and analysed through the lens of constructivism. Realism and liberalism are premised on the doctrine of sovereignty. Constructivism, although it recognises and affirms the doctrine of sovereignty, goes further by analysing not only the essence of sovereignty, but investigating the context in which the doctrine of sovereignty arises.

## CHAPTER THREE: LITERATURE REVIEW

### 3.1 Introduction

The conceptualisation and execution of the concept of sovereignty has undergone a lot of changes in various historical epochs meaning that sovereignty cannot be conceived a-historically (Clark 1999:70). Seemingly there is a shift in the meaning of sovereignty from the traditional, all powerful, supreme and absolute notions that were premised on the Peace Treaty of Westphalia (1648). Contemporary international norms, particularly the human rights notions upheld by some interest-groups, governments and individuals, present sovereignty as inclusive, transitional and dynamic. As discussed in Chapter Two, the social conditions, societal structures, social environment and the passage of time have an impact on social realities and social constructions such as the doctrine of sovereignty. Both the conception and practice of sovereignty span over, at least, 400 years, thus it has a very long and rich history.

Contemporary international relations theories and practices are premised on the doctrine of sovereignty as informed and influenced by the Westphalian system of 1648 (Krasner 2006:86; Makinda 2001:406; Osiander 2001:251). Principles of sovereignty form the basis of international political relations. Despite the various arguments and challenges posed by the proponents (Thomson 1995:215; Zacher 1992; Gottlieb 1993; Fowler and Bunck 1995; Lyons and Mastanduno 1995) and processes of globalisation respectively - that seem to suggest the demise of it - sovereignty remains central and vital to international relations. Emerich De Vattel (1883:154) cited in Rudolph (2005:1) asserted that 'of all rights that can belong to a nation, sovereignty is doubtless the most precious'. Sovereignty is an indispensable concept and feature of the European state system and of contemporary international politics. Chris Brown (2002) affirms that sovereignty is the distinctive and distinguishing characteristic of international politics. It is integral to international political thought and action. As international relations theories are premised on the doctrine of sovereignty, it has over the years been the template that informs international political thought and action.

There are various views and definitions of the term *sovereignty* as proffered by various entities that include, among others, academia, governments, intergovernmental organisations and non-governmental organisations. This chapter will explore the etymology and origins of the doctrine of sovereignty. The chapter will also explore various divergent and some convergent views, understandings and assumptions of sovereignty. It will also propose a working definition of sovereignty which is informed by the UN as enshrined in its Charter, Articles 2(1)<sup>25</sup>, 2(7)<sup>26</sup> and 78<sup>27</sup>. In so doing, it is the hope of this study, that the doctrine of sovereignty will be treated with some circumspection.

### 3.2 Defining Sovereignty

The standard definition of sovereignty that will be used in this study is one informed by the UN. In spite of the weaknesses and biased composition<sup>28</sup> of the UNSC (Chandler 2008:27; Chomsky 2008:12, 16; Mhiripiri 2008:153), most governments and inter-governmental organisations and institutions view the UN as a neutral arbiter of international grievances of its member-states. Zimbabwe is a member-state of the UN, and as such, it makes fair sense to adjudicate and assess whether or not Zimbabwe in its May 2005 Operation *Murambatsvina* was indeed justifiable as it claimed under the doctrine of sovereignty.

Rudolph (2005:2) argues that sovereignty is complex and multi-faceted; to that effect, there is no single, universally accepted definition of the concept of

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<sup>25</sup> Article 2(1) of the UN Charter reads: 'The Organisation is based on the principle of the sovereign equality of all its Members' (<http://www.un.org/en/documents/charter/>).

<sup>26</sup> Article 2(7) reads: 'Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII (*ibid*).

<sup>27</sup> Article 78 of the UN Charter reads: 'The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality' (*ibid*).

<sup>28</sup> This assertion is informed by generally accepted norms and principles of representative democracy as espoused by the UN. As an institution of multilateral democracy, the UN seeks to instil, in institutions of global governance, these norms and principles such as democracy. Given the principles of democracy and equality, the UN should reflect these in its conduct, processes and practices. Africa constitutes more than half of the sovereign states that comprise the UN; yet this factor is not reflected in the decision-making mechanisms of the UN, particularly the Security Council. It can be argued that the current state of affairs can be interpreted as unwillingness on the part of the permanent members of the Security Council to transform and conform to the internationally accepted standard of representative democracy.

sovereignty. Krieger (2006:78) agrees with the view that sovereignty is not a unitary and singular concept but that it is multi-dimensional. In corroboration of this view, Hobson (2000:161) and in line with Biersteker and Weber (1996:104) argues that:

Sovereignty is not an objective category which acts as a referent for the state. Sovereignty itself must have a referent – that is, it must be grounded in a foundational ‘truth’, such as God or ‘the people’ that must be ‘written’ by the state through statecraft. And because such referents are themselves constructed, so sovereignty is, ultimately a social construct.

Some argue that sovereignty is an absolute principle. For example, Keene (2002:44) quotes Hugo Grotius’ argument that ‘sovereignty is a unity, in itself indivisible’ and Lake (2003:305) confirms this position. Grotius’ position sharply contrasts with that of Wilde (1919:658), who contends that sovereignty is not an absolute principle, arguing instead that sovereignty is contested, configurable, and flexible. This view is in line with the argument espoused by this study that sovereignty is contested and dynamic. In confirmation of this view, Sir Geoffrey Howe (1990:676), a British international relations practitioner, argues that ‘sovereignty is not some pre-defined absolute, but a flexible, adaptable, organic notion that evolves and adjusts with circumstances’. Howe’s assertion converges with the notion of constructivism that socially constructed concepts must evolve and accumulate in meaning over time as societies become aware of new realities around them.

Nau (2012:46) argues that sovereignty consists of procedural and regulatory norms as opposed to substantive norms such as human rights. Nau’s position contrasts with both Howe’s and Grotius’ arguments. On the one hand Howe contends that the concept of sovereignty is not unitary, proposing that sovereignty changes and evolves. On the other hand, Grotius’ argument contends that sovereignty is inviolable, absolute and a unitary concept. Nau goes further to position an argument that has little to do with the opposing assertions of unitary and flexible notions of sovereignty. He contends that sovereignty has more to do with the regulation of social relations between individuals in society and between the society and its government. In other words Nau suggests that sovereignty consists of procedural norms that govern a society, between its individual members as well as between the collective of individuals and their government (sovereign). Sovereignty equates to practices and procedures used for regulating society. The implication of Nau’s

argument is that sovereignty is not unitary. Nau does not necessarily argue that the notions or principles of sovereignty are contested. Nau, however, implies that not only is sovereignty not absolute –therefore possibly contestable - it is not unitary either. If sovereignty was a unitary concept, it would mean that sovereignty has one particular standard operating procedure. But, Nau explicitly declares that sovereignty equates to regulatory procedures (plural), as opposed to a regulatory procedure (singular), thereby implicitly endorsing that sovereignty is not a unitary notion. Despite the various positions proffered by the various proponents of the discussed contrasting views, there are however, some implicit and explicit defining characteristics of the concept of sovereignty deducible that include, but are not limited to, authority, legitimacy, legality, autonomy (non-interference by external forces), supremacy, power and territorial control.

Sovereignty implies some sort of autonomy, claiming a sense of autonomy of the political unit involved. States are politically independent of one from another. In the domain of international politics it is states, strictly speaking, that are sovereign. Sovereignty can also be seen as a claim by a state to be free and independent of another's jurisdiction. Hence the call made by Wight (1977:135) cited in Clark (1999:76) that 'it would be impossible to have a society of sovereign states ... unless each state, while claiming sovereignty for itself, recognised that every other state has the right to claim and enjoy its own sovereignty as well'. Wight's assertion clearly articulates the importance of a state's autonomy as entrenched in the principles of sovereignty. Hence, the jurisdiction of a state is exercised only over its citizenry within the geographic demarcations (political borders) of that particular state, and of course, on foreigners who are within that state.

In a sovereign state there is a central governing authority (central/federal, national government) which is the final and highest arbitrator in that state. A sovereign state can only exert and enforce its laws on its citizens. A sovereign state therefore cannot exert and enforce its laws on a neighbouring state's citizenry. In the event that a state imposes its ideologies, policies and laws on a neighbouring state, the imposing state transgresses international law. It follows that part of the problem of international politics is the absence of such an authority that ensures cooperation and guarantees compliance of every state, and at all times. The contemporary international system of

states, which is modelled on the European state-system of the modern era, lacks a central legitimate authority that occupies the highest and absolute office to govern, regulate and arbitrate between independent sovereign states. To that effect, Brown (2002:6) argues that ‘a defining characteristic of a sovereign-based system is the absence of authoritative central institutions’; this Brown makes in reference to the realm of international politics. This is precisely what anarchy is; an absence of a central governing authority and arbitrator in world affairs.

There exists not a universal or world government and so there really is no highest and final arbitrator in the realm of inter-state relations worldwide as was discussed in Chapter Two and proffered by realism. The question of how power (implied by sovereignty) in transnational or supranational structures is exercised, and by whom the power is exercised, and over whom power is exercised, already surfaces. This is where the bone of contention is in international relations. The above discussion on the attempt to explore and gather definitions of sovereignty helps one to realise and appreciate that while it is difficult, challenging and complicated to define sovereignty, the attempt to define actually helps to circumscribe the discourse. From these populist and precursory definitions, one can deduce that power is a constitutive component of the definition of sovereignty. The power to govern a state is vested in the representative of that particular state, a statesperson or head of state - or as literature from the modern era referred to statesmen (*sic*) – ‘sovereign’ (Rudolph 2005:4; Agnew 2005:439). But where does the power of the sovereign come from? Is power constitutive of sovereignty? If so, why is power constitutive of sovereignty? Why should a sovereign’s authority translate into material power? When does the authority of a sovereign become or get associated with absolute power and consequently, control? Can a sovereign have authority without material power? These are some of the questions that this particular chapter and the research as a whole will attempt to simultaneously answer in the course of its deliberations.

### **3.2.1 The Working Definition of Sovereignty**

In line with the understanding of Ayoob (2002:82), that ‘sovereignty as authority (the right to rule over a delimited territory and the population residing within it)’, this study

contends that a feature that runs consistently in all the facets of sovereignty discussed in this study is authority. Legitimate authority is the general and common defining factor of sovereignty as a principle. For individual sovereignty, one has and is the only legitimate authority to decide what s/he wants with and for his/her life. One has authority to make choices about his/her life, thus, authority is a factor that is implicitly and explicitly endorsed in individual sovereignty. With regards to domestic sovereignty or national sovereignty, like individual sovereignty, it has authority as a defining factor at its core. To use Croxton's (1999:570), words 'sovereignty is an assumption about authority'.

The municipality (domestic sovereign) is given the mandate by the populace to adjudicate and arbitrate between individuals in a society as espoused and enshrined in the social contract. It is only because the sovereign has the authority conferred on him/her by the people s/he serves that s/he has authority to intervene and arbitrate on society's matters. The enforcement of rules and laws by domestic representatives of the sovereign is secondary. Without the primary authority to do so (enact and enforce rules and laws) given and recognised by individuals in society, such enforcement of rules and laws is tantamount to brute-force imposition of foreign ideologies on society. Thus, power and control do not necessarily and primarily define sovereignty as a concept. Power and control are as a result of individuals' recognition of and voluntary subjection to the sovereign. Anyone or any subgroup in a state can have power and control sections of the state or even all aspects of the state. But such an individual or group may not have the authority to do so. All they may have is raw or material power that enables them to control certain behaviours and manipulate situations and systems within a state.

Often warlords in conflict areas have material power that is often abused in controlling certain parts of a state and the populace falling in the affected sections of that particular state. But the control and power that such a warlord possesses is illegitimate for it is not authorised by the society. Society has soft power to confer authority to societal representative(s) who then become legitimate dischargers of raw or material power. This observation points to another definitive factor of sovereignty, legitimacy. Legitimacy flows from authority. Ruggie cited in Croxton (1999:570) affirms this position when he argues that sovereignty 'signifies a form of legitimation'.

The authority conferred on the sovereign by society forms the basis for a sovereign's legitimacy. The sovereign is only legitimate in so far as s/he is accorded authority by his/her society.

The PToW shaped and helped to establish sovereignty as a political organising principle in general and in particular, the norm of non-interference in the domestic affairs of a state. In recent decades, however, various international norms and processes have worked against the principle of non-interference and the exclusion of foreign political forces in a state's domestic jurisdiction and thus, suggested how 'state sovereignty is conditional on how states treat their populations, best known as a responsibility to protect' (Barnett 2011:160). This observation by Barnett epitomises what this study argues, that sovereignty is best understood via the lens of constructivism which suggests that sovereignty is essentially a social construct and as such, is dynamic. Former UN Secretaries General, Kofi Annan and his predecessor, Boutros Boutros Ghali, are on record for declaring that 'state sovereignty is not absolute and exclusive and can be circumscribed, even overridden, in special circumstances' (Ayoob 2002:83). This demonstrates that principles of sovereignty are capable of change and reconfiguration over time. Sovereignty as a socially constructed reality has a propensity to change and adapt to changing and evolving social realities of particular timelines of temporal history.

This chapter will now focus on the most contentious aspect of sovereignty – non-intervention in the domestic realm of a sovereign state and the exclusion of foreign actors, as opposed to foreign forces, in the domestic authority structures of a sovereign state as implied by the Westphalian doctrine of sovereignty. The chapter argues that the absolute, inviolable, and indivisible principles of the Westphalian sovereignty are results of the social, cultural and political contexts of the modern times as a historical epoch. The modern historical epoch is the stretch of time in which the doctrine of sovereignty first received official codification. This position is also affirmed by Croxton (1999:570) who argues that the PToW signalled a 'formal statement of the principle of sovereignty' although the practices around the principles of sovereignty were established earlier than 1648. As such, since then (modern era), the social, political, environmental and economic contexts, to mention some aspects, have changed. Times have lapsed and cultures have evolved. Thus, the Westphalian

understanding of sovereignty has been affected, shaped, informed by the passage of time, and has evolved - reflecting the change of worldviews and particularly the human emancipation that has transpired from the modern era - to contemporary, 'global village' (present) times. This chapter contrasts the political and social understanding of the modern era to that of the 21<sup>st</sup> century's understanding of global socio-politics. The comparison is in demonstration of the dynamism and change that the doctrine of sovereignty has undergone. In conclusion, this chapter will highlight some contemporary trends, norms and processes of globalisation that have affected the Westphalian understanding of the doctrine of sovereignty; particularly the doctrine of R2P.

### **3.3 The Westphalian Sovereignty**

The Westphalian sovereignty, according to Krasner (2001:232; 2006:72), refers to political organisation premised on 'the exclusion of external actors from authority structures within a given territory'. Litfin (1997:169) concurs with this view; he argues that sovereignty denotes 'the state's exclusive authority within specified territorial boundaries'. The Westphalian sovereignty is also referred to as 'Vattelian sovereignty' named after Emerich de Vattel who was a prominent proponent of the Westphalian sovereignty in the 18<sup>th</sup> century, and helped shape rules of engagement for the Westphalian sovereignty (Krasner 2001:232-233, 245). Krasner (2001:232), quoting Wolff (in Thomas and Thomas 1956: 5) stated that 'to interfere in the government of another, in whatever way indeed that may be done is opposed to the natural liberty of nations in its action'. Krasner goes on to quote Vattel's application of Wolff's argument on some European and non-European states which asserts that:

The Spaniards violated all rules when they set themselves up as judges of the Inca Athupa. If that prince had violated the law of nations with respect to them, they would have had a right to punish him. But they accused him of having put some of his subjects to death, of having had several wives ... things, for which he was not at all accountable to them; and, to fill up the measure of their extravagant injustice, they condemned him by the laws of Spain (*ibid*:232).

The above-mentioned position that the nation-state of Inca Athupa took would have today, warranted the invocation of intervention of the UN. Krasner's observation demonstrates that interstate relations have always been affected by some

interference from foreign actors and forces for various reasons and motivations. Foreign actors have always sought to influence or intervene in the domestic authority structures of sovereign states. As such, and as argued by Nau (2012:13), 'monarchs who existed in Europe prior to Westphalia gathered together to assert their independence from the pope in Rome and Holy Roman Emperor in Vienna. They created the treaty to establish (cause) the practice of sovereignty'. Thus, the PToW asserted and recognised each state as independent of the Holy Roman Empire (the Roman Catholic Church in essence); it also asserted the independence of states. The result of the convention of the European monarchs is what is known today as the PToW. In order to understand and fully appreciate the Westphalian doctrine of sovereignty and the intricacies thereof, this study will briefly articulate what the actual PToW specifically entailed, stated and sought to achieve.

### **3.3.1 Peace Treaty of Westphalia (1648)**

The peace of Westphalia proper was an agreement between three signatories (the Holy Roman Empire, France and Sweden), consisting of two treaties signed on 24 October 1648. The first treaty called the Treaty of Munster (*Instrumentum Pacis Monasteriense* or IPM) was signed between the Holy Roman Empire and the king of France. The second treaty called the Treaty of Osnabruck (*Instrumentum Pacis Osnabrugense* or IPO) was signed between the Holy Roman Empire and the Queen of Sweden (Osiander 2001:266). Balogun (2011:43) concurs with Osiander that the sovereign state emerged on the 24<sup>th</sup> of October 1648 with the ratification of the PToW. To that effect, Balogun declares that 'the treaty formally recognised each sovereign's freedom to govern the territory under his/her control – without any external prodding or interference, but subject to his/her ability to hold the territory and command the allegiance of the people therein' (*ibid*:43). In affirmation of Balogun's viewpoint, Agnew (2005:440) contends that 'the importance of the peace of Westphalia in 1648, for example, lay in the mutual recognition among elites of the new European territorial states as a set of neutral centres of public power in the face of devastating religious war'. The treaty recognised the autonomy of each state in as much as a state recognised another's autonomy, thereby each state affirming another's legitimacy. This alludes to the notion of mutual recognition, now

entrenched in international legal sovereignty as articulated in the UN Charter, Article 2(7).

While the PToW (1648) was primarily an agreement between religious authorities (Roman Catholic Church and the Pope) and territories of the then France and Sweden, it can be deduced that non-intervention in the domestic affairs of a state by another is as a result of the 1648 Peace Treaty. Thus, illegitimate, illegal and unsolicited intervention in the domestic affairs of a sovereign state is, to date, contested and unacceptable. This position is in line with what Brown (2002:79) argues, that 'since the beginning of the Westphalia system the assumption has been that sovereign status implies non-intervention, that is to say that external bodies (including other states) have no right to intervene in the affairs of a sovereign state'.

From the 1648 Westphalian Peace Treaty, it can also be deduced that the only legitimate authority to govern and preside over a sovereign state's territory and population is in fact the domestic sovereign. Authority and legitimacy are implied by the Westphalian sovereignty as contained in and by the domestic sovereign. Authority concerns rule-making (Thomson 1995:223). This position points to the mutual and inclusive definition of concepts as proposed by social constructivism. By defining domestic sovereignty, one mutually defines Westphalian sovereignty as well. The Westphalian sovereignty is viewed as under attack and threat by various analysts (Balogun 2011:139; Clark 1999:34; Krasner 2001:236; 2006:71) as a result of processes of globalisation. Such an observation is in lieu of control as a component of sovereignty more than it is a component of the authority of sovereignty. Global trends have trivialised the Westphalian sovereignty in so far as the control component of sovereignty is concerned, without necessarily eroding the authority component of sovereignty. Like political realism and liberalism, the Westphalian doctrine of sovereignty is state-centric. It assumes that the primary and salient actors in the field of international relations are states. The Westphalian sovereignty leaves little room for non-state actors such as individuals and non-governmental institutions. Yet with the contemporary culture of human rights and freedom, this position is difficult to sustain as rightly noted by Krasner 2001:237; 2006:72). In corroboration of Krasner's observation, Chopra and Weiss (1992:113) argue that 'as sovereignty and the prohibition against outside intervention protecting

it have been eroded, human rights have grown in clarity, strength and breadth. The evidence of 40 years suggests that this trend will continue'. Thus, global politics today is saturated by issues that surpass states' jurisdictions and competencies such as environmental and climatic issues. Is it not high-time that international relations explicitly and inclusively accommodated non-state and individual actors in the practice of international politics? This position is endorsed and complimented by social constructivism, a theory informing this study. At this juncture, this study will systemically extrapolate, in detail, some of the implications of the PToW and notions associated with the broader Westphalian understanding of sovereignty.

### **3.3.2 Non-Intervention**

It can be deduced that the Westphalian doctrine of sovereignty recognised and argued for the non-interference of other states in the domestic affairs of another. Ayooob (2002:83), in corroboration of this principle, argued that 'non-intervention in the domestic affairs of states is an essential corollary of sovereignty'. The notion that the Westphalian sovereignty is about self-determination, can also be deduced from such a rule that precludes foreign forces from the legitimate domestic authority structures. A person who is self-determined is independent of another. Likewise, a self-determining state must and has to be independent of any other so as to determine its own course of action, thought and trajectory. Despite the understanding and convention there is on non-intervention in the domestic affairs of a sovereign state, 'strong states have routinely intervened, even forcibly, in the affairs of weaker ones' Ayooob (2002:83). According to the Westphalian understanding of sovereignty a state had to prove that it could defend and maintain its sovereignty, as noted by Nau (2012:31).

Historically, the proof of maintaining sovereign rights was by way of conquest. Thus, the Westphalian doctrine of sovereignty in that sense encouraged and promoted conquest and war. This is a position endorsed by realism's notions of power, self-help and anarchy in the realm of international relations. The defence of a sovereign territory was by way of force, and when deemed necessary, by way of full scale war. At the inception of the Westphalian sovereignty, the modern era was at its peak. Absolutism as an ideology, informed the social and political organisation of society; it was popular.

As such, the exclusion of foreign forces in the domestic of a sovereign state may, at that time, had been upheld without much resistance, contestation and contention. It was absolute. That position, however, is difficult to sustain - if not impossible - as international law or the law of nations, in particular cases and under certain circumstances, the community of states (international community) can now, and legally so, intervene in a sovereign state's territory. The autonomy and self-determination of a state no longer necessarily exclude foreign forces in the domestic jurisdiction of another. International norms and multilateral agreements have made it possible for a state to implicitly and inversely influence another state's domestic and foreign policies.

To this effect, the rules of exclusion of foreign actors' influences in the domestic affairs of a state and the prohibition of intervening in the domestic affairs of another state by a foreign state are, in fact, results of efforts by De Vattel and Wolff (Osiander 2001:232). The exclusion of external elements from domestic structures is what Clark (1999:72) calls the 'great divide'. He argues that 'sovereignty is presented as demarcating the internal from the external and does so by locating supreme authority within the state, but only contested power claims without' (*ibid*). Thus, the Westphalian sovereignty is sometimes treated as dualistic in nature – expressing itself as supreme within the state and independent outside the state (Bull 1977:8; Clark 1999:73; Williams 1996:112). Interference in the domestic affairs of a sovereign state, according to Brown (1996:108) cited in Balogun (2011:43), is interpreted as aggression on the part of the interfering state and as such, it is illegitimate and can invoke a hostile and forceful response. At the centre of most literature on the doctrine of sovereignty, the most common and well-articulated is the Westphalian doctrine of sovereignty, yet it remains elusive to fully grasp and comprehend. Since the European ethnic wars in general, and German wars in particular, and religious wars - which lasted for about thirty years (1618-1648) - were halted at the signing of the Westphalia treaty in 1648, sovereignty as a principle of non-intervention in the domestic affairs of another state, has played an important part in interstate affairs (Agnew 2005:440; Armstrong 2008:46; Krasner 2001:240; 2006:71; Osiander 2001:252; Rudolph 2005:4). The principle of non-intervention has mitigated in ensuring some degree of autonomy of states. Autonomy is a necessary corollary of the principle of non-intervention.

### 3.3.3 Autonomy

The recognition of a state as sovereign by others makes it possible for all states to enjoy some degree of autonomy. Autonomy implies that even when a state may be interdependent or even dependent on another on particular issue areas, it is still within the rights and possibilities of that state to uncompelledly engage with another as an equal or – if it so chooses - not engage at all. Waltz (1979:96) in affirmation of this view argued that ‘to say that a state is sovereign means that it decides for itself how it will cope with its internal and external problems’. Thus, autonomy is a fundamental requisite of a sovereign state. Balogun (2011:43) observes that the doctrine of sovereignty as enshrined in Article 64 of the 1648 treaty:

implies exclusive power to take autonomous decisions concerning the maintenance of internal order; enforcement of laws and contracts; preservation of the society’s cultural, moral, and religious norms; provision of an environment conducive to orderly exchange of goods and services; defense against external invasion; and conduct of relations with other sovereign states.

In other words, Balogun argues that the exclusive power possessed by a state, makes it possible for that state to be autonomous. Autonomy is another crucial aspect of the Westphalian sovereignty. What this study extracts and deduces is that the Westphalian sovereignty implies that a sovereign state is one that has authority and power to determine its own trajectory; one that has power and authority to control what transpires within its territorial borders as well as enact and enforce law and order within its domestic jurisdiction. Autonomy and self-determination are aspects of independence, thus, they equate to the exclusion of foreign forces’ meddling in the domestic confines of a sovereign state.

Krasner (2001:242; 2006:71) affirms this view that:

The Westphalian model asserts two principles – territoriality and autonomy, defined by the exclusion of external actors from exercising authority or effective control<sup>29</sup> within the borders of a given state.

Thus, at the core of the Westphalian interpretation of sovereignty is the notion of autonomy predicated by the notion of non-intervention. No other state has the

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<sup>29</sup> According to Thomson (1995:223) control equates to rule-enforcement, as opposed to authority which equates to law enactment.

legitimate authority to intervene in the domestic affairs of another. This study can deduce then that, according to the Westphalian doctrine of sovereignty, a state, and it alone, can determine its course of action for it enjoys autonomy. Independence is emphasised by the Westphalian sovereignty. Ideally speaking, no other external actor or authority should intervene or meddle in the affairs of another state.

From the above deliberations on sovereignty, it still does not explain why sovereignty, and particularly the Westphalian interpretation of it, has been interpreted and presented as absolute, inviolable, static, indivisible and final. This is a particular juncture that, social constructivism as a theory, can shed better light on this study, in order to better appreciate the intricacies and depth of the notions of sovereignty. The core ideas of the Westphalian sovereignty as such - explored thus far - do not suffice as a comprehensive and satisfactory explanation as to why the Westphalian sovereignty in particular is portrayed as absolute, indivisible and inviolable. Constructivism would suggest that a study such as this one should explore and investigate the structures around the inception and creation of sovereignty. Hence, unpacking and understanding the principles of sovereignty born out of the PToW (1648) without the understanding of the cultural, social, political, religious and environmental circumstances surrounding its creation and inception, is understanding only part of the story.

The Westphalian sovereignty has domestic sovereignty as its corollary. What is evident as Westphalian sovereignty in the international domain is national sovereignty in the domestic domain. It follows then that, what happens in the domestic jurisdiction of a given state, affects the international domain. As such, Operation *Murambatsvina* was meant to be confined to the domestic terrain of the GoZ, but it drew the ire of the international community of states. This study will discuss something about domestic sovereignty in the following section.

