

Emerging Powers and the Responsibility to Protect after Libya

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Summary

UN-authorized intervention in Libya in 2011 was a textbook illustration of R2P principles. But the operation and aftermath also prove the need for legitimacy criteria to guide decisions on authorizing and overseeing international military intervention to avoid abuse and mission creep. The emerging players have particular responsibilities to ensure that vulnerable groups are protected from predations by brutish rulers domestically; weak countries are protected from the predations of regional or global major powers; and violators of both sets of norms on the use of force are made to answer for their transgressions. Developing countries should be the main participants in the debate over R2P, including when, where and how it should be implemented. Critics, especially the emerging powers, should emulate the Brazilian example to engage with R2P and seek to improve the means and manner of implementing the norm.

The use of force, no matter how benevolent, enlightened and impartial in intent, has empirical consequences. It shapes the struggle for power and helps to determine the outcome of that political contest. This is why it is inherently controversial, contentious and contested. Libya was the first road test of the coercive Pillar Three of the responsibility to protect (R2P). Its invocation was almost a textbook illustration of R2P principles. But its implementation proved the need for legitimacy criteria to guide decisions on authorizing and overseeing international military intervention. Although successful, the Libyan operation