### **3.4 Domestic Sovereignty**

This form of sovereignty is also referred to as national or state sovereignty in various literatures (Howe 1990:677; Clark 1999:71; Jameson 1890:193). Krasner (2001:231)

asserts that domestic sovereignty refers to 'authority structures within states and the ability of these structures to effectively regulate behaviour'. By both definition and description, domestic sovereignty as a principle, is border-determined or rather border-specific. It equates to the enforcement and application of legitimate authoritative decisions and laws in the domestic confines of a particular state. In other words, domestic sovereignty is territorially bound, to the exclusion of other political territories that do not fall under a particular politically independent state. Elsewhere, Krasner (2001:231; 2006:72) echoes Hobbes' view and argues that domestic sovereignty is about 'the formal organisation of political authority within the state and the ability of public authorities to exercise effective control within the borders of their state'. Thus, it is 'a concept that denotes absolute power' (Hoffman 2007:171) as exercised and possessed by the state within the territorial borders of a given state. In the modern era, the period accredited for constructing the notions and principles of sovereignty, the legitimacy and authoritative principles of sovereignty were 'personated' in the sovereign (king, queen or monarch). Initially, all power and authority that, in the contemporary era, is vested and conferred on the state, was at some stage conferred and vested in a particular person or group of persons, known as the 'sovereign'. Thus at times people fail to distinguish the sovereign (person) and sovereignty (principle). Hobbes (*Leviathan* 1561:157, 227 in Shelton 1992:205) succinctly gives an account of the etymology of the sovereign:

The only way to erect such common power, as may be able to defend from the invasion of foreigners, and the injuries of one another ... is, to confer all their power and strength upon one man, or upon an assembly of men, that they may reduce all their wills, by plurality of voices, unto one will ... This is more than consent, or concord; it is a real unity of them all, in one and the same person, made by the covenant of every man with every man, in such manner, as if every man should say to every man, *I authorise and give up my right of governing myself, to this man, or to this assembly of men, on this condition that thou give up thy right to him, and authorise all his actions in like manner.* This done, the multitude so united in one person, is called a COMMONWEALTH, in Latin CIVITAS.

In other words, what Hobbes gives account for, is a consolidation of the social contract, only it adds that - in that particular contract and with specific wording - every person is to recognise, authorise and confer on the one person vested with such power by consensus and consent, the authority and power to be 'sovereign'. Two observations can, thus, be made here: The first observation is that there is an established agreement, by every person concerned, to the creation of a sovereign,

as such there is consensus. The second observation is that there is a willingness to submit to the sovereign once the agreement has been passed and adopted. It can be argued that this alludes to contemporary principles of democratic representation. It can further be argued that this converges with John Locke's call that individuals should consent to commonly agreed standards. It can be suggested that the notion of commonwealth, following from the *Social Contract*, as expounded in part II of the *Leviathan* (1689), is a binding formal contract. It can be viewed as a formal political tool to organise society and common social practices and standards since it is premised on legitimate authority that is conferred by the agreement of the members of civil society. This is precisely what this study argues and contends to have shaped the modern common understanding of the doctrine of sovereignty; that of absoluteness, sacrosanctity, indivisibility, finality, inviolability, inseparability and binding.

In order to ensure domestic order in the nineteenth century, governments had to come up with new strategies that included representative democracy, social contract and constitutionalism (McCullough 2010:9). The legitimate and authority-based power implied by sovereignty is exercised over that particular state's populace alone, hence domestic sovereignty. Klink (1990:2 in Thomson 1995:227) affirms this position and argues that the state's 'scope is limited to the people and resources found within a set of geographic boundaries'. Howe (1990:677) concurs with this view that state sovereignty is 'the notion that a country has the unique right to control its own destiny, and that sovereignty is infringed if any other country or outside pressure exercises an unauthorised influence on its affairs'.

On the one hand, domestic sovereignty implies the ability to control, enact and enforce law and order in the domestic confines of a given state. The absoluteness of the power exercised over the populace is because the state is the highest point of recourse. The state (government) is the final arbitrator and the highest authority in that particular land. On the other hand, domestic sovereignty presumes legitimate authority that results in material power to enact laws, and enforce law and order as vested in the sovereign. By implication, it is the population that renders a sovereign supreme by recognising and accepting the sovereign as the highest authority and final arbitrator in the land (Rudolph 2005). In other words sovereignty as possessed

by the state obliges the state to be responsible to its citizens, hence the idea of sovereignty as responsibility. Boucher and Kelly (1994:17) assert that:

The use of contract and concomitant idea of consent is, as we have seen, common currency among writers, many of whom invoked the language to legitimatise political obligation and establish its limit.

Howe (1990:690) concurs with this view and asserts that 'sovereignty does in the last resort depend upon the consent of the democratic electorate, who alone endow their governors with the necessary authority, and who alone can enable what pattern of consent to change over the years'. In the event that individuals' preferences conflict, it is this recognised highest authority in the land that can and will arbitrate. A sovereign, or statesman/woman, represents the state and it follows therefore that much of the material and soft power of the state is exercised and discharged by a person - the sovereign. Janice Thomson (1995:216) disagrees with the view that states' control is absolute; she argues that, 'in point of fact, there never was a time when state control over anything, including violence, was assured or secure'. As such, Thomson contends that sovereignty is about authority more than it is about control. This contribution by Thomson exposes the limitation of the supremacy to control claim as deduced from sovereignty. It can be argued that even in the best of circumstances (domestic jurisdiction) sovereignty has its limitations.

Domestic sovereignty by implication is border-determined and specific. A sovereign state can only exercise its power over a population in a particular border or territory (Bull 1977:8). Balogun (2011:43) concurs with this view and argues that 'a sovereign state cannot tell another how to conduct its business; neither could it be told how to conduct its own'. In interstate relations, as noted by Waltz (1979:88) 'none is entitled to command; none is entitled to obey'; a view that Lake (2003:305) shares. Thus, states can best engage one with the other on equal terms and reciprocal courtesy. A hypothetical example can help to succinctly make this point: The Republic of South Africa (RSA) as a sovereign state can only exercise its legitimate sovereign powers over and within the political borders of the Republic of South Africa. Its neighbours for example, Zimbabwe or Botswana, sovereign states in their own respective rights, can only exercise their sovereign and legitimate powers over and within the territorial borders of Zimbabwe and Botswana respectively as politically demarcated.

Domestic sovereignty operates on the principle of exclusion of foreign forces in the domestic territory of a sovereign state. It esteems and upholds the convention of non-interference, by another, in the domestic affairs of a sovereign state. What domestic sovereignty idealises may have at some point in history been certain, valid and thus, binding. However, in contemporary society, even though states are sovereign and cannot explicitly be told by another how to run their affairs, common purpose and common interest have somewhat circumscribed the practice of domestic sovereignty. Common interests have certainly curbed the rhetoric thereof used by diplomats, statesmen and women such that foreign influences and inclusion are eminent and inescapable. Implicitly states are known, especially super powers, to have sometimes dictated to and influenced other states not only in their domestic policies but their foreign policy positions as well. In confirmation of this observation, Ayoob (2002:83) asserts that powerful 'states have routinely intervened, even forcibly, in the affairs of weaker ones'.

### **3.4.1 The Modalities of Domestic Sovereignty**

Domestic sovereignty has more to do with the internal ordering, regulation, arbitration and control of a state's population and a state's machinery and organs within the territorial confines, hence, within the geo-political jurisdiction of the state. In that sense it is intro-focused and introspective. The authority vested in the sovereign is geared towards the effective regulation and control of the citizens and the whole population in a given state including foreigners in that particular state. The external outlook of a state's domestic sovereignty eminently becomes interstate. As such, the exogenous outlook of domestic sovereignty remains as such but at the same time it becomes sovereignty in the Westphalian sense. Once a state engages with any other on issues of trade, politics, culture, sport, economics, environmental and social spheres, it eminently engages as an equal with another equal. By the mere fact of recognising one and the other as domestic and the claim of one's domestic sovereignty, the implication is that the domestic sovereign is one among many domestic sovereigns. By claiming domestic sovereignty, one does so with the awareness of another who is not in their confines, household, jurisdiction and territory.

The silent implication of the domestic sovereignty position is that there exists a foreign other who is not part of the domestic. The domestic sovereign is the highest authority in the land. The domestic sovereign is the only legitimate authority to engage with another sovereign. As such, the domestic authority that has the legal power and legitimacy to engage with a foreign other cannot engage with the foreign other as though the foreign other is part of its subjects, territory and jurisdiction. Kant, as recorded by Dunne (2008:112), argued that perpetual peace is at the centre of actualising liberal ideologies. It is vital for individuals to obtain 'consciousness', for states to enter federal contracts with other states to put an end to war and the need to create republican constitutions. As stated earlier in this work, the UN in some respects is seen as a result of such efforts. In the view of constructivism, the UN is a socially constructed institution arising from the need to regulate and channel efforts to mitigate international relations challenges. In agreement with Kant's consciousness, Woolf (in Luard 1992:465) asserted that prosperity and peace needed some 'consciously devised machinery'. In agreement with Kant's position, Wight (1977:135) makes a compelling statement with regards interstate relations, arguing that 'it would be impossible to have a society of sovereign states ... unless each state, while claiming sovereignty for itself, recognised that every other state has the right to claim and enjoy its own sovereignty as well'. Clark (1999:76) echoes similar sentiments.

Principles of domestic sovereignty are necessary elements and conditions to adjudicate and arbitrate between clashing, and safeguarding individuals' choices, preferences and at times outright barbarity and immorality by individual members of a civil society. Thus, this study argues that individual sovereignty and domestic sovereignty are intertwined. The former depends on the latter for its guarantee and security, and the latter is a necessary consequence of the former; such is the nature of constituted concepts as proclaimed by constructivism. In other words, individual sovereignty requires domestic sovereignty for its continued existence, security and maintenance. Initially, domestic sovereignty was as a consequence of safeguarding and upholding individual sovereignty. But once in motion, it actually became a necessary condition to actualise individual sovereignty. Conceptually and abstractly so, individual sovereignty, as argued by this study, may very well had been the cause

of domestic sovereignty, but as the wheels of time rolled, it has become a necessary condition for the continued existence, security and guarantee of individual sovereignty. It can be argued that these two strands of sovereignty are mutually defining, thus, constitutive of one another. This study suggests that individual and domestic sovereignty are intertwined concepts. They are intrinsically connected in both the conception of them and the practice thereof. This observation and conclusion is reflected in the notion of mutual inclusion in each's definition as espoused by the constructivist framework of international relations. It can therefore be concluded that the creation of the social contract is also the creation of both the state and sovereignty. Hence the state and sovereignty are mutually defining concepts. This is not surprising, nor hard to comprehend given that states are the primary actors in international relations.

From the above deliberations on sovereignty, it still does not explain why sovereignty, and particularly the Westphalian interpretation of it, has been interpreted and presented as absolute, inviolable, static, indivisible and final. This is a particular juncture that, social constructivism as a theory, can shed better light on this study, in order to better appreciate the intricacies and depth of the notions of sovereignty. The core ideas of the Westphalian sovereignty as such - explored thus far - do not suffice as a comprehensive and satisfactory explanation as to why the Westphalian sovereignty in particular is portrayed as absolute, indivisible and inviolable. Constructivism would suggest that a study such as this one should explore and investigate the structures around the inception and creation of sovereignty. Hence, unpacking and understanding the principles of sovereignty born out of the PToW (1648) without the understanding of the cultural, social, political, religious and environmental circumstances surrounding its creation and inception, is understanding only part of the story. In order to fully appreciate the depth and breadth, and the length and width of the doctrine of Westphalian sovereignty, this study will briefly explore those very social structures that gave birth and shaped the principles of sovereignty, even as practiced today.

### 3.5 The Age of Absolutism

The political, cultural and societal context, in which the PToW (recognised as the onset of the official codification of the doctrine of sovereignty) was orchestrated and crafted, is known as the 'age of absolutism'. Various pundits have professed various dates of the age of absolutism. Reus-Smit (2001:217) posits that it was between the years 1555 to 1848. Beloff (1996) contends the age of absolutism was between the years 1660 to round about the year 1815. Yet Shimko (2010:10) argues that the age of absolutism was between the years 1648 to 1789. Another time frame that has been advanced by Ashley (1974:20) as the age of absolutism is between the years 1648 to 1775. From the dates proffered by these various scholars, it remains that the age of absolutism is contested and as such there are no specific dates that everyone agrees on. However, what is clear is that the year 1648, the year of the signing of the PToW, is at the very core of the dates advanced by the aforementioned pundits and scholars of international relations and world history. According to Retslag (1854:26), absolutism developed as a theory in the 15<sup>th</sup> century. Absolutism asserted the divine right of kings and queens that they ruled in the name of God; a view point also shared by Krasner (2001:232; 2006:78), and Duiker and Spielvogel (2013:439; 431). Sir Robert Filmer cited in Thomson (2001:76) echoed the views of Hobbes who ascribed and endorsed, through the social contract, the absolute authority of monarchs and argued that 'kings had the divine right to rule over their subjects'. Filmer actually believed that the liberty of people was unnatural. It is wrong to commit suicide, argued Filmer, and as such it indicates that in the natural realm 'a person is not the owner of his or her life. Only God is' (Thomson 2001:76). The discretely disguised implication here is that, the sovereign as they stand in place of God, own a person's life.

In the views of Filmer and Hobbes cited in Thomson (2001:76), people were as good as subjects of the sovereigns. This position reduced people to mere subjects that were meant to serve the sovereign. In fact, Dunn (1984:29) has it on record that 'a subject in the face of the unjust commands of his (*sic*) sovereign was clearly asserted to be to obey these commands passively'. Kings, queens and monarchs represented God's authority as 'the [natural] owner of all' and as such they were 'not subject to the laws that govern ordinary people' (Thomson 2001:76). In other words,

in the natural realm ordinary people are subject to the laws of God; and because monarchs represent God, ordinary people are subjects of God, thus, by implication are subject of monarchs as well. Reus-Smit (2001:217) contends that:

In the age of Absolutism (1555-1848) the norms of European international society held that Christian monarchies were the only legitimate form of sovereign state, and these norms, backed by the coercive practices of the community of states, conspired to undermine Muslim, liberal or nationalist polities.

This view is corroborated by Hobson (2000:162) who argues that 'many of the states within the Concert of Europe in the early 19<sup>th</sup> century developed a mode of representation based on monarchical absolutism'. The power and authority possessed by the sovereign was absolute, sacrosanct, unquestionable, final and binding. Hobbes, cited in Shelton (1992:226), in his famous work, *Leviathan* (186, 252) reiterated this observation and argued:

His [sovereign] power cannot, without his consent, be transferred to another: he cannot forfeit it; he cannot be accused by any of his subjects, of injury: he cannot be punished by them; he is judge of what is necessary for peace; and judge of controversies; and of the times, and occasions of war, and peace: to him it belongeth to choose magistrates, counsellors, commanders, and all other officers, and ministers; and to determine of rewards, and punishments, honour, and order.

Jean Bodin, cited in King (1974:145), a French renaissance philosopher, in corroboration of the views expressed by the theory and 'age of absolutism', argued that 'kings should not be under the power of the Holy Roman Empire, which governed much of Europe from the 9th century until early in the 19th century'. To consolidate his arguments, Bodin (cited in Franklin 2009:38) further argued that 'kings had the right to rule over all of their subjects and their political institutions'. Bodin was aware that kings and monarchs derived their authority, thus, sovereignty from religious beliefs. However, Bodin's argument can be logically and coherently sustained on non-religious grounds as well. In his work, *Six livres de la République* (1576; Six Books of the Republic, 1606), Bodin (cited in King 1974:141) asserted that a state possess 'supreme power over citizens and subjects unrestrained by laws'. Thus, Bodin's understanding of state was a community of families governed by a 'supreme and perpetual power'.

It is precisely these notions - absoluteness, sacrosanctity, indivisibility, inviolability,

inseparability, finality, thus, binding - as espoused by the sovereign that, from its inception and creation, shaped and presented sovereignty as a doctrine, as opposed to the contemporary understanding of the doctrine of sovereignty – as configurable, transitional and dynamic. The societal structure and context as described by absolutism have a bearing on how the PToW and subsequent doctrine of sovereignty were crafted. Given the absolute divine right of rule for kings, queens and monarchs – collectively referred to as sovereigns in this study - literature about sovereignty has, for a long while, presented sovereignty as an absolute, inviolable and indivisible principle. Absolutism, as argued in the frameworks of constructivism, provides a plausible and sturdy explanation of the static perception of sovereignty as a doctrine in the modern era initially, and to some extent, currently. The political and social environment – as informed by absolutism as an ideology - in which the principles of sovereignty were born, represents the structures of social reality in accordance with assertions of social constructivism. However, times have moved and progressed, contexts have changed and environments have evolved. This study argues that contemporary international norms and principles as current trends and ideology that inform the political, cultural and social context of contemporary times have necessitated the reconfiguration and/or expansion in the meaning of the doctrine of sovereignty. The social structures of contemporary society have changed in comparison to those of the ‘age of absolutism’. Thus, the contemporary conception of sovereignty is influenced, affected, shaped and reconfigurable as informed by current social structural dynamics such as notions and principles of human rights and democracy, to mention a few.

### **3.5.1 Discontention and Opposition to Absolutism**

Absolutism as an ideology and political position and even theory has, from the Westphalian treaty, been challenged and contested as attested to by Locke’s arguments. Locke (1632-1704) published his work entitled: *Two Treaties on Government* in the year 1689, exactly 41 years after the signing of the PToW, in which Locke, cited in Thomson (2001:76), argued that the public/community/society had the ‘right to resist an unjust authority’. According to King (1974:263; 279), the late 17<sup>th</sup> century presented pressure for democracy - in defiance of absolutism - in

England's North American colonies, as well as in many parts of Europe, a view shared and affirmed by Thomson (2001:74-75). This position sharply contrasts with Hobbes' notion of absolute authority of the sovereign. Locke (cited in Woolhouse 1983:1), who later became known as an advocate of democracy, emphasised two positions; namely, that human nature was basically good and that the social contract, in the Hobbesian sense, had significant limits. Clearly Locke's arguments are in contrast and sharply so, with the views put forward by Hobbes, cited in Green (1993:99-103), who argued that people were motivated only by selfish interests, so much that life in a 'state of nature' would equate to 'solitary, poor, nasty, brutish, and short'. Hobbes, cited in King (1974:230), in his pessimism, argued that human nature was evil and corrupt and unless controlled by some exterior and overwhelming force, humanity is doomed to conflict, thereby ensuring perpetual chaos. That is how the domestic sovereign endowed with absolute authority – as enshrined in the social contract - became a necessary construct or formation for municipal or domestic law and order. It can be observed that this is what is argued by realism.

In contrast, democratic theorist and English philosopher Locke (cited in Thomson 2001:76) argued that 'government must be by consent of those governed and that a ruler without the confidence of the people has no right to govern'. Locke's argument is premised on his belief in the essential goodness of people and as such, there was no need, therefore, for an all-powerful, absolutist government. Human beings are rational and capable of comprehending - in the bigger picture - some common good. It means then that the only way to justify an absolute and imposing government over rational and essentially good people is through the people's consent. Thus, the social contract is a limited social contract. This, again, sharply contrasts with Hobbes' assertion that the sovereign has absolute authority conferred upon him by the people through the social contract. Through the Lockian limited social contract, people give their consent to particular governmental powers, yet they retain basic individual rights and those basic human rights, the government cannot take away or invade. This tallies with what Friedman (2009:28) argues that:

A key democratic idea is that people who govern must accept limits to their power. They are meant to do what voters want and obey the rules that ensure power is wielded for society rather than over it.

Thomas Jefferson and other American thinkers who wrote the declaration of

independence and the bill of rights did that on the basis of Locke's assertions about the social contract, thus, Locke is hailed as a democracy champion (Ashley 1974; Duiker and Spielvogel 2013; Franklin 2009; King 1974). It can be observed that this is what is underscored by liberalism.

Absolutism as an ideology and political tool for community or societal organisation was so restrictive on individual human rights that there was no recourse whatsoever, especially if one's rights were infringed upon particularly by the sovereign. The sovereign had the ultimate authority and power and as such no other power could arbitrate between individuals within a particular territory, let alone across territories. International intervention was unthinkable except if it was full scale war.

It can be observed that in the Lockian understanding of the social contract, human rights are upheld and sovereign monarchs' powers are limited and curtailed such that today there can be open talk and conception of international humanitarian intervention that is legal and lawful according to the law of nations (international law).

Barnett (2011:162) affirms this observation and asserts that:

Several decades ago many scholars and jurists objected to the very idea of humanitarian intervention because it violated sovereignty's principle of non-interference and allowed great powers to try to become sheep in wolf's clothing.

This position speaks directly to the notions of the Westphalian sovereignty, particularly the notions of non-interference or non-intervention and autonomy.

Barnett (2011:162), however, is quick to concede that:

Over the past fifteen years, though, there is a growing acceptance of humanitarian intervention and a 'responsibility to protect' – when states are unable or unwilling to protect their citizens, then the international community inherits that responsibility.

Of the numerous legal frameworks there are today that permit state intervention in another's jurisdiction and territory, this study will single out a particularly controversial one: The Responsibility to Protect, as this intervention tool bears directly on the principles of Westphalian sovereignty. The R2P will be interrogated in the following sections.

### 3.6 Sovereignty as Responsibility and Equality

According to the International Commission on Intervention and State Sovereignty report (ICISS 2001:xi), the responsibility to protect lies with the state. The report declares the two basic principles:

State sovereignty implies responsibility, and the primary responsibility for protection of its people lies with the state itself.

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

According to this view, sovereignty as a principle, is not only a legitimate authority in the jurisdiction and territory of the sovereign (the person or government), it is also the sovereigns' responsibility to ensure the safety and security of the domestic population in a given territory; Branch (2011:116) concurs with this view. According to Ayooob (2002:84) sovereignty as responsibility was:

The prevailing political wisdom in Europe until the end of the nineteenth century, only those countries that had reached a certain standard of civilised behaviour had the right to attain sovereign status and interact with each other on the basis of mutual recognition of sovereignty.

While this trend may have had provided some positive reinforcement in ensuring states complied with 'civil standards', the inverse opposite was that states who championed this notion were saturated in self-righteous perceptions, and thus, stood on a moral high ground.

States that were deemed as not conforming to 'civil standards', by implication suffered ostracization and exclusion in 'civil' inter-state relations. Ayooob (2002:84) argues that 'the others [non-complying states to civil standards], being barbarians if not savages, were to remain subject to, or under the tutelage of, sovereign (European) powers'. To this effect Jackson and Rosberg (1986:5) argued that:

Consequently, many non-European governments failed to qualify for full membership in the international system and became vulnerable to European colonisation. Virtually all of Africa, consisting of hundreds of weak political systems, was put in this position.

This demonstrates that sovereignty did not equate to equality in the concert of

European states. Equality as hypocritically presented and falsely proffered as a predicate of Westphalian sovereignty is a misnomer, if not a blatant lie. Ideally, the notions of non-intervention, autonomy, independence and self-determination as espoused by the doctrine of state sovereignty presume and predicate equal entities (states) that mutually and reciprocally engage one with the other on such a basis.

The Westphalian sovereignty erroneously, hypocritically and deliberately so, presumes state equality. The Westphalian system of states had no intention of accepting all states as equals at the inception of the Westphalian system in 1648. Europe created a hierarchy of states, thus creating a Global World Order (GWO), which they had dominion over. Europe was the standard of which (state) was sovereign and which (state) was not. Hence, as Ayoob (2002:84) contends that those states thought to fall short of complying with 'civil standards' were less sovereign than the so-called European 'civil' powers. Ndlovu-Gatsheni (2012:422) in corroboration of Ayoob's position argues that 'the colonised were defined as inferior and obstacles to modernity (in economic, religious, or other terms), in many cases justifying the suspension of normal ethical conventions, and so use violence, to 'modernise' colonised peoples and places'. In essence European 'modernisation' meant that – in respect to Africa particularly - 'Africans lived in colonies that were essentially European enclaves' (Jackson and Rosberg 1986:6). Thus, the Westphalian state system privileged European nation-states to the expense of non-European nation-states. European standards were and are accepted without scrutiny, yet non-European standards are viewed as suspect and even termed 'barbaric' (Ayoob 2002:84; Mignolo 2009:16). This position aided and perpetuated imperialism. It provided rationale and justification for colonialism which, according to Howe (1990:678), 'aided Britain to deploy its sovereignty with a worldwide versatility, subtlety and complexity. We have been able to scatter it, generously and usefully, into a diversity of imperial, sub-imperial and post-imperial arrangements'.

While Europe claimed to take responsibility of 'civilising' and 'modernising' the 'uncivilised' and 'barbaric', their method of colonialism was, for Africa and much of the global south, 'an encapsulation of political and economic relations in which the sovereignty of a nation or people rests on the power of another nation, which sets up direct colonial administration' (Ndlovu-Gatsheni 2012:422). This stands in

contradiction to what the purported sovereign equality stands for. Thus, as argued by Jackson and Rosberg (1986:5) 'Europeans had become convinced of their cultural superiority and their manifest destiny to rule the world'.

Mignolo (2009:11) echoes Howe's argument and further posits that while the British entered the 'third world' countries, particularly Asian and African countries, under the pretext of commercial purposes in the 18th century, by the 19th century they had politically intervened and gained control and dominion over those territories. In agreement with Mignolo's view, Howe (1990:679) admits that 'throughout Asia and Africa and in other parts of the globe protectorates, annexations, condominiums, trust territories, federations, partnerships and leases proliferated'. Howe's admission of European domination through colonialism and imperialism is what Ndlovu-Gatsheni (2012:423) contends that 'Western Modernity was the source and motive force of expansion of European particularism into universal claims, and these claims were supported by the violence of imperialism and colonialism'. Ndlovu-Gatsheni contends that, what is regarded as the standard and norm about sovereignty is, in fact, a particular European practice that was forcibly imposed as a universal standard through colonisation. Hence, norms and standards brought and advocated for by the West are held suspect by the Global South in general and Africa in particular.

The R2P doctrine is thought to be an instrument of the West to re-colonise and intervene in the affairs of former colonies, particularly former African colonies (Mamdani 2011). As such, there is founded fear and paranoia that the West may have sinister intentions even with the doctrine of R2P. Thomson (1995:229) argues that:

The end of the cold war has brought increasing calls for collective intervention in behalf of human rights. Yet, great powers have always violated the non-intervention norm when it was in their interests to do so, acting collectively when possible (Holy Alliance, UNSC) but unilaterally when necessary.

This demonstrates that R2P is at the risk of abuse and misappropriation by powerful countries, particularly the West. Chandler (2011:26) notes in the UN Report on *Implementing the Responsibility to Protect* that:

The twentieth century was marred by the Holocaust, the killing fields of Cambodia, the genocide of Rwanda and the mass killings of Srebrenica ... the brutal legacy of the twentieth century speaks bitterly and graphically of the

profound failure of individual States to live up to their most basic and compelling responsibilities.

This exposes the argument of sovereignty, particularly state sovereignty as responsibility, weak and limited. To further reinforce the foundational scepticism of weaker states and mistrust of the West by the global south, during the bombardment of Kosovo in 1999 by NATO) the then Secretary-General of that organisation, Solan (in Cunliffe 2011:37) posited that:

We must halt the violence and bring an end to the humanitarian catastrophe now unfolding in Kosovo ... We have a moral duty to do so. The responsibility is on our shoulders and we will fulfil it.

Thus, the West (in the form of NATO) unilaterally and autocratically assumed moral responsibility that it projected as 'humanitarian intervention' in Kosovo, at a time that the state of Kosovo could not protect its populace. This was an unsubstantiated claim made by NATO. This stance, however, is questionable because the application of R2P as a moral duty (of the West particularly) is sporadic and selective. As such, McCormack (2011:37) argues that 'America under the 2001-2009 Presidency of George W. Bush is widely seen to have damaged the moral consensus in favour of intervention'.

Some African governments and leaders are sceptical of the doctrine of R2P. The Sudanese Government makes it clear that it is sceptic of R2P when it argues that:

Since the 9/11 and US-led interventions in Afghanistan and especially Iraq, many states have become increasingly suspicious that the West's humanitarian justifications mask neo-imperial ambitions. This has also helped to cast doubt upon The Responsibility to Protect project, since one of its authors, Michael Ignatieff (2003), was a vocal supporter of the case for war in Iraq, albeit in order to prevent WMD proliferation within 'rouge states' rather than on humanitarian grounds. Sudan voiced this suspicion in the UN Security Council when its representative asked whether the Council's 'lofty humanitarian objective' in Darfur was a 'Trojan horse ... embraced by other people who are advocating a different agenda' (in Cunliffe 2011:39).

In agreement with the views expressed by the Sudanese government, the President of Zimbabwe, Robert Mugabe, in his address of the UN General Assembly's 67th Session, in defiance of the principles of R2P as applied to Libya (2012), argued that 'NATO's deceitful intervention under the sham cover of Chapter VII of the Charter of the United Nations and the phoney principle of responsibility to protect' was a unilateral decision which undermined the African Union. In the words of President

Mugabe, uttered in reference to the bombardment of Libya by NATO, 'the African Union and its peace-making role was defied, ignored and humiliated' (New Zimbabwe 2012: Online). What President Mugabe accused NATO (the West) of, was the hypocrisy that Griffiths and Griffiths (2006:224) spoke of, the same as the Sudanese government's argument. When it suits them, the West upholds notions of non-intervention and autonomous decision-making in the domestic affairs of states; and when convenient for them, they intervene in other states' domestic jurisdiction in the purported interests of achieving 'humanitarian objectives' as argued by Ayoob (2002:85).

What the USA fails to see, as contained in President Barack Obama's address to the UN General Assembly's 67th Session on the 25th of September 2012, is that while they decry the killing of their diplomat Chris Stevens in Libya 2012, they violently committed the same crime against the sovereign integrity and principles of Libya's sovereignty. Is this not the hypocrisy that Stephen Krasner (2001; 2006), whose categorisation of sovereignty, this study adopted, speaks about? The USA-led military invasion of Iraq in 2003 lacked the authorisation of the UNSC; thus, it crippled the principles advocated by proponents of humanitarian intervention as echoed by Jurgen Habermas of Germany (McCormack 2011:38; O'Connell 2011:74).

As such Africa's fears and paranoia particularly, and fears and paranoia of the Global South generally, on political concepts, such as R2P, that emanate from the West is understandable, if not justifiable. In the recent past powerful states (militarily and economically), as is the case with the USA, the United Kingdom (UK) and France, have abused the notions of intervention in the domestic affairs of others and the intervening states have, almost always, evoked R2P's notions for the justification of their behaviours. Devetak (2011:39) bares testimony to this observation and argues that:

The trouble for critical international theorists is that Kant's writings have been influential in strains of liberal internationalism that give expression to belligerence and neo-imperialism. This 'Wilsonianism with boots', as some have named it, which has been associated with the administrations of Bill Clinton, George W. Bush in the USA, and with Prime Minister Blair in the UK, uses liberal notions of freedom and human rights to defend the extensive use of military force.

Ayoob (2002:83) argues that more often than not, 'states that undertake intervention portray themselves as acting agents of the international community'. Thus, the intervention that the 'powerful' engage in, is of necessity, if they are 'to achieve humanitarian objectives' (Ayoob 2002:84). While this position is hard to defend, this study has however, in line with the core ideas of constructivism, sought to understand and unearth the ideas, rationale, structure and justification, if any, of the R2P doctrine.

### **3.6.1 The Responsibility to Protect (R2P) Doctrine**

The R2P in effect violates principles (as contained in the doctrine of Westphalian sovereignty) such as non-intervention in the domestic authority structures of another state, autonomy, self-determination and the exclusion of coercive force in the jurisdiction of another state. What does the development of R2P say about the Westphalian sovereignty? The R2P was endorsed by the UN (UN Summit 2005). The UN is the custodian of international law, global multilateral agreements and international cooperation. Given that the UN through the International Commission on Intervention and State Sovereignty (ICISS) endorsed R2P, what then does the UN say about the upholding of sovereignty as affirmed by the UN Charter, Articles 2(1), 2(7) and 78? Sovereignty has been viewed as responsibility and it has been argued that it is the responsibility of the government towards its populace. This position is supported and upheld by the UN. It can be argued that the doctrine of R2P in its present formulation is nothing but a disguised tool of the West to intervene in the domestic affairs of particularly states in the Global South. The West can no longer legally sustain their grip and hold on African countries particularly as they did in colonial times. This study argues that in the perspective of the Global South, Westphalian sovereignty is cosmetically applied and does not necessarily equate to 'equal' stature with the first-world countries.

Since its adoption by consensus, at the UN World Summit of 2005 (Chomsky 2011:13, 19), the notion of R2P has been a cause of both reassured collective security for some and discontent for others in international relations. Some like,

Chomsky and Hehir (2011:97) argue that R2P is a reformulation and even a sub-case of humanitarian intervention under international law. Yet others, like Chandler and Branch (2011:119), argue that the promise of the doctrine of R2P is desirable and quite noble but the implementation of it is a cause of great concern. According to some advocates of the notion of R2P, such as Chandler (2011:20), it emerged as some solution to the failure of the international community of states as embodied by the UN to agree on what constitute grounds for military intervention for humanitarian purposes in another state, citing the genocide of Rwanda (2004) and Bosnia-Herzegovina (1992-1995) as examples of their cause. In the year 2001 the ICISS in its report – *The Responsibility to Protect* – stated in its foreword that the concept of R2P:

was about the so-called 'right of humanitarian intervention' – the question of when, if ever, it is appropriate for states to take coercive – and in particular military – action, against another state for the purpose of protecting people at risk in that other state (ICISS 2001:vii).

According to Chandler (2011:20), it is the ICSS report of 2001 that gave birth to the idea of R2P. Though of the same etymology, stock, and essence, R2P principles discretely differ from humanitarian intervention as espoused by international humanitarian law. International humanitarian law permits the use of force in intervention without the authorisation of the UNSC (Chomsky 2011:13), while R2P permits intervention only with the authorisation of the UNSC. The ICISS (2001:xii) report states that:

Security Council authorisation should in all cases be sought prior to any military intervention action being carried out. Those calling for an intervention should formally request such authorisation, or have the Council raise the matter on its own initiative, or have the Secretary-General raise it under Article 99 of the UN Charter.

As such, whether it is humanitarian law invoked or R2P, the Westphalian sovereignty is violated, compromised and trivialised none-the-less. R2P stands in direct contradiction and sharp contrast to notions of non-intervention, autonomy, self-determination and independence as espoused by the 1648 PToW. The position that is argued by R2P is precisely that which portrays the doctrine of sovereignty as obsolete, unbinding and facing its demise.

Chandler (2011:41) argues that the ICISS (2001) report intentionally shifts the focus

from 'right to intervene' as this is already contained and well-articulated in international humanitarian law, to 'responsibility to protect'. This moral endeavour is thought and meant to help to focus on the victims of conflict. This view concurs with what Phillip Cunliffe (2011:53) argues, that R2P embraces 'the victims' point of view and interests'. But even this position - in the current form of R2P - is besieged with challenges and a lot of unanswered, if not unanswerable, questions. If the R2P doctrine places the victims first as purported by Cunliffe (2011:53), do the so-called 'victims' or beneficiaries get consulted and give their consent to the intervention of the international community? Does it then mean that the victims are consulted prior to intervention? Who consults, if at all there is or should there be consultation? If the so-called 'victims' are not consulted, how then do the interveners intervene from the victims' point of view? If the intervention is to take the victims' point of view in protecting the victims, should it, then, not be the victims who initiate and call for intervention in the first place? What means are there of ensuring that the victims' points of view are considered and adopted in an intervention? This position is supported by Cunliffe's (2011:55) assertion that:

Of all the iterations of the 'responsibility to protect', not a single formulation of the doctrine to date is able succinctly to express and logically demonstrate that there is a single, identifiable agent formally obligated to act or intervene in a particular situation. There is no 'automaticity' in the doctrine - no governmental machinery or legislation that spontaneously comes into effect once the 'duty' is breached by a state.

While this study applauds the efforts at formally codifying the doctrine of R2P, the doctrine still lacks clarity and precision as to who is to act and intervene in crises that require immediate and decisive action. For example the so-called 'international community' is not defined. Since this study is essentially a conceptual analysis, it will briefly explore some views expressed by proponents of R2P as well as identify its challenges.

### **3.6.2 The Ideals of R2P**

According to McCormack (2011:37), former UN Secretary-General, Kofi Annan, in his 2002 report on *Threats, Challenges and Change* asserted that R2P represented an:

Emerging norm that there is a collective responsibility to protect, exercisable by the Security Council authorising military intervention as a last resort, in the event of genocide and other large scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.

In the view of the UN as expressed and endorsed by the former Secretary-General, Kofi Annan, R2P is an effective tool that is insulated against legal contestation in the event of intervention in the domestic affairs of a given state. The justification is that a state that fails to protect its citizenry or is unwilling to do so, forfeits its sovereign supremacy. As such, the international community of states take up the responsibility to protect the vulnerable of a failing state. Yet the 'international community' is not categorically defined. This further raises the question: who is the international community? If the promulgators of the R2P concept are sincere, why did the UN not intervene in Zimbabwe's OM given that Tibaijuka (2005:67), the UN's envoy, postulated that 700 000 people were 'directly affected through loss of shelter and livelihoods' and explicitly recommended that 'the international community has a responsibility to protect those affected'? Does this not expose the limitations of R2P as it lacks a definition of 'international community'? R2P is about protecting 'populations from genocide, war crimes, ethnic cleansing and crimes against humanity' as argued by Cunliffe (2011:1). This falls back on the issue of sovereignty as responsibility. The UN's *Implementing the Responsibility to Protect* (UN 2009:14) cited by Chandler (2011:27) declares that:

The responsibility to protect first and foremost, is a matter of State responsibility, because prevention begins at home and the protection of population is a defining attribute of sovereignty and statehood...the international community can at best play a supplemental role.

The Secretary-General's follow-up report of 2009 reinforced and consolidated the assertion that the state remains the bedrock of the responsibility to protect, the purpose of which is to build responsible sovereignty, not to undermine it (UN 2009:13). Thus, sovereignty can be interpreted as responsibility of the sovereign (government/administration) towards the security and safety of citizens in any given state. Elsewhere, the 2009 Secretary-General's report argues that 'the responsibility to protect does not alter, indeed it reinforces, the legal obligation of Member States to refrain from use of force except in conformity with the Charter' (Chandler 2011:23). This study cannot but observe the inconsistency imbedded in the R2P

doctrine. How can the R2P doctrine reinforce the idea of curbing the use of military force, yet much of the forcible interventions are by use of armed and military means? The Westphalian doctrine of sovereignty strictly prohibits illegitimate, illegal and unsolicited intervention in the first place. It can be argued that because the West has lost its grip, control, manipulation and dominion over the once 'colonised' and therefore it cannot afford to be seen as upholding impunity, it makes out for the shortfall by introducing the R2P doctrine. The R2P doctrine, thus enables the West to intervene in the domestic affairs of other states and still remain quasi-insulated by the legal rhetoric the R2P purports itself to be.

Chandler (2011:23) observes that paragraph 139 of the *Implementing the Responsibility to Protect* clarifies that the international community of states must ideally be 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 ... should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

Informed by the UN's position, the Constitutive Act of the African Union (AU) asserts that it is within 'the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity' (AU 2002:5). Like the doctrine of sovereignty, the principle of R2P is a contested one. This is somewhat expected and not shocking nor surprising, given that the latter is premised on and potentially a challenge to the former. There is no single universally accepted definition of R2P as echoed by Chandler (2011:20). To bear testimony to the ambiguity and contestation of definitions of R2P, and by the same token, reinforce the notions of R2P, the former UN Secretary-General Kofi Annan argued that R2P was a norm to challenge state sovereignty, arguing that:

This developing international norm in favour of intervention to protect civilians from wholesale slaughter will no doubt continue to pose profound challenges to the international community. Any such evolution in our understanding of State Sovereignty and individual sovereignty will, in some quarters, be met with distrust, scepticism, even hostility. But it is an evolution that we should welcome. Why? Because, despite its limitations and imperfections, it is testimony to a humanity that cares more, not less, for the suffering in its midst, and a humanity that will do more, and not less, to end it (in McCormack

2011:36).

The principles of R2P resonate so closely with what Chomsky refers to as R2P's 'cousin': humanitarian intervention. Gareth Evans, former Australian Minister of Foreign Affairs, cited in Chandler (2011:19), asserts that the 2005 UN Summit that endorsed the R2P marked 'the really big step forward in terms of formal acceptance of R2P'. Indeed the formal acceptance and codification of R2P is seen as an achievement and an assurance of collective security and responsibility. Bellamy (2011:19) concurs with the view that there is a seeming consensus and agreement on adopting and implementing R2P as a means of ensuring human security everywhere, and the curbing and mitigation on governments who abuse their domestic and Westphalian sovereign principles. Bellamy (2011:19) argues that:

The summit [UN General Assembly 2005] marked a transformation of R2P from a 'concept' to a 'principle' – a fundamental truth based upon a shared understanding' and a 'sufficient consensus' – making the right of intervention no longer subordinate to the other key international principle: the right of sovereignty.

As such, Bellamy's position consolidates Gareth Evans' that the UN Summit of 2005 marked the beginning and formal codification of the R2P notion. This study, thus, concludes that there is a general acceptance that the notion of R2P as formally codified, emerged from the UN 2005 Summit. The R2P notion is not without controversies and challenges. While the codification and formalisation is hailed as a step in the right direction, it can also be argued that even the doctrine of R2P can be used for particular states' parochial and self-serving interests despite that R2P is enshrined in the AU's Constitutive Act. Hence, R2P's seemingly noble intentions and ideals can be seen as a disguise of Western/Euro-American interests to intervene in the domestic affairs of their former colonies, protectorates, annexes, condominiums and crucial states. In agreement and affirmation of the view expressed by Krasner (2001; 2006), the doctrine of sovereignty is thus, trivialised and is a conceited hypocritical expose of the West. This necessitates an exploration and investigation of some discontents of the R2P concept.

### 3.6.3 The Discontention of R2P

Chomsky (2011:11) argues that the principles of R2P have been rattled by what he calls the 'skeleton in the closet'. But history proves that the enacting and adoption of a new principle or convention has always been met with both enthusiasm and resistance. Chomsky contends that 'virtually every use of force in international affairs has been justified in terms of R2P, including the worst monsters' (*ibid*). This position is not far from the truth, in the view of this study, thus it renders the principle of R2P susceptible to abuse. Thomson (1995:228) contends that 'states have from the beginning intervened in one another's 'internal' affairs to prevent the persecution of particular groups' yet, again in the words of Thomson (1995: 228), 'nobody did much of anything to prevent the genocide in [1994] Rwanda'. Thomson's observations succinctly and conspicuously reveal the irony, if not hypocrisy, of R2P. Hence, Africa's particular position as expressed by Mahmud Mamdani, the Sudanese government and Robert Mugabe discussed in this chapter under 3.6 *Sovereignty as Responsibility and Equality* makes for a compelling case. Chomsky (2011:11) echoes the maxim of Thucydides and argues, 'the strong do as they wish while the weak suffer as they must'. In other words, Chomsky argues that the abuse of the principle of R2P is so rampant that the execution and implementation of R2P cannot be separated from the motive behind its invocation and application in the first place.

R2P allows military intervention, under certain circumstances, and with the authorisation of the UNSC. O'Connell (2011:71) asserts that many proponents of R2P support it in sincerity to promote human rights, yet they also support 'the use of force in violation of international law'. Human rights are inscribed in international law. Thus, supporters of R2P appear to be self-contradictory if not hypocritical. They appear to want to uphold human rights as inscribed in international law and at the same time support military intervention in sovereign states. State sovereignty, particularly the Westphalian sovereignty, is part of international law. R2P is in direct violation of state sovereignty thus, the doctrine of R2P violates international law. Inherent in the idea of humanitarian intervention is acceptability to 'kill and injure some, even wholly innocent people; to preserve the human rights of others' as affirmed by O'Connell (2011:79). It can be argued that this is outright hypocrisy. Does it then mean that the killing of a few people is less of a crime than the killing of

many?

The UN 'Charter Article 2(4) is a general prohibition on the use of force' as recorded by O'Connell (2011:72) and makes only two exceptions to Charter 2(4). Charter Article 51 speaks of self-defence, it permits 'individual and collective self-defence if an armed attack occurs'; and Charter Articles 39 and 41 make leeway that forcible intervention is permissible 'to restore international peace' with the authorisation of the Security Council.

According to the ICISS (2001:xiii) report the international community of states as represented by the ICISS<sup>30</sup> report asserts that:

If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are:

Consideration of the matter by the General Assembly in Emergency Special Session under the 'Uniting for Peace' procedure; and

Action within area of jurisdiction by regional or sub-regional organisations under Chapter VIII of the Charter, subject to their seeking *subsequent* authorisation from the Security Council.

Hehir (2011:84) argues that in essence, R2P is a reactionary tool to intra-state humanitarian crises arguing that what needs most attention is the 'responsibility to react' component of R2P as it poses the greatest controversy in humanitarian responses. The UNGA Resolution 2131 in 1965 'affirmed the Assembly's opposition to all forms of intervention 'for any reason whatsoever' and declared that, 'armed intervention is synonymous with aggression' (Hehir 2011:85). Now R2P is a direct challenge and contravenes resolution 2131 of 1965. Again R2P stands in direct contravention of UNGA Resolution 2625 which affirmed resolution 2131 and averred that 'no threat or use of force against the territorial integrity of political independence of any state' (Hehir 2011:85). Thus, both the UN Charter and international law 'explicitly recognise the inviolability of the state and outlaw the use of force'. But it is the same UNGA (2005 Summit) that adopted, by consensus (Chomsky 2011:13, 19), the notion of R2P, thus, by implication the UNGA 2005 reassessed and opted

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<sup>30</sup> The International Commission on Intervention and State Sovereignty (ICISS) was set up at the recommendation of the UNGC, suffice to deduce that the international community of states, ascended to the creation of the ICISS.

instead for the relaxation of resolutions 2131 and 2625. The UNGA has powers vested in it through the *Uniting for Peace* Resolution (Hehir 2011:89).

### 3.7 Challenges of R2P

As noted by Wheeler (cited in Hehir 2011:91) the R2P notion 'fails to address the fundamental question of what should happen if the Security Council is unable or unwilling to authorise the use of force to prevent or end a humanitarian tragedy'. The idea that R2P is a preventative measure and tool is irreconcilable with its premise that it is a response by the international community of states to 'mass atrocities' in a particular state. If it is to prevent 'mass atrocities', it necessarily means that those isolated and at times insignificant cases that could potentially spiral into 'mass atrocities' should be decisively curbed. In that light, it can be argued that Operation *Murambatsvina* warranted such an intervention, yet it was not invoked. Mass atrocities do not occur *ex nihilo*<sup>31</sup> as argued by Chandler (2011:25). Seemingly there is a contradiction of terms, R2P as such, cannot be a preventative tool and measure, and at the same time be a responsive criterion in times of crisis. The shift from the intervention criteria to that of preventative criteria does not remedy the situation for the doctrine of R2P. In the interest of specificity and particularity, at this juncture this study will extract, name and explore some specific challenges presented by the doctrine of R2P.

#### 3.7.1 Abuse

O'Connell (2011:77) argues that 'some proponents of humanitarian intervention believe that opponents of it are most concerned that states will 'abuse' a right of humanitarian intervention'. They believe that some countries will further their national interests in the guise of humanitarian intervention. They argue that there are no empirical cases of altruistic humanitarian intervention. The position that O'Connell adopts is indefensible and exposes the ignorance and injustice denied to Africa in particular. The cases of Rwanda, Darfur, Somalia, Sudan and the Democratic

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<sup>31</sup> *Ex nihilo* is a Latin phrase meaning 'out of nothing'.

Republic of Congo (DRC), to mention but a few, would be starting points in exploration of the abuse there is of R2P. Žižek (2008:3) cites that about 4 million people have died in the past decade in the DRC as a result of war, civil unrest and politically-motivated violence. Yet not even the slightest notion of R2P was invoked. At the 67<sup>th</sup> UN General Assembly the President of Zimbabwe expressed serious concern at the abuse that abounds in the R2P doctrine. He argued that:

We are concerned by the clear and growing evidence that the concept of 'responsibility to protect' has begun to be applied and seriously abused, thus inevitably compromising and undermining the cardinal principle of the sovereignty of states and the United Nations Charter principles of territorial integrity and non-interference in the domestic affairs of countries (Mugabe 2012: internet).

The concern here could be that the doctrine of R2P is seemingly applied in some cases and not others. Why was there military intervention in Libya in 2011 (Bellamy 2013:111) that ousted and violently killed its leader Gaddafi in the year 2012? And why was the same R2P not applied in the case of the DRC 2012, or in the case of Zimbabwe's Operation *Murambatsvina*? It can be suggested that this is tantamount to selectiveness in responses to crises that require international intervention. As such, powerful states could see an opportunity in the crises of other countries and plant a Trojan horse. This poses a limitation on international humanitarian law. Some argue that the UNSC prohibits the use of force on functional sovereign states and this has been used to counter the grounds of humanitarian intervention. But sovereignty can be forfeited by states that cannot ensure protection entitled to citizens of a sovereign state (Bellamy and Wheeler 2011:513). It therefore remains, on the grounds of customary international law (which is binding to all states in the international community whether or not states consent), that forcible intervention that is authorised by the UN is legal and credible ground for humanitarian intervention. Common humanity would suggest that 'all individuals have basic human rights and duties to uphold the rights of others' (*ibid*). If these are abused, surely some form of intervention would be necessary.

### **3.7.2 Selective Application and Response**

Besides the problem of abuse by states of intervening in others, there is also a

problem of selective response. This renders the principle of intervention on humanitarian grounds inconsistent. The case in point is that of NATO. 'NATO's intervention in Kosovo could not have been driven by humanitarian concerns because the alliance has done little to address the very much larger humanitarian catastrophe in Darfur' (Bellamy and Wheeler 2011:514). Chomsky (2011) concurs with this view that NATO did not intervene when Kurds were killed in Kosovo in 1999 and yet Kosovo fell under NATO's own jurisdiction. The conflict between the state of Palestine and Israel is a long standing one. It can be argued that there is no evidence of concrete and tangible results of the various interventions of mediation in the war, terror and conflict in that region. Chomsky (2011:14) rightly questions and argues that 'there is no thought today of protection of the people of Gaza, which is also a UN responsibility, along with the rest of the 'protected population' (under the Geneva Conventions), defined fundamental human rights'.

Much of Africa has been plagued by conflicts that merited assistance and intervention of the international community. Zimbabwe's Operation *Murambatsvina* was one such case that merited the R2P intervention. Yet nothing much was done by the 'international community' and the powerful Western allies did little to mitigate and protect the multitudes of people who have suffered violent wars, starvation, plagues, diseases and conflicts. Chomsky (2011:15) further contends that 'there is no thought of invoking even the most innocuous prescriptions of R2P to respond to massive starvation in the poor countries', for example Zimbabwe in 2008 as argued by O'Connell (2011:76). There is apparent selectiveness in the responses that the 'international community' has rendered in situations meriting humanitarian intervention. This compounds the paranoia and scepticism that besieges R2P.

### **3.7.3 Moral Principles**

In today's pluralist international society, it is difficult to reach a consensus on what and which moral principles should govern the world. While pluralism is sensitive to human rights concerns, it contends that 'humanitarian intervention should not be permitted in the face of disagreement about what constitutes extreme human rights violations' (Bellamy and Wheeler 2011:514). In other words the lack of consensus on

the grounds of intervention opens up further situations of abuse of weaker/smaller states by powerful states as they tend to determine moral values informed by their own cultures. The issue of concern for some scholars of international relations is not the principle of R2P *per se* but rather the arbiter of it – the UNSC in general, and the United States of America in particular – as insinuated by Chomsky (2011:12). Chandler (2011:27) shares this point of view and argues that ‘for the UN, and for R2P as it exists today, it is not the intervention (reaction) aspect which is central but the institutionalisation of international cooperation coordinated through the UN’. In the view of this study, the UNSC is marred by the presence of powerful states that manipulate and control its trajectory, mandate and decisions. This position is affirmed by Chomsky (2011:16) who argues that ‘the Council [UNSC] is controlled by its five permanent members, and they are not equal in operative authority’. As such, the UNSC as a neutral arbiter in the words of Chandler, ‘plainly is not’ (*ibid*). The USA is dominant in the UNSC resolution by its veto power. The USA alone has vetoed 45 UNSC decisions since the mid-1960s ‘including even resolutions calling all states to observe international law’. As such, ‘the USA is far in the lead in vetoes’ (Chomsky 2011:16) and that goes to demonstrate and prove its influence and power even in the UNSC. This affirms the realist maxim of Thucydides that ‘the strong do as they wish while the weak suffer as they must’. Thus, the UNSC cannot provide certitude and assurance that it is a fair arbiter of international political relations.

### **3.7.4 Non-Compliance**

In the event that there have been no established grounds for humanitarian intervention and yet a country intervenes in another on the claims of humanitarian intervention, is there any recourse for the intruded country? Will such intrusion be criminal activity? Who/what enforces international humanitarian law? What punitive measures are in place for non-complying states? Despite the challenges facing international humanitarian law, order, justice and coordination would be much worse without it. In principle the R2P takes away from the classical, Westphalian sense of sovereignty. Yet it calls on governments to be responsible in securing their populations. The problem of R2P is that it comes as a Western endorsed concept, and the West has no moral high-ground when it comes to matters of international

politics given for example that colonialism and imperialism still resonate freshly in the global south, particularly in Africa and most certainly in Zimbabwe. Thus, by accepting R2P as indicated by the UN 2005 consensus, the risk is that the conventions of sovereignty are trivialised, particularly the Westphalian sovereignty as it would be rendered only but a myth (Osiander 2001).

Yet, the Westphalian sovereignty can be suspended and violated, if not discarded and ignored, by the 'international community' of states in order to protect citizens in a state that is unwilling or has failed to provide security for its citizens. The international community that should assume the responsibility to protect is not clearly defined in the frameworks of R2P. In practice, the application of R2P not only violates the notions of non-intervention, self-determination, juridical independence and autonomy entrenched in the Westphalian sovereignty, it allows for powerful states to legally and therefore openly abuse weaker states, in the name of humanitarian intervention. Despite the formal and official codification, the R2P is not clearly articulated as to its intentions; it argues for intervention even militarily, yet it wants to make believe it upholds human rights. R2P wants to make believe it upholds principles of national integrity, hence sovereignty, yet it is in direct violation of the basis of principles of sovereignty. The R2P doctrine exposes, while it challenges and compounds the intricacies of sovereignty in general and Westphalian sovereignty in particular, it does not articulate anything constructive in itself. The intentions it carries, if sincere, are noble; but the abuses that have plagued interventions of many kinds and of various 'humanitarian' reasons, are a cause of great concern for Africa and much of the global south, particularly the GoZ.

The R2P sovereignty issue is larger than the issue itself theoretically or scholarly judged. Operation *Murambatsvina* is a great way of coming to the issue in a concrete and practical way. However, R2P is under-developed. Scholars reflect the preferences of the states in which they reside or as is the case with the President of Zimbabwe, Robert Mugabe, his views represent decolonialism of Africa in general, and the armed struggle of Zimbabwe in particular. This work aims not to argue the logical or philosophical incompatibility of the R2P and sovereignty, rather it sought to discuss the contentions and contestations there are on both the doctrines of sovereignty and R2P.

The GoZ generally and the President of Zimbabwe in particular are seemingly arrogant and are unapologetic for their views on the biased nature of the R2P doctrine and they seem to favour the state sovereignty doctrine in its current form. While the African perspective that embraces the scepticism that surrounds the R2P concept is founded, it remains that even the utterances by the President of Zimbabwe and the Libyan government of 2011 may very well be politicisation of the R2P/sovereignty nexus. These utterances could have been stated as a distraction and decoy to divert attention from the real issues and challenges of democratic governance that have become synonymous with the GoZ and Libya. Colonialism and imperialism are condemned by the strongest sentiments and terms, but to blame everything and hold everything that comes from former colonial powers suspect is tantamount to unfounded and uninformed bias. The biases that these entities hold do not take away anything from the discourse of sovereignty and R2P neither do they add any value.

### **3.8 Operation Murambatsvina**

As alluded to in Chapter One, with little if any warning at all, the GoZ embarked on an operation it called Operation *Murambatsvina* (henceforward OM) on the 19<sup>th</sup> of May 2005 (Chari 2008:105; IDMC 2008:18; Mhiripiri 2008:149; Nyamanhindi 2008:118; Tibaijuka 2005:12). The GoZ claimed that OM was officially ended on the 25<sup>th</sup> of June 2005 (Chari 2008: 110), some 37 days after its official commencement, yet the negative effects of the operation were arguably still felt and experienced in December 2013. The then Vice-President, Mujuru, is also on record announcing that OM 'was now complete' on the 28<sup>th</sup> of July 2005 (COIS 2006:165; NAONGO 2007:14). This exposes the uncertainty that surrounded OM.

OM was proffered as a legitimate government operation to rid urban areas of clutter and 'dirt', claimed the GoZ in the person of Ms Sekesai Makwawarara, Chairperson of the then government-appointed Harare Town House (Nyamanhindi 2008:119, citing *The Herald*, 19 May 2005:1; Tibaijuka 2005:12). The GoZ further claimed that it was within its sovereign rights to determine Zimbabwe's trajectory concerning

urban dwelling structures and commerce. As quoted by the United Nations Human Settlements Programme (UN-Habitat 2005) in Chibisa and Sigauke (2008:31), the GoZ argued that it was:

arresting disorderly or chaotic urbanisation including its health consequences; stopping illegal, parallel market transactions, especially foreign currency dealing and hoarding of consumer commodities in short supply; and reversing damages caused by inappropriate urban agricultural practices.

However, the effects of OM on vulnerable groups of Zimbabwean societies, particularly the poor, women and children, necessitates an inquiry into and analysis of what transpired in Zimbabwe in the winter of 2005. The United Nations Human Settlements Programme (UN-Habitat), the Labour and Economic Development Research Institute of Zimbabwe (LEDRI), the Country of Origin Information Service (COIS) in its 2006 report (p 68), and the Internal Displacement Monitoring Centre (IDMC) in its report, are some of the organisations that have publicly and vehemently spoken out against OM, citing its multiple human rights abuses and contraventions. The Zimbabwe Catholic Bishops' Conference (ZCBC) and the Zimbabwe Association of Doctors for Human Rights (ZADHR) are some of the institutions within Zimbabwe that have provided opposing voices to the operation (Ncube *et al* 2005:8). Even Professor Jonathan Moyo (Minister of Information at the time this research was undertaken), and a member of the ruling party ZANU PF himself, revealed that OM was 'an inhumane, barbaric demolition of properties belonging to the weak and poor in our society' (*ibid*).

The then Secretary General of the Zimbabwe Congress of Trade Unions (ZCTU), Mr Lovemore Matombo, argued that 'the reason for *Murambatsvina* was purely a punishment for the urbanites for rejecting ZANU PF in the elections [2005]' (in Bright 2008). Mhiripiri (2008:150) expressed a similar view. In other words, contrary to the GoZ's denial of committing human rights abuses and contraventions in its OM, as described by the aforementioned NGOs and civil society organisations, the impact and consequences of that unethical operation indicate gross human rights abuses, as have been claimed and proven by various other international, regional and local civil society organisations. 'The intention of Operation *Murambatsvina*, as argued by the government [GoZ], was to rid the country of illegal structures, crime, filthy stalls and squalor' (Musiyiwa 2008:65). In doing so, the operation 'evicted thousands of

people deemed squatters country-wide, particularly in urban centres' in a bid to 'restore order in the country since hundreds of thousands of people displaced by the 1970s war of independence had settled illegally in urban centres and commercial farms'. These included large numbers of the 'squatters and vagrants in Epworth, Mbare Musika and other parts of greater Harare' (*ibid*).

Emeritus Archbishop Desmond Tutu on several occasions lashed out at the GoZ for its failure to protect its citizens, especially the poor. Tutu argued that Zimbabwe's policies demonstrated:

The incomprehensible greed, appalling lack of compassion, and unspeakable cruelty demonstrated by the Zimbabwean elite contradicts the classical African concept of Ubuntu – the essence of being human. Ubuntu speaks particularly to the fact that you cannot exist as a human in isolation, since we are all interconnected. The spirit of Ubuntu is diminished when others are humiliated or diminished and when others are tortured or oppressed (Tutu 2013:35).

OM was a clear violation of international law (Mwanaka 2013:21) as evidenced by the damning UN report drafted by Tibaijuka (2005). Making reference to OM the Tibaijuka (2005:9) report advances the argument that:

OM breached both national and international human rights law provisions guiding evictions, thereby precipitating a humanitarian crisis. The Government of Zimbabwe should pay compensation where it is due for those whose property was unlawfully destroyed.

Tibaijuka (2005:56-57) based the breaches and infringements committed by the GoZ in its OM on the basis that Zimbabwe is a signatory country to international regulations governing evictions. She argues that although the Constitution of Zimbabwe 'provides protection under Chapter III, Declaration of Rights, OM infringed upon many of these rights. The forced evictions and resultant displacements have rendered thousands of people homeless and thus vulnerable to the violations of a number of other rights' (Tibaijuka 2005:62).

Although denied by the then Minister of Justice, Legal and Parliamentary Affairs, Patrick Chinamasa, David Coltart a Member of Parliament from the MDC, argued that 'the Government was committing a crime against humanity in terms of Article 7 of the Treaty of Rome on the forcible removal of people' (Tibaijuka 2005:89). Zimbabwe is a signatory of this international agreement.

In the face of mounting pressure from civil society organisations and arguments and protests raised, the GoZ insisted that it was within its sovereign rights to carry out an operation such as OM. Since OM was justified on the basis of the doctrine of sovereignty, as claimed by the GoZ<sup>32</sup>, this necessitates an inquiry into the definition and understanding of sovereignty by the GoZ. This inquiry will follow in Chapter Four of this work.

### 3.9 Conclusion

This chapter also demonstrated that the concepts of state and sovereignty shape and reshape each other and can evolve over time. The environmental context, cultural setting, societal understanding and worldview shaped by the global world order, all have a bearing on agents' identities. Thus, the social constructions 'architected' in those conditions will reflect those particular conditions in the agents' character and substance.

The chapter also argued that absolutism was the dominant political system in the modern era, and as such the state system which developed in that era is reflective of absolutism in the form of the absolute, indivisible and inviolable principles of the Westphalian doctrine of sovereignty. However, the 21<sup>st</sup> century has shown that the wheels of time have indeed rolled; the sacrosanctity and absoluteness of the doctrine of sovereignty have been greatly curtailed by international norms and processes of globalisation. Thus, absolute state sovereignty has diminished.

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<sup>32</sup> This is evidenced by the remarks made by President Robert Mugabe in response to critics of his Government-led Operation Murambatsvina at the 60th Session of the United Nations General Assembly on the 18th of September 2005 barely three months after the infamous Operation Murambatsvina. The basic justification was that it was within the sovereign rights of the state of Zimbabwe to carry out an operation such as the 'Murambatsvina programme' to use the words of President Mugabe in that address. For the full text of Mugabe's UNGA 2005 speech refer to: [http://www.zanupf.org.zw/index.php?option=com\\_content&view=article&id=74](http://www.zanupf.org.zw/index.php?option=com_content&view=article&id=74)).

This position was further mirrored in President Mugabe's 26th Independence Celebrations Address on the 18th of April 2006 arguing that Operation Murambatsvina was a success as it was meant to be succeeded by Operation Garikai/Hlalani Kuhle meant to resettle displaced people as a result of the former operation. Mugabe argued that the operations that his government carried out were a consolidation and actualisation of the sovereign people of Zimbabwe's independence. For the full text of that speech please refer to: [http://www.zanupf.org.zw/index.php?option=com\\_content&view=article&id=71](http://www.zanupf.org.zw/index.php?option=com_content&view=article&id=71)).

This chapter has demonstrated that in principle, the Westphalian sovereignty is about the self-determination of a state. It is about upholding a state's autonomy and independence. Westphalian sovereignty's key and distinct feature is the notion of non-intervention by foreign actors and forces in the domestic domain of a sovereign state.

The chapter also demonstrated how R2P evolved from the doctrine of state sovereignty. It argued that in principle, R2P is noble and if accompanied by good intentions, can be an effective tool to curb governments' abuse of their citizens. The uncertainty that surrounds the definition of international community and agency is worrisome.

The chapter introduced Operation Murambatsvina and highlighted some criticism that the operation met from NGOs, church leaders, leaders of opposition parties in Zimbabwe and representatives of civil society organisations. It discussed how the GoZ insisted and maintained how the operation was credible under the doctrine of state sovereignty. This alludes to the subject of inquiry in the next chapter, the interpretation of sovereignty by the GoZ.

## **CHAPTER FOUR: SITUATING OPERATION MURAMBATSVINA IN THE HISTORY OF THE ZIMBABWE SOVEREIGN STATE SYSTEM**

### **4.1 Introduction**

This chapter will argue that Operation *Murambatsvina* was just one of the many episodes of politically-motivated violence in the history of the modern state of Zimbabwe. Pre-colonial Zimbabwe's political landscape was marred by conquests and conflicts between the ethnic groups of Zimbabwe; these can be equated to the kin-based nation states of the European concert of states that Campbell (2003:7) talks of. The arrival of British explorers and settlers, that later turned into colonisation, in Zimbabwe was through brutal, insincere and violent means. Zimbabwe's 'hard-won' independence from Britain was achieved through violence and outright war. Zimbabwe continues to be ruled by violence and threats of violence. A continuum of violence and contestations for power over vast spaces of time are factors that feature prominently in the history of the Zimbabwean state system. These factors affect and shape the GoZ's comprehension of sovereignty. It is with this in mind that this chapter seeks to situate and articulate the position of the GoZ in the international domain of politics. The chapter will argue that the position of the GoZ on its domestic arena has some bearing on the international realm of global politics. This work will argue that Operation *Murambatsvina* was a carefully orchestrated operation designed to enforce, in the view of the GoZ, its domestic sovereign authority and its implied international sovereign authority. This chapter will demonstrate that sovereignty is not given, it is taken.

### **4.2 Sovereignty in the Modern State of Zimbabwe**

Zimbabwe as it is known today has at different historical epochs been known by different names. It has been commonly referred to as Southern Rhodesia from 1890 to 1965, with present day Zambia known as Northern Rhodesia. From 1965 to 1979 Zimbabwe was known only as Rhodesia. Upon attaining its independence from Britain on the 18<sup>th</sup> of April 1980, it was named Zimbabwe (Bond and Manyanya 2002:1). The name Zimbabwe is derived from the Shona phrase *dzimba dza*

*mambwe*, which means houses of stone (Campbell 2003:7). At independence Zimbabwe inherited a method of state governance based on the European modern state system from the British. Thus the various divergent kin-based nation-states that existed in Zimbabwe before colonialism were done away with by the new nationalist government, yet 'the Modern European state developed out of a kin-based state' (Campbell 2003:9). The European state system, after the Peace Treaty of Westphalia (1648), recognised each state with a central authority and a particular given territory.

Sovereignty is presented as a privilege of the state and the ruler who possesses power over the ruled or subjects. The existence of class differences can be inferred from the modalities of the concept of sovereignty, particularly between the rulers and the ruled. Beach (1984:26), in line with this idea, asserts that the social differences between 'the rulers and the ruled were at their most distinct in Great Zimbabwe, with contrasts in housing, living space, diet and imported goods'. This gives the idea that the rulers or the state occupied a privileged position over the ruled or its subjects. As such what was of paramount importance and emphasised was the state's sovereignty over that of an individual. Hence the discussions of this work state sovereignty.

At the centre of the history of Zimbabwe is the contentious and turbulent issue of sovereignty. The various nation-states that have existed in the history of Zimbabwe, in their survival, pursued and preserved their sovereignty by all means including conquest and violence. The use of violence in the preservation of state sovereignty is well documented in the history of Zimbabwe as this work will demonstrate. Thus violence cannot be negated in the cohesion and governing of the various nation-states in the different historical epochs that have existed in Zimbabwe. Violence has almost become a corollary of sovereignty in Zimbabwe, which saw its escalation in Operation *Murambatsvina* in May 2005 - the main subject of assessment for this work.

#### **4.2.1 Pre-colonial era**

The various ethnic groupings in Zimbabwe can be summed up in two main categories, the Shona and the Ndebele. In the Shona group one finds the Torwa, Rozvi, Changamire, Mutapa and the Toutswe states. In the Ndebele group belongs the Kololo and Gaza states (Beach 1984:24). In affirmation of the idea that violence, in pursuit and preservation of sovereignty has been a preferred tool of governance before the advent of colonialism, Mudenge (1988:134) argues that 'in pre-colonial times for a state to survive it required defensive [military] forces and to expand it needed offensive [military] forces'. It is also documented that the Changamire and Ndebele states 'simply took over the states that existed there before including many of their personnel' (*ibid*), suggesting conquest. Conquest essentially is a hostile and violent takeover of one state by another.

#### **4.2.2 The Shona States**

The Great Zimbabwe state existed between the 13<sup>th</sup> and 15<sup>th</sup> century 1250 CE (Beach 1984:24). It is also referred to as the Changamire state. In fact, as Beach (1984:24) argues, the Mutapa, Changamire and Ndebele states were conquest states. This fact is mirrored by Mudenge (1988:37) who argues that the Munhumutapa Empire was 'a conquest state founded by one Prince Mutota, also known as Nyatsimba or Nemasengere'. The Mutapa and Changamire belong to the majority Shona ethnic grouping. Mudenge (1988:134) further posits that the Mutapa state was in existence for about 500 years. Of those years, the Mutapa state enjoyed 300 years of control of the highly-coveted highlands of central and northern Zimbabwe. It can be deduced that the controlling was done through cohesion and violence. The Changamire state existed between the 17<sup>th</sup> and 19<sup>th</sup> century, and the Mutapa state existed between the 15<sup>th</sup> and 17<sup>th</sup> century (Beach 1984:24). Violence in pursuit of sovereignty has been engrossed in Zimbabwean cultures before the onset of colonialism.

### 4.2.3 The Ndebele States

The Ndebele originated from the Zulu state in Natal (present day South Africa) in the 1820s and can also be traced to Ndwandwe of the Zwide state (Ndlovu-Gatsheni 2009:iii; Beach 1984:54). The Ndebele states (comprising the Kololo and Gaza states), in pre-colonial times in the history of Zimbabwe, existed between the 17<sup>th</sup> and 19<sup>th</sup> century (Beach 1984:24) and these are the same dates as those of the existence of the Changamire state. Since these two states (Ndebele and Changamire) shared the same spatial, geographical and temporal space, one could deduce that they would share the same resources and therefore inevitably seek control of those resources.

King Lobengula launched 'full-scale raids on the Shona in the period 1890 to 1893' (Ndlovu-Gatsheni 2009:143) seeking control of the resources and the subjugation of the population. This is evidenced by Beach (1984:54) who argues that the Ndebele took over, entirely with the whole population of the Changamire state in about 1840, only to be defeated in further conquest by the Rhodesians in the 1890s'. To the same effect Ndlovu-Gatsheni (2009:113) argues that 'the Ndebele hegemonic project was not scattered on barren land. They worked very hard to establish themselves at the expense of prior Shona forms, which they yet failed to totally supplant'.

In cherishing their cultural and political independence argues Ndlovu-Gatsheni (2009:vi), the Ndebele responded 'violently to equally violent imperialist forces which were intolerant of their sovereignty and cultural autonomy'. This further attests to the view that violence has been used as a tool to achieve sovereignty in the history of nation-states in Zimbabwe. So forceful were the Ndebele that they retained their cultural identity and 'converted many of their Shona subjects to that identity, so that by 1893 about 60% of the Ndebele were of Shona origin' (Ndlovu-Gatsheni 2009:113). This further attests to the conquests that existed in Zimbabwe before colonialism.

#### 4.2.4 Colonialism

Rhodesia is a name adopted in 1895 (Wood 2011:4) after Cecil John Rhodes. The Rhodesian state and structures were established on Zimbabwean soil after the military conquest of 1892-1897 (Campbell 2003:9). The Union Jack (British Flag) was raised at Fort Salisbury (named after the British prime minister of the day) on the 12<sup>th</sup> of September 1890 (Moorcraft and McLaughlin 2008:22; Hill 2003:42). Ndlovu-Gatsheni (2009:119) concurs with the dates posited by Campbell and advances that Matabeleland was colonised in 1893 through the aid of Christian missionaries. Colonialism was not a single event. It was a protracted process which involved violence, strife and resistance. Ndlovu-Gatsheni (2009:141) further argues that the 'colonisation process took the form of a catalogue of violence committed with impunity'. The sovereignty of the indigenous peoples of Zimbabwe was disregarded and negated. Commentators on Zimbabwean political and historical discourses have shown that colonisation was indeed a violent process. In affirmation of this observation, Ndlovu-Gatsheni (2009:141), arguing from an Ndebele nationalist perspective, states that:

The Ndebele state became a direct victim of imperial violence and destruction in the period 1893-1896 as the advocates of Victorian aggrandisement beat the colonial drums to a crescendo, arguing that the independent Ndebele state was a barrier to the advances of 'civilisation', commerce and Christianity.

The view expressed by Ndlovu-Gatsheni may resonate with the experiences of many people of Zimbabwe on the one hand and on the other hand, others are not sympathetic to it. For example Peter Godwin (in Hill 2003:45) argues that the Ndebele King Lobengula was a blood-thirsty tyrant whom and his people arrived as colonists in the land of the Shona. This view by Godwin seeks to downplay the fact that Zimbabwe was colonised by imperial violence. While it is true that the Ndebele had violently conquered the Shona, the British were equally guilty, if not more guilty than the Ndebele given that they (as Europeans) already devised the Treaty of Westphalia in 1648. The British could have very well argued that their occupation of Zimbabwe was done amicably and legally through the Rudd Concession of 1888. In the view of the Ndebele, through their king Lobengula, the British tricked them in selling off their land (Ndlovu-Gatsheni 2009:142). These arguments reveal the

contestability of sovereignty in the history of Zimbabwe. Violence was used amongst ethnical Zimbabwean nation-states in pursuit of each nation-state's sovereignty. Violence was again used as colonists made their way forcibly on Zimbabwean soil, in the process trampling on Zimbabweans' sovereignty.

#### **4.2.5 The Rhodesian War**

British colonialists who had imposed themselves on Zimbabwean soil and formed their state called Rhodesia began, through brutal means, to expropriate indigenous people of Zimbabwe of their land, cattle, and imposed exorbitant taxes such as a cattle-dip tax and grazing fees. African peasants were forced off their arable land and forced into mines run by the colonialists and worked as manual labourers on the new white-owned commercial farms (Bond and Manyanya 2002:3). This argument is corroborated by Moorcraft and McLaughlin (2008:21) who argued that 'African peasant farmers were moved off their land to make way for Europeans'. Beach (1984:60) further affirms the facts of colonialism and argues that Rhodesia's countryside was turned into towns, roads and railroads were erected, mines dug and land divided into 'commercial' farms for the colonialists and 'traditional' reserves for the African peasants.

As if colonialism was not enough the Rhodesians had the audacity to keep fighting the Shona and Ndebele to hold onto their conquest. When the indigenous African population resisted colonialism, they were met with violence and further subjugation. Selous, who had led the first group of pioneers to Salisbury, cautioned Rhodes and Jameson that white settlers were taking up all the resources in the land and that such would inevitably lead to war. Selous' concerns were dismissed to the detriment of the Rhodesian state. The Ndebele who were referred to as Matabele in the meantime regrouped in the hills of Matobo and the Shona became 'increasingly restive over the loss of their land' (Hill 2003:44). Despite being warned by Selous, the Rhodesians held on to their new found loot, and were adamant to remain in the colony as Ellert (1989:1) would call it. In fact so adamant were the Rhodesians in

keeping grip over Zimbabwe that the then Prime Minister of Rhodesia, Ian Smith, on the 17<sup>th</sup> of April 1961 declared that 'there would be no African nationalist rule in his life time' (Ellert 1989:3). However, ironically 16 years down the line, on the 17<sup>th</sup> of April 1980, the Union Jack was to be lowered to usher in on the 18<sup>th</sup> of April 1980 a new dispensation of nationalist rule.

In 1960 Southern Rhodesia experienced a fresh wave of violence as a result of African nationalists' resistance to colonial masters. This kind of violence had last been experienced in the 1890s at the onset of colonialism in Zimbabwe. The violence was exerted by both the African nationalists and the Rhodesian forces and spread to both the urban and rural areas (Ellert 1989:1). The violence led the then Southern Rhodesian Prime Minister, Sir Edgar Whitehead to ban the National Democratic Party (NDP) citing that 'the organisation was largely responsible for the civil unrest in the colony' (*ibid*). In that year and month the NDP was banned, the Zimbabwe African People Union (ZAPU) was formed on the 18<sup>th</sup> of December 1961, and for the first time the name Zimbabwe actually dominated in reference to Southern Rhodesia (*ibid*). At this time a war that had been declared by the British in 1890, who now called themselves Southern Rhodesians, was again reignited, only this time it was to lead to black majority rule. The following year, December 1962, saw the Rhodesian Front a political party that was sympathetic to the minority white supremacists elected (Moorcroft 2008:26). The Zimbabwe African National Union (ZANU) was formed on the 8<sup>th</sup> of August 1963 (Ellert 1989:2). ZANU broke away from ZAPU in 1963 because the views that were espoused by Joshua Nkomo – who was the leader - were considered moderate on the armed struggle for Zimbabwe's independence (Bond and Manyanya 2002:6). Another allegation levelled against ZAPU by some Shona intellectuals was that the 'old Party' ZAPU, insinuating that ZANU was the new party, sought to 'perpetuate an ethnocentric leadership clique' (Ellert 1989:3). While ZANU and ZAPU were fighting a common enemy, the British, their own survival was a stimulus that made each seek to dominate the other; sovereignty being the chief aspiration.

#### 4.2.6 The Unilateral Declaration of Independence (UDI)

In following international trends of the time, the British Government of the day under Sir Edgar Whitehead, and in seeking re-election, made it clear that they would change laws and allow equal participation of blacks in society (Hill 2003:55). This was welcomed by many African nationalists, but it was not to be easily accepted by a few white supremacists. In 1959 Harold Macmillan, the British Prime Minister, brought forward the process of relinquishing power to the indigenous peoples of their colonies by more than ten years. In the view of some British descendants who had settled in these so called colonies, it meant that independence was to be granted to countries 'which lacked the skills of government. Power was handed to demagogues who immediately created one-party states' (Wood 2011:3). In an attempt to avert this situation, in 1962 Ian Smith and Winston Field formed a new party, 'the Rhodesian Front and were seeking a mandate to keep power in white hands indefinitely' (*ibid*).

On the 11<sup>th</sup> of November 1965, Ian Smith, the then Prime Minister of Southern Rhodesia claimed the Unilateral Declaration of Independence (UDI) from Britain (Ellert 1989:1; 124; Bond and Manyanya 2002:6; 15; Wood 2011:9; 24). Hill (2003:60) confirms this date that 'on 11 November 1965, the cabinet agreed to a unilateral declaration of independence (UDI)'. Moorcraft and McLaughlin (2008:15) confirm that 'Rhodesia broke away from Britain to avoid black rule. From this time to 1979 Southern Rhodesia was only referred to as Rhodesia' (Bond and Manyanya 2002:1). Bond and Manyanya (2002:6) aver that the British descendants in the colonies feared the forthcoming British decolonisation of Africa and were nervous at the thought of African nationalists' rise to political power. Thus Ian Smith was elected as the new Prime Minister of the new state of Rhodesia in 1965. The UDI lasted for fifteen years (Ellert 1989:24; Moorcraft and McLaughlin 2008:27; 28), and the Rhodesians 'finally surrendered at the 1979 Lancaster House peace talks in London' (Bond and Manyanya 2002:9). After 90 years of colonial subjugation and domination in Zimbabwe, the British ceded power to the black majority.

It was not a voluntary relinquishing of power that brought black majority rule in

Zimbabwe. It was after a series of revolutions and confrontations with the Rhodesians that African nationalists finally ascended to political power. It was a protracted struggle that was violent, bloody and an outright revolution. Listed below are some operations that were carried out by the Rhodesian forces in pursuit of their sovereignty and domination:

**Operation Mardon** was a series of ground attacks against the Zimbabwe African National Liberation Army (ZANLA) bases close to the Mozambican border in 1976 (Wood 2011:2).

**Operation Dingo** was a military air strike by Rhodesians on ZANLA camps in Mozambique November 1977 (*ibid*).

**Operation Uric/Bootlace** was carried out in September 1979, where Rhodesian forces in conjunction with South Africa helped launch airborne attacks designed to cut ZANLA's lines of communication in Mozambique (Wood 2011:2).

**Operation Dice** was carried out in October 1979 and was designed to force the Zimbabwe African People Revolution Army (ZIPRA) in Zambia to settle with Rhodesians and this was done under Kaunda's pressure (*ibid*). Violence and warfare were seen as tools to maintain power and domination and thereby safeguard white minority sovereignty.

#### **4.2.7 Anti-Colonialism**

*Mbuya Nehanda* who was a spirit medium is said to have championed the 1896 Shona uprisings (Ellert 1989:22). The revolution in Zimbabwe was designed to overthrow oppression and domination of white minority rule (Lyons 2004:30). The Shona uprisings of the 1890s became known as *Chimurenga* which essentially was a resistance to white subjugation and domination in Zimbabwe (Moorcraft and McLaughlin 2008:20). Bond and Manyanya (2002:3) further attest to the fact that the first indigenous uprisings were known as *Chimurenga* in Shona, and *Umvukela* in Ndebele. These were crushed by white settlers in the 1890s.

Later on in the 1950s, the times that became known as 'the days of *Zhii*' the African nationalists took up further forms of resistance. *Zhii* is a Shona word that, according to Francis Nehwati (in Ellert 1989:2), means a 'devastating action which completely destroys or reduces to rubble'. Moorcraft and McLaughlin (2008:26) hold the view that *Zhii* was a violent eruption that was translated to mean 'desperate and frustrated violence'. Violence was seen to be a tool to achieve national sovereignty by African nationalists.

Ellert (1989:1) further concedes that in 1960 Southern Rhodesia experienced an episode of violence in rural and urban areas that was unprecedented in the country's history. In 1965 and 1966 Zimbabwean nationalists formed *Zhanda* groups and attacked 'white-owned farms and property' (Ellert 1989:4) in order to destabilise the colonial rule. In the process they hacked down crops of maize and tobacco and killed livestock. This would seem to be something that the African nationalists learnt from the colonial masters given how they had been dispossessed of their land and cattle. Again one can notice how violence is used by African nationalists to achieve and attain national sovereignty.

On the 21<sup>st</sup> of December 1972 guerrillas fighting under the command of ZANU attacked white-owned farms in the Zambezi valley escarpment. Operation Hurricane was formed by the Joint Operations Command (JOC) of the Rhodesian forces in response to the guerrilla attacks (Ellert 1989:23). Like the guerrillas, the Rhodesians responded violently to the attacks made by the guerrillas. Sovereignty in Zimbabwe was heavily contested, evidenced by both the African nationalists and the Rhodesians claiming the territory, seeking control and each ultimately pursuing their own national sovereignty. The contestation and violence continued for some time and on the 21<sup>st</sup> of December 1979, a cease fire was brokered at the signing of the Lancaster House agreement, that was to restore what was to be Zimbabwe's political independence from Britain (Campbell 2003:23).

#### 4.2.8 Post-Colonialism

From 1963, the year that ZANU broke away from ZAPU, until Zimbabwe's independence in 1980, the only unifying thread between ZANU and ZAPU was the common goal of liberating Zimbabwe (Ellert 1989:3). Hence the rivalry between these two political parties is still a factor today. However the first national democratic elections were held in February 1980 and Robert Mugabe emerged as the new leader in the new dispensation (Hill 2003:69). From the 18<sup>th</sup> of April 1980 to present day, the former Southern Rhodesia became known as Zimbabwe (Bond and Manyanya 2002:1).

Hill (2003:35) argues that:

After Robert Mugabe came to power in 1980 there was concerted effort to diminish the role of Matabele in both Zimbabwe's past and present. The massacres from 1982 to 1987, known as *Gukurahundi*, saw between 10 000 to 30 000 Matabele slain by Mugabe's private army, the notorious Fifth Brigade.

*Gukurahundi* is translated to mean 'the wind that blows away the chaff before the rains' (Hill 2003:77). The Catholic Commission for Justice and Peace [CCJP] (1997:13) avers that it refers to 'the rain which washes away the chaff before the spring rains'. This has been seen by some as a way of wiping out ZAPU and the Ndebele population and leadership that predominated ZAPU. By the end of 1982 the Fifth Brigade was deployed in Matabeleland in the infamous *Gukurahundi* Operation (Hill 2003:76). In 1984, the CCJP compiled a report 'based on interviews with victims of *Gukurahundi* and handed it to Mugabe, but did not release it for public consumption until 1998' (Hill 2003:82). In essence *Gukurahundi* was a violent series of terror attacks on both the dissidents as claimed by the GoZ, but mainly on civilians as attested by the CCJP's report.

It is debated as to when exactly *Gukurahundi* was carried out. Various scholars have proffered different dates. The Chatham House Meeting Summary (2007:2) avers that it was carried out during 1983-1984 and Benyera (2013:3) concurs with this view. Rupiya (2005:117) posits that *Gukurahundi* was carried between the years 1981 to

1986, while Hill (2003:35) is of the opinion that *Gukurahundi* happened between 1982 and 1987. The CCJP and the Legal Resources Foundation (LRF) argue that it occurred from 1981 to about 1988 (CCJP 1997:5-6).

In late January 1983, 5 Brigade was deployed in Matabeleland North. Within weeks, its troops had murdered more than two thousand civilians, beaten thousands more, and destroyed hundreds of homesteads (CCJP 1997:14).

Hill (2003:35) concurs with this observation. This shows the propensity of violence that the GoZ has. Violence has been a tool of governance and is likely to continue to be used. There was so much secrecy that surrounded *Gukurahundi* and this is attested by the fact that even to date no one exactly knows the number of casualties that were recorded. Benyera (2013:193) agrees with the CCJP (1997:12, 15) arguing that the findings of the 'Chihambakwe and Dumbutshena Commissions of Inquiry were never made public'. The Chihambakwe Commission was set up in 1984 (Chatham House Meeting Summary 2007:2). It was for the purposes of investigating what had transpired during that period in the history of Zimbabwe. There are variations to the claims made, the then ZAPU opposition party leader Joshua Nkomo mentioned that about 20 000 people were killed, and 'other sources putting the figure as low as 700' (CCJP 1997:18). Hill (2003:35) advances that about 10 000 to 30 000 people were killed by the 5<sup>th</sup> Brigade during *Gukurahundi*. This figure was corroborated by Ncube (*et al* 2005:4) postulating the figure to be between 20 000 to 30 000. Rupiya (2005:117) corroborates this figure.

During that time a lot of curfews and blockades were put up to exclude people from entering and leaving affected areas, and the international media from getting the stories. The CCJP (*ibid*:14) is of the opinion that Matabeleland South was hard hit by *Gukurahundi* arguing that 'there were no more than 200 dissidents in the curfew region and it was the 400 000 civilians who suffered most', although Matabeleland North and the Midlands were also affected (*ibid*). The CCJP further argued that 'no journalists were allowed near the region, particularly Matabeleland South. This situation meant that it was very hard to get news of events out of the region, and hard to judge the truth of the early accounts' (*ibid*).

It has been argued that 'dissidents often raped women, which made them unpopular. They also killed people they thought were sell-outs' (CCJP 1997:12). Dissidents were viewed as criminals and rightly so, they were outlaws. People living in the rural areas were the most affected. This is evidenced by the CCJP report arguing that 'it was people living in rural areas who suffered worst once more, mostly from the activities of 5 Brigade, but also at the hands of dissidents' (*ibid*). It is clear that dissidents were notorious and were lawless. It was necessary for the government to act and bring the lawlessness and disorder to an end. Seemingly the government was quite aware of the need to bring about stability and peace in the land. The CCJP (1997:13) report goes further to say that:

The Government said quite rightly that it was their responsibility to try and maintain law and order during these years. However, their response to the problem was seen by many as being too harsh. From early 1982, the Government used emergency powers to enforce widespread curfews, roadblocks, detention without trial and house to house searches.

As dissidents continued to target White farmers, 'the dissidents murdered at least 33 white commercial farmers or members of their families. This forced farmers to move into town' (*ibid*). The GoZ in response to the civil unrest caused by the dissidents, targeted both dissidents and civilians indiscriminately. The CCJP (1997:13) report further revealed that the then Prime Minister, in April 1983, Mugabe was quoted saying 'we eradicate them. We don't differentiate when we fight because we can't tell who is a dissident and who is not'. It can be argued that Mugabe's utterances suggested a complete annihilation of the dissidents. The implication of that, unintended though it could have been, was that the civilians amongst whom the dissidents 'hid' from the 5<sup>th</sup> Brigade were collaterally killed in the operation. Victims of *Gukurahundi* were forced to flee conflict areas and sought refuge in 'safer' places in town. Civilians were terrorised by the dissidents and were further terrorised by the government which reacted violently to the disturbances caused by the dissidents. The civilian population was further subjected to violence from the state which ought to have protected them. It can be argued that *Gukurahundi* produced the 'dirt' as people ran away from 'unsafe' areas and squatted in urban 'safer' areas.

On the 22<sup>nd</sup> of December 1987, a day that is now celebrated as Unity Day in Zimbabwe, Nkomo, the leader of ZAPU, signed the Peace Accord which merged ZAPU with ZANU (Hill 2003:86). Nathan Shamuyarira, the then party spokesperson of ZANU PF, commented that his party had ‘many degrees in violence’ (Bond and Manyanya 2002:xiv). This seems to indicate that ZANU was well aware that violence was used to subjugate Zimbabweans by colonists, they were also aware that violence was used as a tool of liberation by African nationalists in Zimbabwe and to that effect ZANU seems to believe that violence is part of statecraft.

This union of ZANU and ZAPU somewhat ended the atrocities that people faced. But it was not long before reports of intimidation prior to elections surfaced. ‘Torture and murder have long been the instrument of war between ruling ZANU PF and the opposition MDC, and neither side plays clean’ (Hill 2003:3). The Movement for Democratic Change (MDC) was started in the year 1999. Morgan Tsvangirai was elected to be the leader. He came from the ZCTU and had occupied the position of Secretary-General of the organisation (Matyszak 2010:xviii). This serves to demonstrate that Zimbabwe was colonised by violence. Violence was an instrument that achieved and reclaimed Zimbabwe’s independence, and the GoZ has demonstrated that violence is a tool used in their statecraft. This is confirmed by such reports as stated by Gray Tichatonga, who had been appointed by Nathan Shamuyarira, when the latter was Minister of Information, telling the *Sydney Herald* ‘the only way we can maintain political control is through fear’ (Hill 2003:72). Operation *Murambatsvina* was one such violent act by the GoZ on its own people. Even Zimbabwe’s opposition political party, the MDC, is no better. In the year 2001 the MDC through its leader Morgan Tsvangirai called for the removal of President Mugabe and his party ZANU (PF) from office by violent means – whatever those are (Mhiripiri 2008:162).

So far this chapter has demonstrated that Zimbabwe has a long history of state-sponsored violence. *Gukurahundi* was carried out by the state on its own people.

Though not explicitly stated, it can be deduced that the state considered its actions as a pursuit and preservation of its sovereignty. It was arresting disorder and chaos perpetrated by what it termed 'dissidents'. It is worrisome that the GoZ persistently esteems state sovereignty at the expense of individuals' sovereignty from which the state takes its sovereignty. This history of state-sponsored violence was again palpable during OM. Despite the justification submitted by the GoZ, that it carried OM as guaranteed by the doctrine of state sovereignty, this study asserts that the GoZ premised OM on municipal bylaws as promulgated by the Regional, Town and Country Planning Act of 1961 (Rupiya 2005:118). This is the only plausible Act under Zimbabwe's national laws that could have legal basis for OM. This work will now interrogate the domestic policy documents that (mis-)informed OM. The assertion that the Regional, Town and Country Planning Act misinformed OM is made on the basis that the Act was enacted in 1961, a time when Zimbabwe was still under British colonial rule. The Act was meant to contain black people in the townships<sup>33</sup>; thus, it was an instrument for colonial subjugation of Africans.

#### **4.3 Policy Documents that (Mis)Informed Operation *Murambatsvina***

The GoZ possibly premised OM on the municipal bylaws of City Councils as they are the only legal instruments that made for such provisions rather than the doctrine of state sovereignty. The sovereignty doctrine was used as a justification of OM after the public outcry of various organisations and representatives of governments. The sovereignty doctrine was also used as a way to deter international involvement in the issue at hand. The specific bylaws that (mis)informed the GoZ are contained in the Regional, Town and Country Planning Act<sup>34</sup> of 1976 (Nicolai 2006:821).

Ironically, the bylaws of Harare, Zimbabwe's Capital City were inherited from the Smith-led government at Zimbabwe's independence in 1980. After Zimbabwe attained her independence, the bylaws were cosmetically amended at different times

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<sup>33</sup> This containment of black people in the townships is similar to apartheid South Africa that asserted, in the person of the then Minister of Native Affairs, Hendrick Verwoerd, that apartheid was 'a policy of good neighbourliness' (quoted in Hirsch and Dean 2002).

<sup>34</sup> For the full Act it can be accessed on the following:

([http://archive.kubatana.net/docs/legisl/reg\\_town\\_ctry\\_plan\\_act761101.pdf](http://archive.kubatana.net/docs/legisl/reg_town_ctry_plan_act761101.pdf)).

(1980; 1983; 1985; 1987)<sup>35</sup> without changing the substance of the bylaws; a position that Tibaijuka (2005:25) succinctly notes. The bylaws were, by design, meant to subjugate the black majority as they favoured 'white' areas<sup>36</sup>. It can be argued that the bylaws were actually made specifically to contain black people in the townships as they make specifically reference to 'black township' (City of Harare 2014:internet). This observation was reiterated by Tibajuka (2005:35), arguing that 'government officials repeatedly asserted in the press and in official statements to the mission that a major expected outcome of OM is the "return" of people to rural areas'.

#### **4.4 Debates on Political, Economic and Social factors behind Operation *Murambatsvina***

As alluded to earlier in Chapter Three, OM was carried out by the GoZ in the winter<sup>37</sup> of May 2005. It is well documented that Zimbabwe's housing crisis began in the early 1990s as in-migration rose to unprecedented levels. 'The urban population of Zimbabwe rose rapidly from 23% in 1982 to 30% by the early 1990s' (Southern African Regional Poverty Network 2005:22)<sup>38</sup>. Tibaijuka (2005:22) agrees with this view and avers that Zimbabwe's major cities, Harare, Bulawayo, Mutare and Gweru 'attained population growth rates of over 5% per annum throughout the 1980s'. The majority of Zimbabwe's rural population at independence in 1980 made inroads to the cities in search of employment, education and better prospects<sup>39</sup>, resulting in urban housing shortages. The National Association Of Non-Governmental Organisations (2007:12) reported that the rise in urban living was due to the 'relaxation of colonial labour and pass laws' arguing that it 'facilitated the movement of people from rural to urban areas thus fuelling the informal sector which accounted

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<sup>35</sup>This information is available at:

(<http://www.hararecity.co.zw/images/jdownloads/CityDownload/harare%20by-laws.pdf>).

<sup>36</sup>In fact urban areas were designed for whites alone and blacks were supposed to stay only for the duration of their employment, thereafter they were supposed to go back to their rural homes. Blacks were staying within the white areas as a privilege, and not by right, they were provided with very little in terms of social services (<http://www.hararecity.co.zw/index.php/component/content/article/27-dhcs/102-history-of-the-dhcs>).

<sup>37</sup>At the time of OM, Zimbabwe was entering its winter season and experiencing very cold weather. The GoZ counter-argued that winter being a dry season was the best time to implement the operation. OG/HK was meant to provide alternative accommodation before the onset of rains in October/November (Tibaijuka 2005: 60).

<sup>38</sup>A comprehensive report by the Southern African Regional Poverty Network (SARPN) is available at: ([http://www.sarpn.org/documents/d0001387/UN\\_Zimbabwe\\_July2005\\_part2.pdf](http://www.sarpn.org/documents/d0001387/UN_Zimbabwe_July2005_part2.pdf)).

<sup>39</sup>This position is further consolidated by the report made by the Centre on Housing Rights and Evictions (COHRE 2007:4).

for 20% of the labour force' by 1987. The 20% of the informal sector labour force is compared to the less than 10% at independence (Tibaijuka 2005:17).

The urban government housing schemes took too long to materialise and were inadequately funded resulting in people squatting, in some instances admittedly, in undesignated areas. With urban living, people became more politically aware and astute to the politics of Zimbabwe. Many potential voters increasingly became agitated and felt short-changed by the government's failure to come up with effective policies that spoke to ensuing economic issues. This further created another problem, the congestion of housing led to the congestion of scarce economic resources and activities.

Again in the 1990s the state adopted and started implementing the World Bank structural adjustment programmes and economic liberalisation clandestinely (National Association Of Non-Governmental Organisations: 2007:10). The Solidarity Peace Trust (2010:21) agrees with NAONGO, submitting that in 1991 the GoZ introduced the Economic Structural Adjustment Programme (ESAP) and liberalised the economy by 'deregulating the labour market and introducing monetary reform, among other measures'. This resulted in the disastrous social structures and economic constraints in Zimbabwe. The 1990s can be credited for the rise of Zimbabwe's most formidable opposition political party, the MDC, in response to the ensuing economic crisis.

In the year 1997 the GoZ decided to appease war veterans by issuing them cash hand-outs after they threatened to destabilise the government with 'public display of discontent' (Tibaijuka 2005:16). The finances were unbudgeted for, thereby contributed to inflation as it spiralled out of control. In the same year, 1997, the GoZ decided to engage in military intervention in the conflict in DRC. This further dismantled budgetary allocations of the state coffers. In the decade of the 1990s the Zimbabwe Congress of Trade Unions (ZCTU) became very popular as it pressured the opposition of the dominant rule of ZANU PF, which was clearly losing ground in the social, political and economic policies regulating the country (*ibid*).

The 2000 referendum elections signalled a watershed moment for the ZANU PF-led government. Never had it lost an election since independence in 1980<sup>40</sup>. The ZANU PF-led government failed to garner enough support to change the constitution of Zimbabwe, in a referendum, with the intention of consolidating Presidential powers. The opposing movement to the referendum was led by the MDC and demonstrated that the MDC had gained the confidence of the majority of the people. This did not sit well with ZANU PF. The majority of city dwellers were no longer controllable by the state through its media. ZANU PF was slowly, but surely, losing ground to the opposition MDC. The National Association Of Non-Governmental Organisations (2007:11) reported that 'from 2000 Zimbabwean economy, political and social situation plunged in free fall with the state disregarding law, human rights, economic logic and social injustice'. This marked the beginning of dire economic stagnation and collapse. In 2004 the labour force in the informal sector was at 40% (*ibid*).

Consistent with the trend already set in the year 2000; again in an election<sup>41</sup> in 2005 ZANU PF fared badly, losing significantly to the MDC in urban areas. On the 31<sup>st</sup> of March 2005 Parliamentary election results were announced. The MDC won 26 of the 30 parliamentary seats in major towns and cities with ZANU PF 'winning almost all the rural votes and only 4 out of 30 urban votes' (NAONGO 2007:13). The Solidarity Peace Trust (2010:17) concurred with this view, arguing that:

Most of the MDC's 41 seats were won in urban areas. Coming as it did in June 2005, OM has been widely interpreted as an act of retribution against areas known by the government to have voted for the opposition, sending a message that it was irrelevant whether urban MPs and town councils were MDC or not.

It can be argued that the MDC was viewed as an urban party, implying that ZANU PF was a rural party. May 2005 was to be a desperate attempt to rid the populated urban areas of Zimbabwe of the 'ungovernable' voters. OM was a way to take former rural areas voters back to 'where they belonged' and to a place they could easily be controlled by ZANU PF. The labour market also became congested, as many unskilled labourers made their way to cities. While city populations grew and

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<sup>40</sup> This is evidenced by the National Association Of Non-Governmental Organisations (2007:11) report.

<sup>41</sup> This is further evidenced by the then Secretary General of the Zimbabwe Congress of Trade Unions (ZCTU), Mr Lovemore Matombo, who argued that 'the reason for Murambatsvina was purely a punishment for the urbanites for rejecting ZANU PF in the elections [2005]' (in Bright 2008). Mhiripiri (2008:150) concurred with this view.

expanded, the infrastructure - roads, sewage systems, housing, water systems and industry - remained stagnant (National Association Of Non-Governmental Organisations 2007:12).

OM happened against a background of economic collapse in Zimbabwe. The Solidarity Peace Trust (2006:12) asserted that in May 2005, employment in the formal sector stood at 20%; and more than 80% of the population of Zimbabwe was estimated to be below the poverty datum line. Sachikonye (2006:10) advances that unemployment had reached 80% prior to OM. The situation described by the SPT is one of dire economic meltdown. The SPT further estimated that at some point about 70% of economically-productive age were 'outside their nation, on the run as illegal immigrants, or eking out an existence as cross border traders' (*ibid*). The desperation of Zimbabwean citizens to try and remain afloat in an environment of economic collapse came with many challenges, among those, was competition for the little resources perceived to be available to them. The ensuing economic meltdown in Zimbabwe at the time of OM came with a multifaceted conundrum of challenges. With the economic collapse, Zimbabweans desperately seeking a living were forced into diaspora thereby impacting of the integrity of family units.

There was speculation that OM was meant to remove 'local competition threatening newly arrived Chinese businessmen (*sic*)' whose stores sold cheap and often poor quality goods (Ncube *et al* 2005:10). It was estimated that about 10, 000 Chinese citizens had moved into Zimbabwe by July 2005 as part of the GoZ's 'Look East' policy. This followed the economic sanctions that were imposed by, among other European countries, the USA, the UK and Australia following Zimbabwe's controversial 'Land Reform Programme' in the year 2000 (*ibid*). Tibaijuka (2005:16) concurs with this view.

The licensing of stallholders for small scale trading in the cities was taken out of the control the City Councils which were predominantly in the control of MDC members. The mandate was given to inter-ministerial committees that vetted, with the help of the police, people who were to be allowed to trade (Ncube *et al* 2005:10). It was observed that these inter-ministerial committees were staffed by people from the ZANU PF party and 'vending sites in Bulawayo were allocated almost exclusively to

ZANU PF women's league members' (Solidarity Peace Trust 2010:24). Thus it can be argued that the vetting of who gets a stall for trading favoured ZANU PF loyalists at the expense of anyone who defied them. In an excerpt from the then Secretary General for Bulawayo Upcoming Traders' Association (BUTA), P.C. Ncube asserted that:

Ten years of rejection by those mandated with ensuring the well-being of the weak as well as the strong, has seen our members in the informal sector eking out a living in situations which ensure only abject poverty and despair (Solidarity Peace Trust 2006:3).

This assertion further reveals the dire economic situation that existed before OM; it suggests that OM only made things worse for many informal traders in Zimbabwe generally, but Bulawayo particularly. It is clear that the intentions behind OM are intertwined between social, economic and political problems that Zimbabwe was faced with. There is a myriad of possible underlying motives and intentions behind OM, these debates tabled here are not exhaustive.

#### **4.5 International Condemnation of Operation *Murambatsvina***

Labelled as a 'crime against humanity' under the Rome Statute by Nicolai (2006:826), OM received deserved condemnation from international interlocutors. OM stood in direct contravention of numerous international covenants and states. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights. The Centre on Housing Rights and Evictions (COHRE) also submitted a report similarly calling for the International Criminal Court (ICC) to prosecute Zimbabwean authorities responsible for OM as the operation constituted a 'crime against humanity' (COHRE 2007:4). The particular Rome Statute Article 7 reads:

For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;

- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law.

The enforcing authority of the Rome Statute is the ICC. This statute has no bearing on Zimbabwe as she is not a signatory of the ICC. Tibaijuka (2005:64), similarly notes that 'Zimbabwe is not a party State to the Rome Statute therefore any referral would need a Security Council Resolution'. This meant that the Mugabe government was un-prosecutable under the ICC; leaving the contentious option of R2P as an only means of redress.

The USA in the person of the US Secretary of the State, Condoleezza Rice, decried the operation and urged AU member-countries to 'push Mugabe's government to respect the rule of law and human rights' (Ncube *et al* 2005:11). Following her appointment as the US Secretary of State in January 2005, Condoleezza Rice labelled Zimbabwe as 'one of the world's six outposts of tyranny'<sup>42</sup> (Besada 2011:251) that the USA needed to 'deal with'. In response to the condemnation by the US Secretary of State Condoleezza Rice, Mugabe made personal attacks to the US Secretary of State's statement that labelled Zimbabwe as an 'outpost of tyranny'; Mugabe chided:

That girl born out of the slave ancestry, who should know from the history of slavery in America, from the present situation of blacks in America, that the white man is not a friend (Goff and Mbakwe 2005:internet).

This reduced the debate to a personal attack on Rice. While the statement by Rice may have been interpreted as an unwarranted 'attack' on Zimbabwe, OM gave credence to Rice's observations, given the severity of the operation. As it would have been, Condoleezza Rice was to again, four months down the line in May 2005, issue out an official statement of the USA's position on OM. The statement condemned the GoZ for the gross human rights violations it committed in carrying out OM.

The United Kingdom concurred with the position of the USA and denounced OM as an abuse of human rights by the Mugabe government, in the person of the UK Foreign Secretary Jack Straw (Ncube *et al* 2005:11). Dr. Miloon Kothari, The Special

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<sup>42</sup> The other five countries that Condoleezza Rice referred to as 'outpost of tyranny' are Belarus, Burma, Cuba, Iran and North Korea (Besada 2011). For the full speech of the US Secretary of State, see ([http://www.age-of-the-sage.org/sharansky/rice\\_confirmation\\_speech.html](http://www.age-of-the-sage.org/sharansky/rice_confirmation_speech.html)).

Rapporteur of the UN Commission on Human Rights on the Right to Adequate Housing, issued a statement on the 3<sup>rd</sup> of June 2005 urging the government 'to immediately halt the mass forced evictions' (Tibaijuka 2005:13). In December 2005, the UN Emergency Relief Coordinator, Jan Egeland, added her voice in endorsing the Tibaijuka (2005) report; she retorted that OM was 'not just a crisis, but a meltdown' arguing that 'the UN could have done more if there were good working conditions'. Egeland was of the view that had the GoZ removed bureaucratic hurdles; her organisation was to better help in the humanitarian crisis caused by OM (Solidarity Peace Trust 2006:3). This speaks of the politicking by the GoZ in spite of relief and aid organisations in OM.

The European Union (EU) also added its voice in condemning OM (Human Rights Watch 2005:34). Britain called for a special meeting at the UN to discuss ways of intervention in Zimbabwe following OM. It was supported by the USA, France, Denmark, Romania, Greece, Japan, Argentina and Philippines. China, Russia, Algeria, Benin and Tanzania voted against the discussion and Brazil abstained<sup>43</sup>. This suggests that the countries that supported Britain's motion condemned Zimbabwe's OM tacitly; equally, some countries endorsed Zimbabwe's OM by not publicly condemning the GoZ and vetoing the UN special meeting on Zimbabwe. China, Russia and some African countries did not believe that Zimbabwe warranted to be discussed at the Security Council or UN Human Rights Commission claiming that Zimbabwe was 'not a country in conflict' and was not 'a threat to international peace and security' (Human Rights Watch 2005:35). This gives credence to the assertion made earlier in this work that the Global South in general is sceptical of Western interventions in domestic issues of sovereign states.

#### **4.6 The Tibaijuka 2005 Report**

Professor Anna Kajumulo Tibaijuka the then UN-Habitat Director<sup>44</sup>, in Tanzania her native country, was appointed as the Special Envoy of the UN and was mandated to investigate Zimbabwe's OM. Her mandated was gazetted by the then UN Secretary

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<sup>43</sup> The full article is available at: (<http://news.bbc.co.uk/2/hi/africa/4721189.stm>).

<sup>44</sup> The full article can be accessed at: (<http://www.herald.co.zw/tibaijuka-fired-for-graft/>).

General Kofi Annan. It was carried out between 26 June and 8 July 2005 (Rupiya 2005:118). The (Tibaijuka 2005:24) report corroborated the observation that by the year 2004, 'the informal economy was estimated to have accounted 40% of all forms of employment'. It was against the economic, political and social backdrop of Zimbabwe's history that OM was introduced to:

arresting disorderly or chaotic urbanisation including its health consequences; stopping illegal, parallel market transactions, especially foreign currency dealing and hoarding of consumer commodities in short supply; and reversing damages caused by inappropriate urban agricultural practices.

While the reasons for engaging OM may have sounded logical and well thought out, the dire consequences of the operation suggested that the GoZ were up to something more sinister than met the eye. Had OM been properly planned and thought out, surely the consequences would have been anticipated and plans for mitigation put in place. Tibaijuka (2205:26) was of the view that 'the implementation of the operation was effected without consultation with local authorities responsible for compliance and enforcement of the said standards and norms'. The 'said standards' here, refer to the Regional, Town and Country Planning Act regarding 'prior notice to households concerned and the possibility of ex-post regularisation' (*ibid*).

The destruction of OM took a toll on peoples' lives, livelihoods and social stability. Tibaijuka (2005:7; 33) submitted that:

It is estimated that some 700,000 people in cities across the country have lost either, their (*sic*) homes, their source of livelihood or both. Indirectly, a further 2.4 million people have been affected in varying degrees.

The report further estimated that 114, 000 or 20% of people affected by OM were living in the open without shelter, another 114, 000 or 20%, went back to the rural areas forced by the situation, and about 170, 000 or 30% were absorbed by either friends, family or extended families; and a further 170, 000 or 30% sought refuge in community churches and other temporary accommodation (Tibaijuka 2005 35). Tens of thousands of people of Malawian, Zambian and Mozambican origin had established themselves for decades and some for generations in Zimbabwe. They had no rural homes to go back to (*ibid*). While Tibaijuka acknowledged that Zimbabwe had to come to terms with rapid urbanisation, the report determined that

OM contravened international laws and statutes on housing and basic human rights. In light of the findings of the United Nations Special Envoy (UNSE), some recommendations were made and are recorded in the following section.

#### **4.6.1 Recommendations of the Tibaijuka 2005 Report**

In terms of human settlements, OM rendered over half a million people either homeless or living with friends or family in overcrowded places exacerbating health-threatening conditions. In political terms, OM made worse people's fears and mistrust, a result of years of a polarised climate. In economic terms, OM disrupted livelihoods of millions of people who had found some coping mechanism through the informal sector. The Tibaijuka report noted that the impact and consequences of OM were 'life-threatening' (2005:71) and as such, made clear recommendations given the assessment it embarked on. There was a call for an immediate halt to the demolitions of OM.

The first recommendation was to facilitate humanitarian operations that were pro-poor, gender-sensitive, affordable housing, access to water and sanitation (*ibid:72*). This was to be achieved, among other measures, the review of the Regional, Town and Country Planning Act and other relevant Acts so as to align the 'substance and the procedures of these Acts with the social, economic and cultural realities facing the population of Zimbabwe' (*ibid:73*).

The second recommendation was aimed at addressing socio-economic issues and reconstruction after OM. The UN was to work with the GoZ to mobilise assistance from the international community, given that the GoZ had limited capacity to address the needs of the affected population fully (*ibid:74*).

The third recommendation was for the GoZ to address the land issue, macro-economic reform and governance. There was need to take corrective policy reforms in macro-management and governance issues (*ibid:75*). In line with this recommendation, the fourth one was for the GoZ to address issues of accountability by taking collective responsibility for what happened during OM (*ibid:76*).

Lastly, there was need for the GoZ to address issues of human rights especially given its track record of the land reform programme that was marred by violence and deaths of white farmers in 2000 and the untold human suffering that it caused during OM in 2005 (*ibid:77*).

The Tibaijuka (2005) recommendations encompassed a wide array of issue that sought to address both some long term issues and short term considerations. There are many other organisations that made similar recommendations within Zimbabwe and in the international fraternity.

#### **4.7 African Responses to Operation Murambatsvina**

The African Union's silence was profound. It suggested that the union was in accord with the GoZ's position on OM. Yet the African Charter on Human and People's Rights<sup>45</sup> (African Charter) Articles 4, 5, 6, 7, 12(1), 14, 16, 18(1) and 22 protected human rights against operations like *Murambatsvina*. The Southern African Development Community (SADC) regional block was also disturbingly quiet. The National Association Of Non-Governmental Organisations (2007:19) report, noted that the SADC, AU and other regional bodies did not react to OM.

The South African government too, was awkwardly silent over OM and referred to it as an 'internal matter' of Zimbabwe (Ncube *et al* 2005:11). South Africa, considered the regional giant within SADC, maintained its policy of 'quite (*sic*) diplomacy when it comes to Zimbabwe issues' (*ibid*). At the request by the UK Foreign Secretary of state that the South Africa government must 'act against Zimbabwe', Bheki Khumalo, the then South African Presidential Spokesperson question what her termed 'bogeyman approach used to scare African countries, like children, into conforming with the West' (*ibid*). This suggested that South Africa was in agreement with the GoZ's position on OM as an exercise of its state sovereignty. Bheki Khumalo further commented that South Africa refused to accept the notion that it must appease G8

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<sup>45</sup> The full document of the African Charter can be accessed at:  
([http://www.achpr.org/files/instruments/achpr/banjul\\_charter.pdf](http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf)).

leaders because Mbeki was attending the summit in Scotland. He stated that ‘we do things because we believe they are correct and right’ (*ibid*), further suggesting that South Africa’s silence over OM was an endorsement of the Mugabe government’s stance on OM and sovereignty. The attitude displayed by South Africa on OM validated what Nkosazana Dlamini Zuma, the then Minister of Foreign Affairs in 2003, stated that South Africa will ‘never’ condemn its Zimbabwean counterparts; ‘it is not going to happen as long as this government [ANC-led government<sup>46</sup>] is in power’ (Ncube *et al* 2005:12). The Human Rights Watch (2005:35) report, recorded that ‘the South African government indicated that it would await the UN report on the crisis before responding’. Suffice to say that no condemnation ever surfaced from the SA government following OM.

The then Kenyan Minister of Housing, Amos Kimunya, was reported to have ‘sympathised with the actions of the Zimbabwean government’ and noted that ‘however painful, evictions are necessary’ (Ndlovu 2005:Business Day 5 July). This further suggests that the silence and lack of public condemnation of OM by the Kenyan government meant that Kenya tacitly condoned and endorsed the GoZ’s position in OM and sovereignty. It can be interpreted that Africa governments may very well believe that the GoZ’s actions in OM were justified according to the doctrine of state sovereignty.

#### **4.8 Mugabe’s Government Responses to International Criticisms**

In a speech to the Central Committee of the ruling ZANU PF party, Mugabe justified the demolitions of OM arguing that:

Our cities and towns had become havens for illicit and criminal practices and activities which just could not be allowed to go on. From the mess should emerge new businesses, new traders, new practices and a whole new salubrious urban environment. That is our vision. (Ncube *et al* 2005:5; NAONGO 2007:14)

Suffice to point out that Mugabe continued to be arrogant after the casualties of OM. The then Police Commissioner Augustine Chihuri retorted on the 16<sup>th</sup> of June 2005

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<sup>46</sup> The African National Congress (ANC) is the current government in power in Zimbabwe’s neighbouring South Africa.

that OM was meant to 'Clean the country of the crawling mass of maggots bent on destroying the economy' (Ncube *et al* 2005:5). Perhaps what is more shocking is Chihuri's referral to people, citizens of the country, as maggots. In November 2005, Action Aid International (2005:ii) reported that the GoZ continued to deny all accusations and allegations levelled against them as a result of OM, and showed little concern for the humanitarian consequences of that 'disastrous venture'. When the GoZ was the subject of adverse reports, it showed a tendency to vilify and denigrate the authors of such reports.

In response to the specific UNSE report, the GoZ rationalised that objectives of OM were *inter alia*:

Stem disorderly or chaotic urbanisation that hinder the Government and local authority by law and providing service delivery e.g. water, electricity, sewage and refuse removal; minimise the threat of major disease outbreaks due to overcrowding and squalor, stop economic crimes especially black-market in foreign currency; eliminate parallel market and fight economic sabotage; reorganise Micro, Small and Medium Enterprises (MSSMEs); arrest social ills among them prostitution which promotes the spread of HIV/AIDS and other communicable diseases; stop the hoarding of consumer commodities, and other commodities in short supply, and reverse environmental damage and threat to water resources caused by inappropriate and unlawful settlements (National Association Of Non-Governmental Organisations 2007:15).

The GoZ further claimed that OM was a follow-up campaign to the anti-corruption campaign 'started in 2004 to cleanse the financial sector, which had become the centre of speculative services' (*ibid*). The rationalisation provided by the GoZ was always in line with the responsibilities of a sovereign state towards its citizens. It can be argued that this pseudo concern that the GoZ displayed in the face of international criticism, was aimed at giving credence to their position on state sovereignty. It was meant to pacify anyone who interrogated and questioned OM as a failed internal policy.

The GoZ responded by initiating another equally frivolously devised Operation *Garikai/Hlalani Kahle*. It often ignored the domestic outcry of its own citizens and international inquiry on OM.

#### 4.8.1 Operation *Garikai/Hlalani Kuhle*

Operation *Garikai/Hlalani Kuhle*<sup>47</sup> (henceforward OG/HK) was launched on the 9<sup>th</sup> July 2005 according to Rupiya (2005:117). The NAONGO (2007:15) argued that it was:

Officially launched at Whitecliff in the presence of the UN Special Envoy with [the then] Vice President Joseph Msika and Minister of Local Government, National Housing and Urban Development, Ignatius Chombo.

The inconsistencies in the dates proffered also are indicative of the unpreparedness on the part of the GoZ to launch OG/HK. This gives credence to the idea that OG/HK was a way to spruce up the tarnished image of the GoZ in the face of mounting international pressure. OM had been described as a gross violation of human rights, 'crime against humanity' and outright barbarity of a government on its own people. To avert the situation, the GoZ embarked on OG/HK.

The GoZ claimed that OG/HK was aimed at mitigating the effects of OM. The National Association Of Non-Governmental Organisations (2007:20) is of the view that OG/HK was announced by the GoZ as a 'logical follow-up to OM'. This work argues that OG/HK was a cover-up for the failures of OM. The objectives of the operation were purportedly to be achieved through the provision of affordable government housing, a recommendation that was made by the Tibaijuka report. The GoZ claimed that OG/HK was being implemented in the context of National Housing Programme and was aimed at providing decent, functional and affordable accommodation as well as an enabling and conducive environment that promotes micro, small and medium sized business enterprises (*ibid*).

The objectives were to build 5 000 housing units by the end of 2005 under phase one, and phase two was to see the building of 10 000 units. It was also aimed 'at promoting large scale delivery of low-cost housing, vending and marketing, as well as small and medium business sites' (*ibid*). The then Minister of Local Government, National Housing and Urban Development , Ignatius Chombo 'boldly promised during 2005 that the government would build 250, 000 houses each year until 2008'

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<sup>47</sup> Operation *Garikai/Hlalani Kuhle* derives its name form a combination of Shona (*garikai*) and Ndebele (*hlalani kuhle*) words, meaning live well.

(Solidarity Peace Trust 2006:27). However, only a couple of thousand units of the houses were built and most of them were not inhabited (IDMC 2008:5). Only 3, 311 housing units had been delivered as at June 2006, ten months after the commencement of OG/HK (NAONGO 2007:21). The allocation of the houses was also mired in controversy, especially around the selection of beneficiaries, which was subjected to patronage politics and favouritism. This further exacerbated the plight of women and children, as the housing allocation system favoured and benefited those with political connections. The lack of proper housing for the victims of OM compounded other challenges associated with the lack of shelter, such as lack of security for both persons and their belongings.

By the year 2006 the GoZ had not kept its promise to provide decent and affordable housing to the victims of OM, thereby rendering OG/HK a still birth (COIS 2006:69). This was still the situation in 2014. Tapfuma Machakaire (in The Chronicle 2014), a reporter for the government mouth piece in Bulawayo, the Chronicle, reported that an estimated population of 2 000 people live in shacks in a place called *Ngozi* mine in the outskirts of Bulawayo, Zimbabwe's second largest city. These people were impacted by OM in 2005 and have been waiting for the shoddy government intervention OG/HK.

#### **4.9 Conclusion**

This chapter argued that violence has been used as a tool to govern in Zimbabwe since pre-colonial times. It also argued that Zimbabwe was colonised by violence and later liberated through violence. Given the events that have transpired in Zimbabwe since its independence in 1980, particularly *Gukurahundi* and Operation *Murambatsvina*, violence is likely to continue to be used as a tool to forcibly control people and exert the political dominance of ZANU PF. This chapter demonstrated that state sovereignty is crafted in and through the experiences of violence in Zimbabwe, arguing that the GoZ's framing and understanding of sovereignty is informed by the struggle for liberation which was by violent means.

A discussion on OM was tabled. National laws and policy documents that the GoZ

premised OM were also discussed. The chapter also discussed some political, social and economic factors that were behind the implementation of OM. Despite the rationale provided by the government that OM was to get rid of slums, dirt and crime, this chapter also demonstrated that OM was a form of violence targeted at the urban population and carried out by state machinery and organs as a way of punishing voters for showing a preference for the opposition MDC at the 2000 and 2005 polls.

The chapter also stated some international, regional and domestic responses to OM. The UNSE's report and recommendations following OM was also discussed. This chapter highlighted that OM exposed that the GoZ neglected the plight of its citizens and hurriedly initiated OG/HK in order to assuage the condemnation of the international community. Yet as a sovereign state, the GoZ should have protected its citizens and in turn protected its sovereignty. The chapter advanced that if the GoZ does not protect its citizens 'from whom authority to govern is derived', it is in fact neglecting state sovereignty. To be sovereign is to protect the individuals who give rise to sovereignty in the first place.

Lastly this chapter highlighted how domestic policies and operations generate interest in the international arena of politics as was OM and OG/HK. The position that a state adopts domestically can have negative effects in its foreign affairs as was demonstrated with the economic and 'smart' sanctions in Zimbabwe. The chapter in that regard demonstrated the effects of global interconnectedness.

## **CHAPTER FIVE: THE ANALYSIS OF ZIMBABWE'S MAY 2005 OPERATION *MURAMBATSVINA***

### **5.1 Introduction**

As discussed in Chapter One that partly due to forces of globalisation it has become almost impossible for states to conceal from the outside world what happens in their jurisdictions. The case of OM in Zimbabwe gives credence to this assumption. In Chapter Two this work also discussed how the theory of realism consolidates the exclusive component of state sovereignty and the need for reconfiguring how the world thinks about sovereignty in conformity with the theory constructivism. Globalisation makes it possible and easier for the world to remain interconnected. It follows that, when there are contentious issues, such as OM, they generate interest and the world closely follows. Chapter Three highlighted the history of the sovereign states systems in Zimbabwe and also contrasted the core issues of sovereignty as generally understood and accepted by the UN. Chapter Four introduced the GoZ's understanding and interpretation of sovereignty and as discussed in that chapter, the GoZ's understanding of sovereignty is informed and cast through the country's history, particularly the war of liberation.

This chapter seeks to analyse Zimbabwe's Operation *Murambatsvina* in and through the prism and frameworks of the doctrine of state sovereignty. Furthermore, the chapter seeks to extract lessons that could be used in policy formulation and implementation of the R2P framework, from the limitations of the application, or lack thereof, of R2P on Zimbabwe's OM of May 2005. Hence the research questions in this chapter are, among others: What was OM about? What were the objectives of OM and what means were used to achieve those objectives? Were the objectives of OM met? Was OM legally, humanitarily, politically and ethically justifiable?

### **5.2 Current Discourse on Operation *Murambatsvina***

A number of studies have been conducted on Zimbabwe's OM. Some studies, for example by the Internal Displacement Monitoring Centre (IDMC 2008) and Potts

(2008), have concentrated on the sociological impacts of OM on the population of Zimbabwe. Other studies have focused on the policy weaknesses that surrounded OM (Maroleng 2005). Yet others have investigated the political context and impact of the operation on Zimbabwe (Chari 2008) and the southern African region (Tibaijuka 2005). OM has also been studied and explored in relation to migration (IDMC 2008), urban developmental control (Chipungu 2011) and human rights (Centre on Housing Rights and Evictions & Zimbabwe Lawyers for Human Rights 2007). Vambe (2008) investigated some economic implications of the operation on ordinary Zimbabweans, particularly women, and similarly Nyamanhindi (2008) focused on the gender implications of OM in the Zimbabwean context. This chapter seeks to investigate the impacts of OM from a humanitarian perspective and to investigate and analyse how the general population was affected by this operation.

Beauty Vambe (2008:76), citing the report by Tibaijuka (2005:45), concedes that

Most of the victims were already among the most economically disadvantaged groups in society ... particularly among widows, single mothers, children, orphans, the elderly and the disabled persons.

Vambe (2008:77) further contends that

These violations of the Constitution of Zimbabwe by the authorities [of Zimbabwe] put in doubt the legality of Operation *Murambatsvina*. Also and more importantly, they lead one to infer that it may have been conducted in order to undermine black women's economic activities.

It can thus be argued that OM, in the words of Vambe (2008:81), 'actually targeted women in order to undermine their efforts, in the process depriving people [particularly women] of their money, livelihood and property'. Vambe premised her pronouncement on the injustices committed against women by state organs and state machinery which ought to protect and defend them, thereby protecting and defending state sovereignty. It can be argued that without the people who give rise to the notion of sovereignty, there would not be a state to begin with. The manner in which OM was implemented, contradicts what the GoZ once stood for, the emancipation of women. According to Human Rights Watch (2005), in the 1990s the Zimbabwe government encouraged women, as part of women empowerment, to build cabins in their backyards to generate income through rentals (in Chibisa & Sigauke 2008:35). This was meant to protect women and minimise the harsh

realities of economic hardships. Is this not exactly what OM did away with?

A combined report by Action Aid International in collaboration with the Counselling Services Unit, Combined Harare Residents' Association and Zimbabwe Peace Project (2005a) showed that the total number of the victims of OM was 1 193 370 (Action Aid International 2005b:iii). The 2012 Zimbabwe census results revealed that the national population of Zimbabwe is pegged at 13 061 239 (Zimbabwe National Statistics Agency 2012:2). Of the 1 193 370, as much as 70%, lost their source of livelihood as a result of OM. The majority of that 70% were women engaged in informal economic enterprises. The enterprises included flea markets, tuck shops and roadside vending. OM specifically targeted flea market traders, most of whom were women (Chibisa & Sigauke 2008:40; Human Rights Watch 2005), in essence and by implication, targeted women specifically. If women are considered a vulnerable group in society as claimed in Carpenter (2013:33) and Waithera (2011:16) this must be the group that the state, in line with the principle of sovereignty, should protect and defend. The report pointed out that demographically the total number of children affected comprised 56% of the operation's total victims. It was observed that women form the bulk of the informal sector, and McPherson (1991) puts their share at 57% in Zimbabwe (in Chibisa & Sigauke 2008:5).

### **5.3 The Impact of Operation *Murambatsvina* on the Population of Zimbabwe**

According to the IDMC (2008:4, 10) report, the UN estimated the number of those left homeless as a result of OM to be around 570 000, most of them being women and children. In corroboration of this fact the Tibaijuka (2005:7) report raised a concern that 'it is estimated that some 700,000 people in cities across the country have lost their homes, source of livelihood or both'. This indicates the magnitude of the crisis brought about by OM by a government on its own people it ought to serve and protect.

The effects of OM on the ordinary population of Zimbabwe, but particularly on women and children, can be enumerated as loss of shelter, loss of livelihoods and income, loss of education for children, loss of property as some '32 538 of small and

medium size enterprises were demolished according to the government figures of the 7th July 2005' (Chibisa & Sigauke 2008:40), diminished health care facilities or loss of access to them, food insecurity, and the disintegration of families. It can further be argued that women and children, especially orphans and vulnerable children, suffered increased vulnerability, with those on medication suffering loss of quality care. This is in addition to the trauma that the whole operation brought to them. Without any psychosocial support being administered to the victims, and given the social-economic crisis in Zimbabwe most of them are probably still to recover from the trauma of their abrupt, forced and at times violent evictions. To further compound the crisis that Zimbabweans faced during OM, the demolishing of urban structures caused many people to resort to rural areas with women being disproportionately affected because 'they did not own properties in rural areas and depended on flea market trading in urban areas for their livelihoods' (Chibisa & Sigauke 2008:42).

According to the Country of Origin Information Service (COIS 2006:147), citing the *Daily Telegraph* of 4 December 2005, 'people evicted from their homes following Operation *Murambatsvina* were struggling to obtain sufficient amounts of food'. The report noted that, as an alternative, people without food resorted to eating chafer beetles, whose botanical name is *Rhizotrogus majalis*, to stay alive. Whilst the consumption of *Rhizotrogus majalis* (or *mandere* as they are known in Shona) is not a new phenomenon, it was shocking that whole families lived entirely on *Rhizotrogus majalis* as their only source of nutrition. This created new challenges of malnourishment, diuresis and the possibility that *Rhizotrogus majalis* may become an endangered species.

Commenting on the devastation caused by OM, the United Nations Special Envoy to Zimbabwe, Mrs Anna Tibaijuka, noted that

while there is a degree of overlap between those who lost their homes and those who lost their businesses, the total figure of 650,000 to 700,000 people directly affected by the Operation is considered plausible (Tibaijuka 2005:34).

The majority of the 650 000 to 700 000 people directly affected by OM were women and children as evidenced by the *New African* (2013:60-63) report. This could have

exacerbated the rate of social ills such as prostitution. This was corroborated by the Internal Displacement Monitoring Centre, which noted that young women were turning to prostitution in a bid to earn a living (IDMC 2008:24). Further this could have created downstream challenges such as those associated with HIV, AIDS and sexually transmitted infections, thereby compounding the risk of contracting them. OM had already created challenges for those on antiretroviral drugs, as they were forced to move abruptly to new habitats, leaving many of them to struggle with access to their treatment. Orphaned and Vulnerable Children (OVC) who were benefiting from certain donor-funded programmes were suddenly displaced to new geographical areas, creating challenges of access to regular OVC interventions. It can therefore be argued that, under these circumstances, OVCs suffered manifold tragedies, namely the loss of parents and the loss of support they were receiving from donor agencies, disruption of schooling and a secure social environment.

### **5.3.1 Women in Operation Murambatsvina**

Female victims of OM were further victimised by state security agents in the aftermath of the operation. These women were represented by those who publicly protested against the negative effects of the operation on their livelihoods. This development was confirmed by the online Zimbabwean newspaper, *ZimOnline*, on 14 July 2005, which reported that '28 members of Women of Zimbabwe Arise (WOZA) were arrested in June 2005 while protesting against Operation *Murambatsvina*'. This demonstrates the state's arrogance in not taking women's plight seriously even after it was the state that caused their plight in the first place. This further demonstrates the magnitude of the suffering and abuse that women endured during and after the operation. Their plight notwithstanding, the demonstration and subsequent arrest of the women illustrated that women were prepared to fight against the marginalisation and victimisation inherent in both OM and OG/HK.

These demonstrations and resultant arrests indicate that ordinary people, particularly women and children, were not only directly affected by OM but were also further abused by the system of governance that was supposed to protect them but

criminalised their agitation for respect of their human rights. This was in direct contrast and inconsistent with the principles of sovereignty on which the GoZ justified the carrying out of OM.

### **5.3.2 Children in Operation Murambatsvina**

The suffering experienced by children as a result of OM related to the following destabilisations in schooling, parental care, nutrition and security. When their parents or guardians were forcibly moved, children had to move as well. This resulted in the disruption of their schooling. Tibaijuka (2005:41) avers that 'an estimated 113,000 children aged between 5 and 11 while 109,000 children aged 12-18 were directly affected by the Operation'. Tibaijuka further stated in her report that 'one women's organisation told the mission that as many as 300,000 children were out of school as a result of the operation' (*ibid*) although she concedes that the mission was unable to verify that information. Although there were no figures of the aggregate or estimated number of children whose schooling was disrupted by the operation, most school authorities in areas affected by the operation testified to the huge movement of pupils away from their schools. This created a host of other challenges, such as attaining the famed Millennium Development Goals (MDGs) and other government programmes to increase literacy levels. Children whose schooling needs were met by special programmes such as the government-run Basic Education Assistance Module (BEAM) also encountered further challenges in trying to enrol in new schools. The same can be said about pupils whose schooling was paid for by aid donor agencies.

An example of the suffering endured by children, particularly OVCs, as a result of the operation was the demolition of an orphanage run by Roman Catholic Dominican nuns in the Hatcliffe suburbs of Harare, rendering the 180 resident orphans homeless (COIS 2006:119, citing the *Daily Telegraph*, 19 June 2005). The *Daily Telegraph* article noted that many of the orphans had lost their parents to HIV and AIDS and now had practically nowhere to go. This demonstrated that OM uprooted people from their social settings and in the process disturbed a wide range of people ecosystems.

#### 5.4 Analysis of Operation *Murambatsvina*

Ms Sekesai Makwawarara, Chairperson of the government-appointed Harare Town House, announced officially on 19 May 2005 that OM was 'a programme to enforce by-laws and to stop all forms of illegal activity in the city' (Nyamanhindi 2008:119, citing *The Herald*, 19 May 2005:1), and the programme would be enforced 'in conjunction with Zimbabwe Republic Police (ZRP)' (Tibaijuka 2005:12). This revealed that state organs were used in carrying out OM. Of particular interest in the statement that was issued on 28 May 2005, nine days after the official commencement of OM, by Ms Sekesai Makwawarara, is that prostitution was identified as a factor that contributed to operationalising *Murambatsvina*. The statement said:

These violations of the by-laws in areas of vending, traffic control, illegal structures, touting/abuse of commuters by rank marshals, street life/prostitution, vandalism of property infrastructure, stock theft, illegal cultivation, among others have led to the deterioration of standards thus negatively affecting the image of the city. (*The Herald* 28 May 2005 cited in Harris 2008:45; Tibaijuka 2005:12)

Prostitution affects mainly women as they are the dischargers of carnal services sought by mainly men, and in the process they are often abused and sometimes even killed. It could be argued that it was precisely to curb this and liberate women from such perils that OM targeted prostitution. But what would have caused those women to go into prostitution in the first place? Is it not society that discriminates against and ostracises them? Is it not society that refuses to treat women with respect and dignity, and society that denies women opportunities equal to those given to men? Are not sentiments such as those uttered by President Mugabe in defending his appointment of mainly men in his cabinet a form of perpetuating stereotypes and discrimination against women? President Mugabe, in justifying the dominance of males in his 2013-appointed cabinet, cited that there were not as many women who were educated enough in ZANU (PF), thus implying that women were not capable to run for office as government ministers (Moyo 2013:internet). The very framing and crafting of OM seems to have been biased against women and children. Should it not be a responsibility of a government to protect its people, particularly the vulnerable groups of its society? This is where a demonstration of jealously guarding sovereignty could have been displayed. This is where a state

should offer protection and security for its people, not abuse them at their weakest.

Given that almost 51% of the population of Zimbabwe is female, it is apparent that women were the most affected by OM. Action Aid International (2005a:13) bears witness to this fact as they recorded that 47% of the homesteads visited in assessment of the impacts of OM were female-headed, of which 34% were actually widows. It is generally the norm as tradition would have it in Zimbabwe that women tend to children, so women are more involved directly with the upbringing of children. What affects women inevitably affects the children who depend on them. 'Many divorced, widowed or separated women have migrated to town because they have been squeezed off the land and their social links in rural areas have become dysfunctional' (Solidarity Peace Trust 2010:18). In the year 2010 '37% of household heads in the informal settlement of Killarney in Bulawayo, consisted of widowed, divorced or single women' (Solidarity Peace Trust 2010:18). In Harare alone 37% of interviewed households acknowledged that 'women and children had become more vulnerable to abuse' (Mwaniki 2005:10). Most of the people that settled at Killarney squatter camp in Bulawayo were victims of OM. This gives evidence that women and children were affected more as they constitute the majority of the general populace of Zimbabwe. Of the sampled population nationally, Harare had the highest number of orphans and recorded 31%, with Bulawayo at 25% and Mutare 23% (Action Aid International 2005a:11-12).

#### **5.4.1 Health Issues and Operation Murambatsvina**

The Tibaijuka (2005:39) report revealed that about:

24.6% of adult Zimbabweans are infected with HIV/AIDS. Assuming that the displaced population had an HIV/AIDS prevalence rate similar to the rest of population, the mission estimates that over 79,500 persons over 15 years of age living with HIV/AIDS have been displaced.

It is undeniable that owing to the displacement caused by OM, health-delivery systems were also upset in the process; thereby impacting negatively on people whose medical supplies were abruptly brought to a halt. It appears not to have occurred to the authorities that the destruction of people's houses and dwellings in

winter would affect their health. The Country of Origin Information Service (COIS 2006:62), citing the World Health Organisation (WHO), 'noted in *Summary country profile for HIV/AIDS treatment scale-up (2005)* that "women are disproportionately affected by HIV/AIDS, constituting 51% of the population and 53% of people living with HIV/AIDS in 2003 ... Other groups severely affected by HIV/AIDS include women who engage in sex work, uniformed personnel and orphaned children". Given these numbers, it is evident that disturbing human social settings in the face of HIV/AIDS would likely disturb their intake of HIV/AIDS-fighting drugs and medication. Because the displacement caused by OM was unanticipated, it is likely that many people were caught unaware and therefore could not make alternative arrangements for acquiring their antiretroviral medication (ARVs). In fact, the civic protest movement *Sokwanele* also noted that:

On 2 December 2005 people whose HIV and AIDS treatment had been disrupted by Operation *Murambatsvina* in June 2005 were still unable to access ARVs or treatments for TB and other opportunistic infections by October 2005 (COIS 2006:64).

Action Aid International (2005a: vi) corroborated this observation, reporting that 'approximately 15% of surveyed households reportedly had lost ARV treatment as a result of the Operation' and that as a result 14% of the surveyed population claimed that they had lost home-based care (HBC).

#### **5.4.2 Coordination and Planning around Operation Murambatsvina**

It is well documented that OM was ill prepared; if indeed planning was involved in its execution at all. Displacing people, or resettling them as the GoZ claimed, without giving them alternative accommodation is simply irresponsible and unethical. Most people who were evicted from their urban dwellings were forcibly taken and dumped in open spaces without water, electricity, housing and health facilities. This constitutes an abuse of 'national and international human rights law provisions guiding evictions' (Mhiripiri 2008:149). Their food security was compromised and they faced starvation. The consequences of such evictions and displacement include:

An increase in vulnerability to HIV/AIDS and a disruption in HIV/AIDS services particularly Anti Retro Viral (ARV) Treatment, home based care and prevention. In cases where ARV treatment has been disrupted, this could

result in drug resistance, declining health and ultimately death (COIS 2006:64).

This development was supported by the Integrated Regional Information Network (IRIN) on 3 August 2005, when it reported that people suffering from HIV and AIDS and caught up in OM were forced to abandon antiretroviral treatment. A clinic, a crèche and an orphanage run by Missionary Sisters, the Dominicans, were demolished in Hatcliffe, Harare, leaving the children vulnerable and exposed to abuse (Ncube *et al* 2005:5). A list compiled by directors in the education sector in Zimbabwe revealed that about 300 000 children had dropped out of school as a result of OM (*ibid*).

#### **5.4.3 Displacement and Loss of Livelihoods in Operation Murambatsvina**

This analysis will further divulge the impact of OM as evidenced in Zimbabwe's three major cities, Harare, Bulawayo and Mutare. Harare's projected affected population was pegged at 851 434 people by Action Aid International (2005a:iii). Harare's affected population constituted 71% of the total affected by OM. A survey by David Mwaniki (2005) in collaboration with Global Crisis Solutions, Action Aid International and Combined Harare Residents' Association (CHRA) visited 14 137 homesteads in Harare to compile the following information: 32% of the population, which is almost a third of those surveyed, claimed to have been hosting an orphan, while 41% were female-headed households, indicating that females bear much of the burden. Of the households surveyed, 13% admitted to hosting a chronically ill person, and this figure could be an underestimation due to the stigma still attached to HIV/AIDS. Women-headed households constituted 44% of the surveyed population, and 14% of those were widows. Children of school going age were reported to have stopped attending school as a result of OM, and 22% of the households interviewed bore testimony to this fact. A further 45% were destabilised by the operation to the extent that accessing schools had been very difficult if not impossible (Mwaniki 2005:5-8).

Bulawayo is the second largest city in Zimbabwe (Action Aid International 2005b:13) and the projected affected population was 196 635 people in August 2005, contributing to 16% of the total number of people affected by OM in Zimbabwe

(Action Aid International 2005a:iii). Mutare is the third largest city after Harare-Chitungwiza and Bulawayo (Chibisa & Sigauke 2008:43). After the infamous OM the GoZ claimed a 'decline of 50% in crime rate' (*Manica Post* June 2005), statistics drawn from a newspaper viewed as a mouthpiece of the government in Mutare and the greater Manicaland (Chibisa & Sigauke 2008). A survey carried out by Chibisa and Sigauke (2008:46) revealed that 72% of the 200 respondents who participated in the exercise were females whereas 28% were males. This gives further evidence that women were the most affected in the so-called Operation Restore Order. The survey by Chibisa and Sigauke (2008) assessed specifically how OM impacted people's economic livelihoods and particularly informal traders; and it concluded that 'Operation *Murambatsvina* worsened urban poverty' (Chibisa & Sigauke 2008:60). OM affected mainly Zimbabwean citizens (Zimbabweans by birth), as foreign flea-market traders may have been forced to leave Mutare because of OM (Chibisa & Sigauke 2008:47). Another survey carried out by Action Aid International through its Southern Africa Partnership Programme (SAPP) in August 2005 revealed that Mutare alone had a projected affected population pegged at 92 481, a figure amounting to 8% of the population affected by OM (Action Aid International 2005a:iii).

This analysis concludes that OM violated human rights and indeed state sovereignty in a number of ways. Firstly the sovereign GoZ did not offer protection and security to its people in the carrying out of OM. OM was not supposed to have been carried out in the first place without providing alternative accommodation and business premises. A government that was meant to protect and provide security for its people turned against its own people; some lost their lives in the process. Even by international standards, the GoZ is guilty of failing to 'avert' (ICISS 2001:xi) serious harm in OM. The GoZ committed grave abuses and human rights violations in carrying out OM. The government as the highest authority in the land, with no other wielding authority above it, failed to protect its citizens as the doctrine of state sovereignty would have it. This then raises the question: what was the GoZ's understanding and interpretation of sovereignty in carrying out OM? This research will now focus on the official position of the GoZ's understanding of state sovereignty, particularly how it interprets its own sovereignty in light of what transpired during OM.

## **5.5 Sovereignty as defined by the Government of Zimbabwe; Before, During and After Operation Murambatsvina**

As alluded to in Chapter Four, the position, definition and understanding of sovereignty of the GoZ is informed, influenced and shaped by the political history of the Zimbabwean state as a whole. Ordinarily, in a sovereign state, the constitution of the land holds supreme and every citizen is subject to the laws of the land as defined in that constitution of the land. This is a fact that the various amendments made to the constitution that have been used in Zimbabwe to the time of this research make special mention of (Lancaster House Constitution 1979:18; Constitution of Zimbabwe 2000:9; Constitution of Zimbabwe 2005:12; Constitution of Zimbabwe 2013:21). An exploration of the constitution of Zimbabwe will provide some ground for the extrapolation of the GoZ's comprehension and interpretation of sovereignty.

On 21 December 1979, the Lancaster House Constitution was signed by two nationalist fronts led by Bishop Abel Muzorewa and Dr Joshua Nkomo with Mr Robert Mugabe. Dr Nkomo and Mr Mugabe represented the Patriotic Front (henceforward PF) as evidenced by Dr Nkomo's opening speech at the Lancaster House Talks in 1979; 'Mr Chairman, the Patriotic Front is going to give a statement that represents the Front. Mr Mugabe and myself (*sic*) are presenting this statement on behalf of our group' (Minutes of the Lancaster House Conference 1979:9). The Lancaster House Constitution was ushered in as a measure to ensure that, what was going to be the future GoZ, would assume power based on majority rule determined by democratic elections. For the purposes of this dissertation, the Lancaster House Constitution will be referred to as Constitution of Lancaster House (CoLH) in order to differentiate the acronym used to refer to Lancaster House Conference (LHC).

### **5.5.1 The Lancaster House Conference, Constitution and Sovereignty**

Colonial Zimbabwe, then Southern Rhodesia/Rhodesia, denied native Africans political rights and human rights. The Lancaster House 1979 Conference (henceforward LHC) presented a possible change of that status quo in favour of Africans who constituted the majority. Aware of this possibility, and seeking to articulate the desires and aspirations of the multitudes of Zimbabweans, the PF

through the person of Dr Nkomo, at the very onset of the LHC, expressed that 'Zimbabwe must be a sovereign republic in which the sovereign nation pursues its own destiny, totally unshackled by any fetters and or constraints' (LHC minutes 1979:11). Sovereignty meant self-determination, self-rule, self-governance and self-definition for Zimbabweans. It can be deduced that sovereignty was at the very core of the Zimbabwean war of liberation. The war was fought to reclaim Zimbabwean sovereignty. The PF went on to express that:

The sovereign Zimbabwean people must, acting through their own freely chosen representatives in parliament, be free and fully vested with the power to exercise complete dominion over resources from time to time as need arises (LHC minutes 1979:11).

This excerpt from the PF's opening speech at the LHC clearly and succinctly expressed what was the will of the Zimbabwean people. The desire was to determine their future, and they exhibited that determination to follow through that commitment even if it meant death (Campbell 2003; Hill 2003; McLaughlin and Moorcroft 2008; Wood 2011). The very fact that the Rhodesians together with the British agreed to the LHC attested to the resilience and resolution of the Zimbabwean people and attested to the undeterred spirits of people to pursue their liberation and attain control of themselves and their future. Sovereignty was of fundamental importance so much so that the LHC revolved around the question of sovereignty for the Zimbabwean African nationalists. The PF repeatedly made mention of the concept of sovereignty in its address to the LHC and asked 'will the people of Zimbabwe be really sovereign and be able to exercise their sovereign authority?' The question of sovereignty was one of the fundamental questions that was posed to the conference at the onset, indicative of the resolve that Zimbabweans had to bringing down colonial rule and assume self-governance. The PF went on to ask 'what will be the future of the people's land?' (*ibid*).

State sovereignty was a fundamental component of Zimbabwe's independence and this was boldly highlighted repeatedly by the PF in its address to the LHC. Elsewhere Dr Nkomo, representing the PF, mentioned that the 'Zimbabwean people, by whose blood and sacrifice colonialism was exorcised from the land, must themselves be the perpetual guarantors of sovereignty in the face of all challenges, domestic or foreign' (LHC minutes 1979:11). Sovereignty was mentioned seven times in the PF's

address, further consolidating the fact that it was the central question of Zimbabwe's war of liberation. The only other time that the concept of sovereignty was mentioned at the LHC and for the eighth time, was in the actual Constitution. The Constitution of the LHC categorically states that 'Zimbabwe will be a sovereign state' (CoLH 1979:16).

The CoLH meant that Zimbabweans had rightfully assumed their political rights, particularly the right to vote for a government of their choice. This was the beginning of determining their destiny. It was also in line with what the majority of the people of Zimbabwe aspired and hoped the war of liberation would bring. The PF expressed this desire boldly and courageously at the LHC. Their statement read:

They must be free to recognise the social, political and economic institutions and structures and be free to shape their own destiny as a nation without having to pander to any racial, ethnic, tribal, religious, social or other interests or differences (LHC minutes 1979:11).

The attainment of sovereignty by the people of Zimbabwe was a protracted struggle that began in the 1890s, as discussed in Chapter Three of this work, and bore fruit a century later. For a century the people of Zimbabwe resisted colonial manipulation and subjugation and were resolved to put a permanent end to such slavery. The nationalists believed that, as exposed by the PF:

Justice will not occur by accident in a sovereign Zimbabwe, nor will its administration and dispensation remain in the hands of privileged minority. It must conform to the social and cultural values of the Zimbabwe people themselves (LHC minutes 1979:12).

The attainment of sovereignty of the Zimbabwean people was just the beginning of self-actualisation. However sovereignty alone was not enough and hence it meant sovereignty had to be maintained and guarded against any threats to it. As a sovereign state Zimbabwe at independence was to elect its own leadership that was to represent its aspirations and consolidate its sovereignty. The PF was perceptive in that it was aware that the attainment of sovereignty meant that there would be responsibilities and obligations met by the leadership on behalf of its people. The protection of human life was a priority as evidenced by the declarations on human life and its preservation and protection in the Constitution of Lancaster House (1979:17). An exploration of the Declaration of Rights, in the section to follow, as

contained by the Lancaster House Constitution, will highlight the views and opinions that the PF tabled at the LHC.

### **5.5.2 The Constitution of Lancaster House on the Protection of Human Life**

Sovereignty, in the Zimbabwean African nationalists' understanding, implied a responsibility by the government to protect human life. This fact is well mirrored in the CoLH and is explicitly declared that 'it would be forbidden to deprive any person intentionally of his (*sic*) life save in execution of the lawful sentence of a court after conviction of a criminal offence' (CoLH 1979:17). This is in line and consistent with the principles of sovereignty. The state is created to safeguard and preserve life of all individuals in its domain. State sovereignty is therefore intrinsically linked to the responsibility of protecting its citizenry.

On another occasion the CoLH makes mention of the need for the protection of human life. It further states that 'it will be forbidden to deprive any person of his (*sic*) personal liberty except as authorised by law' or under these circumstances: criminal conviction, court order or parliament and mental illness (CoLH 1979:18). It shows clearly that from the time that the PF negotiated the CoLH, it was an important feature for the sovereign government to protect and preserve human life of the sovereign people; for to be sovereign, a state needs its people who confer the sovereignty on it. This was to be further mirrored by the new Constitution of Zimbabwe (CoZ 2013:21). In other words state sovereignty is the sovereignty of the people of the state. People are sovereign, first of all, and the state is sovereign at the assent of the people.

### **5.5.3 The Constitution of Zimbabwe (2000)**

The constitution that was operational in Zimbabwe at the time OM was carried out is the one that was amended in the 2000. For the purposes of this research it will be referred to as the CoZ 2000. The CoLH (1979) was amended, with Amendment Number 16, Act Number 5 of 2000 and came into effect on the 20<sup>th</sup> of April 2000 (Kubatana.net 2000). This provides for a good analytic tool to assess the legal basis

of OM. Chapter III, *Sections 12, 13, 15 and 16* of (CoZ 2000:7) reiterate what the CoLH (1979) articulated on the protection of human life, rights and liberties of citizens. *Section 12* states that 'no person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted' (*ibid*). *Section 13* further states that 'no person shall be deprived of his personal liberty save as may be authorised by law' (*ibid*). It can thus be argued that in carrying out OM, the GoZ took little heed to the laws of the land, if at all it consulted the constitution.

#### **5.5.4 The Constitution of Zimbabwe (2005)**

In the year 2005 the CoLH (1979) was further amended. The Amendment Number is 17 and Act Number 5 of 2005 and it came into effect on the 14<sup>th</sup> of September that year (Veritas Trust 2005). For the purposes of this work the 2005-amended CoLH (1979) will be referred to as the CoZ 2005. An analysis into what the ZC declared the year OM was carried out compels. According to the CoZ of 2005 under Chapter III, *Section 12.1*, 'no person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted' (CoZ 2005:9) and *Section 12.2* states that:

A person shall not be regarded as having been deprived of his life in contravention of subsection (1) if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable in the circumstances of the case

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or
- (d) in order to prevent the commission by that person of a criminal offence;

or if he dies as the result of a lawful act of war (*ibid*).

*Section 13* of the CoZ 2005 further consolidates the afore-mentioned civil rights of its citizens (*ibid*). It can be argued that this bears evidence that the GoZ fell short of protecting the rights of its people in carrying out the violent OM.

### 5.5.5 The Constitution of Zimbabwe (2013)

Among the founding values of the Republic of Zimbabwe is the 'recognition of the inherent dignity and worth of each human being' (CoZ 2013:21), implying that the state respects the individuals who constitute it. It is further pronounced that the 'respect for the people of Zimbabwe, from whom the authority to govern is derived' is paramount (*ibid*). This is indicative of the GoZ's understanding that the well-being of the state is dependent on the well-being of the individuals who constitute it. The supremacy of the constitution of Zimbabwe and the rule of law are other founding values embedded in the constitution of the day at the time of carrying out this research (CoZ 2013:21). Following from the supremacy of the constitution, Zimbabwean citizens are required by law 'to the best of their ability, to defend Zimbabwe and its sovereignty' (*ibid*). In its current form, the Constitution of Zimbabwe relies on the rule of law. Independent Commissions form the bodies of appeal in cases of disputes and this is done 'to protect the sovereignty and interests of the people' (CoZ 2013:107). There are apparent contradictions in the Constitution of Zimbabwe and the implementation of it. If the rule of law is indeed a value and is observed strictly by all, should the law not protect every citizen? Ideally if the rule of law was a reality, the use of violence and the threat of use of violence by the government on its people would not arise. A government that abides by the law of its land would not use violence or threat of violence to govern its people. The state cannot just do as it pleases in the name of sovereignty. This raises the nodal question of whose sovereignty matters? Is it the state or the people who are sovereign?

The latest CoZ (2013) at the time that this research was conducted, described the state of Zimbabwe as 'a unitary, democratic and sovereign republic' (CoZ 2013:21). This description of Zimbabwe as sovereign necessitates the inquiry of the GoZ's understanding of sovereignty. It raises the very contentious notion of sovereignty. Whose sovereignty counts? Is it that of the state or that of individuals? Closely linked to the notion of sovereignty is the notion of independence. Whose independence was it? Was it the independence of the state and can it thus behave as it likes that is like a sovereign; or is it the independence of the individuals in the state? This Constitution of Zimbabwe makes mention of the notion of sovereignty only four

times, and of the four times, it is in descriptive terms rather than definitive terms. Citing the liberation history of Zimbabwe from the British rule, the constitution reads 'the people consequently took up arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe, in 1980' (CoZ 2013:45). From this account of history, it can be inferred that sovereignty according to the GoZ is understood in terms of liberation from the bondage of colonialism. The subjugation of Africans was through violence, colonial rule was by violence and threat of the use of violence and the liberation of Zimbabwe was through violence. Hence sovereignty in Zimbabwe is intrinsically linked to violence. Thus violence remains a possible tool to use in the pursuance of statecraft in Zimbabwe, as was evidenced in the implementation of OM.

The latest CoZ at the time this research was carried out, made explicit reference to sovereignty four times under the sub-headings 'The Republic' in Chapter 1,1 (CoZ 2013:21), 'Zimbabwean Citizenship' in Chapter 3, 35 (CoZ 2013:31), 'Declaration of Rights' and 'Rights to Agricultural Land' in Chapter 4, 72 (CoZ 2013:45), and 'Objectives of Independent Commissions' in Chapter 12, 233 (CoZ 2013:107). This indicates that sovereignty remains a fundamental and founding principle of the Zimbabwean state.

#### **5.5.6 The Constitution of Zimbabwe on the Protection of Human Life**

The current CoZ (2013) makes explicit the duty and obligation that the GoZ has of protecting its citizens and ensuring the security of its people. 'The state and every person, including juristic persons, and every institution and agency of the government at every level must respect, protect and promote and fulfil the rights and freedoms' of every person (CoZ 2013:34). The CoZ further states that the agents of law 'must promote the values and principles that underlie a democratic society based on openness, justice, human dignity, equality and freedom' (CoZ 2013:34). 'Every person has a right to life' (CoZ 2013:35), 'A law may permit the death penalty to be imposed only on a person convicted of murder committed in aggravating circumstances' (CoZ 2013:35). It can be argued that these principles were not upheld or met during the implementation of OM. Arguing that OM happened in 2005

and so cannot be judged against the CoZ which only came into effect in 2013, would be beside the point because the same people who were in government in 2013 were the government of the day in 2005.

### **5.5.7 Sovereignty According to the Sitting Head of State**

The sitting Head of State at the time that this research was conducted, Robert Gabriel Mugabe, was often heard and quoted on his articulation of state sovereignty. As the leader of the country, his understanding and definition of state sovereignty influences the GoZ's domestic and foreign policy. In the 1970s, way before Zimbabwe attained her independence from Britain, Mugabe travelled the world drumming up support for the establishment of a democratic state of Zimbabwe. 'We are fighting for democracy, we would like to see a democratic state established in Zimbabwe, and this means a state based on the wishes of the majority of the people' (Mugabe in Bright 2011:internet). In support of Mugabe's stance on the establishment of a democratic society in Zimbabwe, Wilfred Mhanda, a Zimbabwe African National Liberation Army (ZANLA) High Command member, submits the view that: 'we were articulating our struggle as a struggle for freedom, democracy, social justice, peace and human dignity' (*ibid*). This was the struggle for independence and sovereignty in Zimbabwe.

In 2008, just 28 years after the attainment of Zimbabwe's independence, the rhetoric about democracy seemed to change as articulated by President Mugabe. 'Democracy in Africa is a very difficult proposition because always the opposition will want much more than what it deserves' (Mugabe in Bright 2011: internet). This was uttered at the Harare International Conference Centre following the temporal amalgamation of ZANU PF and MDC to form a Government of National Unity (GNU). The GNU became necessary after the disputed Zimbabwe Presidential elections of 2008 (Mwanaka 2013:203). There clearly is a discrepancy here. The liberation struggle was meant to restore the human dignity of the African people who were, at the time, subjugated by colonial masters. President Mugabe himself is on record saying 'the best way in which people can demonstrate their participation in democracy is by voting; elections are quite a necessity' (in Bright 2011:internet). Yet

this is the same man who heads a government that allegedly beat up people, maimed, tortured and killed some for electing and exercising their democratic right to vote for a party and president that they liked (Alexander 2003:103, 105; Makumbe 2009:98-101; Matombo in Bright 2011:internet; Shari 2004:45, 48; Zunga 2003:87-93).

This goes against what the liberation struggle was about in the first place. It is arguably an abuse of the privilege of state sovereignty that was brought about, in Zimbabwe, by the liberation war and struggle. On the other hand, given that Zimbabwe was colonised by violence, ruled by violence and the threat of violence during the British reign in Zimbabwe, liberated through the explicit use of violence, the GoZ may know violence as the only effective way to govern. Violence is what attained independence for Zimbabwe, it is clear that violence is the preferred tool of governance as was witnessed at OM. Ultimately one can deduce that violence may be all they know<sup>48</sup>.

### **5.5.8 President Mugabe's International Addresses on Sovereignty**

The President on another occasion declared that 'Zimbabwe is a sovereign state and it will never be a colony again' (Sylvester 2014:195; VOA News 2008:internet). Yet the GoZ seems to hold at ransom its own people thereby almost colonising its own populace. In the year 2002, at the World Earth Summit held in Johannesburg, South Africa, President Mugabe was quoted saying 'Blair keep your England, and I will keep my Zimbabwe' (Ndlovu-Gatsheni 2009:1148). At the same event Mugabe further uttered 'let no one interfere with our processes' (SABC 3 02/06/2013). In this line of thought, Simkins (2008:internet) reveals that 'Mugabe repeatedly told his critics to stay out of his country's internal affairs'. The Head of State exposes that the GoZ believes in the exclusivity of state sovereignty, and can and will exclude what they deem undesirable elements.

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<sup>48</sup> This can be deduced from Nathan Shamuyarira, the then spokesperson of the party, who is on record for his infamous statement that ZANU PF has 'many degrees in violence' (Bond and Manyanya 2002:xiv).

In reinforcing the idea of non-interference in Zimbabwe's processes by foreign forces, Mugabe advanced the position that 'I am President of my country, we have our own rules here, I say we are sovereign, they should not interfere with our sovereignty' (VOA News 2008:internet). According to the Head of State and the GoZ which he leads, the state is sovereign and not the people of Zimbabwe necessarily. This is exactly what this work in Chapter Two discussed on realism. Realism excludes outside forces and elements from a country's internal structures and sometimes to the detriment of the country concerned. This becomes the GoZ's justification of OM. The international community of states implicitly is told to stay out of Zimbabwe's internal issues, such as OM.

The President further demonstrated that the GoZ prefers the exclusive undertones of state sovereignty when addressing the United Nations General Assembly in 2013. Directed to the USA and European Union, President Mugabe tabled that 'Zimbabwe is for Zimbabweans, so are its resources. Please remove your illegal and filthy sanctions from my peaceful country' (Mugabe 2013). The same point on national resources as an expression and privilege of the nation's sovereignty is emphasised in an article that the president wrote: 'the targeted equity and threshold recognises Zimbabwe's total ownership of all its natural resources as an expression of our national sovereignty' (Mugabe 2013:5). Economic sanctions were imposed on Zimbabwe since the year 2000 following the war veterans-led and state-sponsored 'farm invasions' (Cornwell 2003:46; Hammar 2003:130; Phimister 2004:274, 280; Tibaijuka 2005:16; Worby 2003:51, 61). The President has remained unapologetic for the policies that his government has taken to address the land issue in Zimbabwe. Back in September 2002, addressing the World Summit on Sustainable Development (WSSD), President Mugabe argued:

That is why we, in Zimbabwe, understand only too well that sustainable development is not possible without agrarian reforms that acknowledges, in our case, that land comes first before all else, and that all else grows from and off it. This is the one asset that not only defines the Zimbabwean personality and demarcates *sovereignty* but also that has a direct bearing on the fortunes of the poor and prospects for their immediate empowerment and sustainable development (Mugabe 2002b:internet).

Responding to questions from CNN in New York, the President of Zimbabwe in 2011 further emphasised that 'land reform is the best thing that could have ever happened

to an African country, it has to do with national sovereignty' (Mugabe 2011: internet). It is correct that some states occasionally bullied smaller and weaker states publicly as argued by the President of Zimbabwe at the 2005 UN summit, when he submitted that:

We have witnessed instances where the sovereignty and territorial integrity of small and weak countries have been violated by the mighty and powerful, in defiance of agreed rules of procedures and the provisions of the United Nations Charter (Mugabe 2005:3).

Asked by Christiane Amanpour, a renowned CNN journalist, what strategy his government was going to employ in getting out of the mess created by the Western-imposed economic sanctions on Zimbabwe, President Mugabe responded by arguing that 'the sanctions must be lifted and we should have no interference from outside, the continued imperialist interference in our affairs is affecting the country adversely' (Mugabe 2011:internet). His own style of leadership and governance leaves a lot to be desired. OM was a violation of international law (Mwanaka 2013:21; Tibaijuka 2005). The same international law which President Mugabe wants to use in calling to order the 'mighty and powerful' states who violate international agreements as espoused by the UN Charter. He argued instead that world-peace, security and development must be 'based on respect for the sovereignty, equality and territorial integrity of all states' (Mugabe 2005:3).

President Mugabe again emphasised his stance on state sovereignty when he addressed the 61<sup>st</sup> session of the United Nations General Assembly in 2006. He called upon partnerships that 'should be based on the principles of sovereign equality of nations and on mutual benefit' (Mugabe 2006:7). This further reveals the preferred interpretation of the state as sovereign, sometimes to the detriment of individuals presided over by the state. This again is unchallenged by the theory of realism. It consolidates the exclusory element of state sovereignty. It opens up abuse by the state of its citizens.

In the year 2011, the President of Zimbabwe again repeated his calls for a UN that fosters principles of sovereignty. Addressing the UN General Assembly, Mugabe (2011) said 'Zimbabwe reposes her hopes in a United Nations that recognises the equality of sovereign states as enshrined in the founding Charter'. Judging from the

calls that President Mugabe has made on several occasions cited in this work, it is clear that state sovereignty is a principle he takes seriously and influences his government to foster and abide by.

### **5.5.9 President Mugabe's Domestic Addresses on Sovereignty**

In the year 2002, at the close of the annual congress of the ruling party ZANU (PF), President Mugabe said that 'the issue of sovereignty calls for utmost sacrifice, and on it I give my life' (Mugabe 2002a:internet). This clearly demonstrated how unshaken is his belief in the principle of sovereignty.

The 2008 Presidential election was a watershed moment for Zimbabwe. The campaigning was equally fierce from the ruling party ZANU (PF) and the opposition MDC. In one of the party's campaigns President Mugabe (in Bright 2011:internet) was quoted saying, in his mother-tongue *Shona*:

*kutora nyika yatakawana neghidi, yotorwa nepenzura nhasi? Hazviitike tirikudzokera kumasango! Tirikudzokera kumasango! Penzura nepfuti zvaitisana nharo apa? Aa kwete! Kana ini ndakaisa bhairo pano apa, ndinochikanda pasi ndoti vakomana kwatakabva!*

This is translated to mean:

They want to take the country we won by the gun? Shall it be taken by people voting with a pen today? It will never happen. We are going back to bush war. The gun is mightier than the pen. I will throw away the pen in my pocket and say let us go back to the struggle. Let us go back to war (Bright 2011:internet).

This provides a sharp contrast to what Mugabe believed and said in 1979 on democracy (Bright 2011). It is a direct contradiction to what he stood for during the liberation struggle. Sovereignty, then, meant that the will of the majority was to be respected. If sovereignty meant that people could choose a leader and government of their own choice, what had gone so wrong in the 2000, 2005 and 2008 elections that Mugabe was not prepared to respect that will of the people? This calls for an analysis into what is sovereignty exactly for the GoZ and its Head of State. Is sovereignty a principle or an opinion that changes with circumstances and time? President Mugabe comes across as self-contradicting on the issue of sovereignty.

Sovereignty is a convenient concept, pulled out when it suits the GoZ and the Head of State.

Consistent with his rhetoric, and not the practice, the President of Zimbabwe, on the occasion of the country's 32<sup>nd</sup> Independence celebrations, stated that 'Zimbabwe's foreign policy objective is anchored in safeguarding the country's hard-won Independence, sovereignty and territorial integrity' (Murphy 2012:internet). The irony of OM is that while the GoZ's foreign policy seeks to defend its territorial integrity, it trivialised the rights of its citizens, who needed the state's protection in the first place. In the same year, 2012, addressing a gathering in commemoration of the Zimbabwe Defence Forces (ZDF), Mugabe retorted:

We are celebrating as a proud country, 32 years of defence excellence since the formation of the Zimbabwe Defence Forces. The forces stand a cut above the rest as they continue to excel in the defence of our national independence, sovereignty, territorial integrity and national interests (Mugabe 2012:internet).

Again President Mugabe displayed a preferred statist interpretation of sovereignty. The state is sovereign, not the people. The country is independent, and not the people. The danger with this preference and interpretation is that the state overrides the preferences of individuals. Citizens risk being abused and left without recourse as was the case with OM. The state organs such as the military and police stand ready to defend state sovereignty even if it means abusing the people from whom sovereignty is derived and authority to govern conferred. It can be argued that this was what happened during OM. The police were used to destroy human settlements in the name of state sovereignty (Mhiripiri 2008:150). In the same address of the 2012 ZDF celebrations, Mugabe stated that:

The Zimbabwe Defence Forces, in conjunction with other national security organs, have a responsibility to institute effective responsive solutions to such unjustified and provocative manoeuvres in the internal affairs of a sovereign state (Mugabe 2012:internet).

It is evident that the GoZ and the Head of State boldly uphold state sovereignty over the sovereignty of the individuals who constitute that state. This upholding of state sovereignty is problematic because not only does it exclude foreign forces and elements from Zimbabwe's domestic processes, it excludes citizens who oppose and

are in disagreement with the government on political and governance issues. Chimedza (2008:100) argues that:

One can be included as long as one agrees with this narrative and bows to its rituals like buying a ruling party [ZANU PF] card, participating in [ZANU PF] meetings voluntarily or otherwise and accepting that only the party of liberation, the ruling party, carries with it the 'historic mission' of nation-building and defending 'our' sovereignty.

The statist interpretation of sovereignty implies that the citizens who do not agree with the status quo are excluded from active participation in the affairs of the state, which is their right. This development was confirmed by the online Zimbabwean newspaper, *ZimOnline*, on 14 July 2005, which reported that '28 members of Women of Zimbabwe Arise (WOZA) were arrested in June 2005 while protesting against Operation Murambatsvina'. This demonstrates that state sovereignty can be abused and therefore stands in need of some mechanism(s) to ensure that the state does not abuse its own people, especially those who hold dissenting views. This is precisely the rationale behind the R2P doctrine. The doctrine of state sovereignty on its own is prone to abuse by the state. There is need for some accountability of sovereign states to the greater international community by way of the R2P doctrine.

#### **5.5.10 Sovereignty According to Government of Zimbabwe's Officials**

It makes a worthwhile venture to analyse positions expressed and proffered generally by the GoZ's officials on the preservation of sovereignty. Of particular interest, are the views expressed by former Justice Minister in the GNU (2008-2013) Patrick Chinamasa (Minister of Finance at the time this research was undertaken).

Chinamasa (2013:14) argued that:

They [MDC] are puppets and we [ZANU PF] are revolutionaries! We want to maintain a pan African vision for our country and continent, and we want to align ourselves internationally with countries that respect the sovereign rights of others.

This position resonates with the greater GoZ's position and the position is similar to what the President constantly dwells on. It emphasises Zimbabwe's position on sovereignty as a fundamental value of the nation's foreign policy.

ZANU (PF) is a party that led the liberation of Zimbabwe by violent means. Sovereignty born out of violent clashes and encounters shapes the interpretation that officials in ZANU (PF) hold. Consistent with the position of the GoZ and the Head of State, Chinamasa avers that:

We will not compromise on principles ... for us our bearings are very clear: to safeguard not only the sovereignty and hard-won independence of this country [Zimbabwe], but also the policies of indigenisation and economic emancipation.

Sovereignty is often expressed with connotations of the liberation struggle and the 'hard-won independence' brought by ZANU (PF). This gives the impression that only they [ZANU (PF)] are qualified to pronounce on what is sovereign or not. It can be argued that this is equivalent to holding the nation at ransom in the name of liberation and independence. A question can be asked, Zimbabwe was liberated from the British, but for what? To be held at ransom by its [former] liberators? Put differently, Zimbabwe is said to be independent from Britain; but what is Zimbabwe independent for exactly given the brutality of OM for example?

So far this chapter has tabled the core issues surrounding OM. More importantly, it has shown the link between sovereignty and independence in Zimbabwe. Zimbabwe's independence was a bitter struggle and war, and so sovereignty in the prism of the GoZ and its officials is closely linked with violence. OM was one such violent implementation of the GoZ's policies. Despite the draconian attitude portrayed by the government in its implementation of OM, it remains that in the international domain of politics, domestic sovereignty of states must be respected by other states. No sovereign state should interfere in the domestic affairs of another as guaranteed by international law. In the case of abuse by a government of its own people as was the case in OM, what recourse does the populace have? When does domestic sovereignty require international intervention? At this juncture this chapter will advance the argument that domestic sovereignty is a constituted concept of international sovereignty. The manner in which a government treats or ill-treats its population in the domestic arena impacts on its foreign policy as well. Domestic sovereignty is the one side of a coin, with the other side being international sovereignty. This is what constructivism entails when it refers to the constitution of terms.

## 5.6 Conclusion

This chapter discussed some impacts of OM on the general population of Zimbabwe and particularly on women and children as they are considered the vulnerable of society. It concludes that the GoZ in its implementation of OM violated international laws and agreements in terms of housing and providing security for its citizens. Even the doctrine of state sovereignty was not upheld by the GoZ as it failed to protect its citizens, from whom sovereign authority to govern is derived. Women and children are identified as a group in society that was more vulnerable and bore much of the burden of OM.

OM disrupted human settlements and displaced societies. The disruption of societal living affected the health of people as they had no food security and those receiving treatment were, in the process, denied.

The chapter also explored the position adopted by President Mugabe on the issue of sovereignty. It is evident that the Head of State prefers a state-centred definition of sovereignty. The state is sovereign more than the people from whom sovereign authority to govern is derived. In line with the GoZ's position, this chapter also exposed the biased nature of some government officials' preference of a statist interpretation of sovereignty at the expense of individual freedom and liberties.

Ideally, the R2P doctrine should have been invoked as was suggested by O'Connell (2011:76). It was not. This exposes the biased nature of the application of intervention by the 'international community' and the UN. It could be argued that the bias is against Zimbabwe.

Despite the politicisation of the R2P/sovereignty nexus, it remains that any government should be curbed in the event that it is unwilling to protect its citizens from whom authority to be sovereign and govern is derived.

## CHAPTER SIX: CONCLUSION

### 6.1 Main Research Findings

This section will provide the concluded positions of this research in light of the research questions it sought to answer. The main research question that it sought to answer was:

**Was Operation *Murambatsvina* justifiable under the doctrine of sovereignty as was insinuated and claimed by the GoZ?**

Despite the rationalisation and justification provided by the GoZ that OM was justified under the doctrine of state sovereignty, it breached the sovereign rights of the people of Zimbabwe. In the social contract between individuals and the state, the agreement is explicit, and sometimes tacit, that citizens will renounce their sovereign rights to the state. The state is the guarantor of all individual sovereign rights in a given state. In other words, citizens in fact ascend to being governed by the state on condition that it protects their sovereignty. In OM the GoZ displayed behaviour that is contrary to what it ought to have done, to protect its citizens' interests and livelihoods. The demolitions of housing as was done in OM, without the provision of alternative accommodation, was tantamount to state neglect and the deliberate antagonising of citizens by their own government. People's freedom of movement was disturbed as many were forcibly contained and restricted to rural areas. This behaviour was inconsistent with what the state purports to uphold under the CoZ.

The argument provided by the GoZ that it was within its Sovereign mandate to carry out Operation *Murambatsvina* is rendered baseless by its one conflicting actions. In fact OM demonstrated that, contrary to such claims, the Government transgressed its citizens' sovereignty as it failed to offer protection of human life as obligated by its Constitution. The research also concludes that the justification provided by the Government was meant to censure international condemnation. Equally, the follow-up OG/HK was a shoddy cover-up of abuses it committed and was an attempt at appeasing the international community given the condemnation of OM. It can be

concluded that OG/HK was also an attempt at normalising the strained interstate relations between the GoZ and the 'international community' as it stood accused of human rights abuses in the implementation of OM.

The implications of Zimbabwe's justification of Operation *Murambatsvina* suggests that its condemnation and critique of the R2P, while credible, was a way of maintaining the status quo in Zimbabwe, one that esteems a statist interpretation of sovereignty at the expense of individuals' sovereignty that the state ought to protect and preserve. Therefore Zimbabwe's critique of the R2P loses moral and ethical standing as it behaves like the 'West' behaves towards the Global South, only it ill-treated its own citizens in OM.

This study concluded that the current status quo in international relations is a result of the theories that inform the conception of interstate phenomena. Realism seems to perpetuate the notion that each state governs itself without being answerable to any other. The GoZ seemingly favoured this conception of interstate phenomena in its OM. It suited the interests of the GoZ to argue and highlight the exclusive elements of state sovereignty. This position, however, constituted abuse of the individual sovereign rights of the people of Zimbabwe. It should be emphasised that this position is also impossible to defend in this global age. The precarious position that the doctrine of sovereignty has been subjected to compels for a paradigm shift in the conception of interstate phenomena. This paradigm shift is better espoused by the theory of constructivism.

The international publicising of OM could be attributed to forces of globalisation because the phenomenon trans-crossed Zimbabwe's political borders. Despite the preferred position of the GoZ's exclusivist interpretation of sovereignty, the media, civil society organisations and INGOs played a crucial role in exposing the abuses that the GoZ committed in OM. The forces of globalisation aided the international community to get involved with the situation of many victims of OM through humanitarian work and assistance. The masking of the political intentions of the GoZ

was uncontrollable, to the discredit of realism that seemed to inform the position of the GoZ on the interpretation of sovereignty.

Realism perpetuates the idea of anarchy in international politics, as was demonstrated by the GoZ's OM. The lack of tangible intervention by the UN attested to its limitations in maintaining global order. The UN did not invoke the R2P in 2005 even as their own Tibaijuka indicated gross human rights violations in Zimbabwe's OM. It can be argued that this indicates the biased nature and selective application of R2P and therefore the abuse of R2P. Therefore, realism maintains the status quo in international politics. The GoZ, supported by the conception of interstate political phenomena as proffered by realism seemed to make a compelling argument that it was none of any state's business what happened in Zimbabwe during OM. The position that the GoZ adopted on highlighting the exclusive notions of sovereignty gave credence to, and affirmation of the perception that, realism maintains the status quo of anarchy in the global political environment.

At face value, liberalism seems to esteem individual sovereign rights of citizens. However, the limitation there is on liberalism is that the so-called 'liberal states' seemed to deal heavy-handedly with what they perceived as non-liberal state, in this case Zimbabwe. The inconsistency in the behaviour of some 'liberal states', particularly the USA, suggests that there still exist some discrepancies in the pragmatic application of liberal values. This further suggests that possibly liberalism has nothing to do with principles because principles do not change because of circumstances; principles should be above and beyond circumstances. The selective application of liberal values by some so-called liberal states elicits scorn on, the otherwise good, theory of interstate phenomena. Instead of helping the suffering victims of OM, the US government maintained so-called 'smart' or 'targeted' sanctions of Zimbabwe even at the height of OM. The sanctions crippled the economy that was already under a lot of strain.

On the other hand constructivism advances the notion of sincere negotiation. Constructivism accepts that concepts are constituted. In other words one aspect of sovereignty is constituted by another; thereby suggesting and validating the possibility of interpreting sovereignty differently, one state from the other. Constructivism is open to change and can explain change in conception and practice and therefore is best suited for analysing social phenomena and it is fluid and changes.

The doctrine of sovereignty in essence is an instrument for national security. It is meant to ascribe authority to a democratically-elected government to act on behalf of citizenry's protection and preservation. Since the sovereign are individuals, it is incumbent on any democratically-elected government to pursue policies that preserve and protect individuals' sovereign rights. According to the doctrine of state sovereignty, the GoZ is guilty of not upholding the principles of sovereignty. The protection of individuals' sovereign rights can never be over-emphasised.

The doctrine of state sovereignty does not justify any government's abuse of citizens whatsoever. Instead, the doctrine of sovereignty emphasises responsibility on the part of the state over its citizens. It is the sovereign right of citizens to receive state protection as it is the state's obligation to provide security, preservation and protection of human life of the citizens. Despite the invocation of the GoZ that OM was carried out on the justification of state sovereignty, it remains an invalid excuse. The justification that OM was within the margins of state sovereignty constitutes further abuse of the doctrine of state sovereignty by the GoZ.

Assessing OM against the CoLH (1979:17), Declaration of Rights Section C 1.1, 1.2, and Section 2.1, the GoZ failed to protect human life. It can be argued that it is rather absurd given that this Constitution was negotiated by the Patriotic Front of which ZANU (PF) was a part, and the constitution came out boldly and strongly on the upholding of principles of sovereignty. It was precisely because of sovereign power to protect and to provide security for its people that the PF went to the war of

liberation in the first place. At the LHC sovereignty was sturdily emphasised by the PF; now that the GoZ has sovereign power and authority, this surely cannot be justifiable that it abuses, kills and tortures its own people as it did during OM.

Sovereignty according to the GoZ is a violent taking of its destiny from the coloniser and anyone who seems to stand in its way. It is not necessarily to preserve the lives of individuals who are truly sovereign. The individuals must conform to what the state decides is right, not the other way. The creation of state is precisely to govern between individuals in society, but seemingly the GoZ seems to erroneously suggest that the state is served by the individuals.

When judged against the UN definition of sovereignty, and its cause to engage in the liberation struggle for independence in the first place and its own understanding of sovereignty, the GoZ failed in OM to provide security and protection for its people - a corollary of state sovereignty.

In this study, it emerged that violence was used to subjugate and rule between kingdoms in pre-colonial Zimbabwe. It was also used to govern Zimbabwe during the colonial era. Violence was used by the African nationalists to achieve Zimbabwe's independence from Britain. Violence has been continually used to 'govern' and keep a grip on power in post-independence Zimbabwe. This suggests that the GoZ's understanding of sovereignty is intrinsically linked to the struggle for independence which was achieved by violent means. It is likely that it will continue to be used as a tool of statecraft by the ZANU (PF)-led government in Zimbabwe. Despite the fact that colonialism was by violent means, and the struggle for liberation of Zimbabwe was equally violent; violence cannot be justified as a tool to govern the affairs of sovereign people. That would be a breach of the doctrine of state sovereignty which the GoZ used as a justification of the violent OM. The African nationalists in Zimbabwe (during Rhodesian rule) were denied sovereign equality and individual sovereignty. Rightly so, they had to demand and literally take their sovereign destiny from the hands of the oppressors. One would anticipate that given their experience

of being denied their sovereign rights, they would not deliberately deny others their individual sovereign rights, especially if those people were their own people. OM proved that the GoZ denied their own people individual sovereignty which they ought to have protected and preserved in the first place.

OM was a military-style operation to enforce bylaws of local municipalities and city councils. While these municipal bylaws were supposed to have been observed, the simultaneous implementation in all major towns suggested that the national government was behind the suspicious operation. National government's failure at providing decent and affordable housing, economic management, social coercion did not warrant the sudden implementation of bylaws that were supposed to have been observed already.

The use of the police force and army personnel suggests the involvement of national of government. This gives further credence to the observation that OM was instituted by the government, in the name of sovereignty and as a tool for national security. It is debatable whether or not the objectives of OM were met. According to government, through its representatives, the objectives were met. They managed to arrest chaos and disorder in most residential and market places around the major cities. However, the objectives were met by further compounding social, political and economic problems emanating from decades of mismanagement and corruption.

According to the Constitution of Zimbabwe (2000) operational at the time of OM, the GoZ contravened Chapter III, *Sections 12, 13, 15 and 16* as it failed to protect human life in the execution of OM. When further judged against the amended ZC of 2005, the year OM was carried out, under Chapter III, *Section 12.1, Section 12.2 and Section 13* again the GoZ stands in direct contravention of what it professed and declared in its own constitution. When assessed against the CoZ (2013), Chapter 2, *Sections 15, 19, 21, 25 and 28*, and Chapter 4 Part 2 *Section 48, 49, 52 and 66*, as well as Part 3 *Section 80 and 81* the GoZ is equally in contravention of the rule of law. It stands in direct contravention of the Constitution as it failed to provide protection and security for human life in its OM.

Given the housing shortages in Zimbabwe pre-OM, the GoZ had no ethical base to carry out OM. It was equally unethical, if not utter cruelty, to not provide alternative accommodation to victims of OM. It can be concluded that OM was an illegal operation given that it transgressed on the very constitution of Zimbabwe, that the GoZ and the generality of the population of Zimbabwe ought to uphold and obey.

It is debateable whether or not the sovereignty doctrine is compatible with the R2P doctrine or *vice versa*. The doctrine of sovereignty is affirmed by the UN in its Charter, articles 2(1), 2(7) and 78. The ICISS is a clear indication that sovereignty is the status quo. In other words, despite its limitations the doctrine of sovereignty is a necessary component in international political affairs. The R2P doctrine in some sense is an affirmation of the doctrine of sovereignty. It emphasises that the responsibility to protect lies with a sovereign government. Only if that government is unwilling or unable could that responsibility be assigned to the 'international community' of states. Therefore the sovereignty/R2P nexus does not necessarily constitute a logical lacuna. However, the R2P should be guarded against powerful states that could abuse smaller and weaker states for their own agendas. In its current form the 'international community' is not defined. This could cause problems as who exactly should act in cases where a determination regarding the application of R2P has been made.

## **6.2 Recommendations**

As discussed in Chapters One, Three and Five, it can be argued that the UN is viewed as panacea to the Global South in general and Africa in particular. Further, it can be suggested that the UN is even seen as an imperialist tool which seems to represent super-powers (America and NATO) in the view of some African Governments. This suggests that the UNSC needs reform. This research would strongly recommend that African countries should constitute the UNSC as this is the most influential component of the UNGA and Africa has the majority of countries that constitute the UN. This

move is likely to ensure that African views and perspectives are well represented in line with contemporary international norms such as democratic principles and representation. The African countries that will constitute the Security Council should be vested with veto power as other permanent members of the UNSC. This is likely to ensure that African leaders together with their counterparts in the UNSC can also decide and call upon, recommend and in the final instance authorise the application of R2P.

R2P is under-developed; there is need for scholarship to engage more in the debate on issues and concerns surrounding it. An extensive consultative dialogue on the conceptualisation of R2P that encompasses all governments of sovereign states must be held so as to include every stakeholder concerned. The UN in its diplomatic ties with member-states should carry out an exercise to gather views and concerns of the third world countries especially as they are the ones who perceive themselves as targeted by super-powers (America and NATO). Should any concerns arise, they should be satisfactorily addressed.

R2P is some form of a mitigating factor on state abuse. OM was determined to be one such case of state abuse on civilians and citizens of Zimbabwe. There is need for citizens' education on tools and methods of appeal in cases of state abuse. The UN and civil society organisations should take a leading role in citizens' education especially the concept of R2P. It is considered to be victim-centred and oriented, it therefore should be disseminated to citizens so that, if need be, they can invoke and call for the application of R2P in their domains. This further suggests a need to carry out feasibility studies on the pragmatic implications of civilians calling for the application of R2P in their domains since it is primarily state-centred in its formulation.

### **6.3 Summary**

Chapter One introduced the study and rationale behind the formulation of this study. The background and problem statement compelling the investigation and discussion

of this study were identified. The methodology used in this study was also stated, and the research questions formulated. Chapter one also defined the key concepts that constitute this study. Limitations that surround this study were also identified and a chapter outline was given.

In Chapter Two, this work explored three major international relations theories; namely realism, liberalism and constructivism. In this chapter, an analysis of the three theories revealed the importance of constructivism as the best theory to discuss the concept of sovereignty, which in itself is a social construct. The chapter also identified that constructivism as a theory is best designed to investigate socially constructed realities such as sovereignty and R2P.

Chapter Three of the study alluded to what OM was about, a violent phase perpetrated by the GoZ on its people. Chapter three also defined what sovereignty is and how its doctrine came into being. The chapter also explored an intervention mechanism, the R2P doctrine, in the event that a government abuses its state sovereignty. The chapter also discussed the dangers that are embedded in the R2P doctrine as super-powers such as the USA, have in the past used such intervention strategies for their own national interests other than the interests of the 'international community' or for the greater good for all.

Chapter Four demonstrated that in history of the Zimbabwe state systems from pre-colonial times through to colonialism and the fight for Zimbabwean independence right through to independence and post-independence, sovereignty was pursued by violent means. Violence has been used post-independence by the GoZ as a tool of governance. Sovereignty has been crafted through the lens and prism of violence in Zimbabwe. OM was a violent act not unique in that the GoZ previously and repeatedly carried out acts of violence on its own people as a way of maintaining grip to power. OM was just another of those episodes to consolidating ZANU (PF)'s waning popularity. OM violated what state sovereignty stands for, therefore the GoZ violated the very doctrine that they insinuate informed the carrying out of OM.

Chapter Five identified some of the effects that OM had on the general population of Zimbabwe. It noted that ordinary people were made destitute by their own government

which was supposed to protect their sovereignty and ultimately that of the state. The GoZ violated several international laws and its national laws in its implementation of OM. The Constitution of Zimbabwe, particularly the one last amended in the year 2000 was disregarded in the implementation of OM.

Chapter Six stated the main research findings and offered a few recommendations on the way forward on the R2P doctrine as it remains an important tool to avert disasters and dissuade governments from abusing and holding its own people at ransom as was the case with Zimbabwe's OM in 2005.

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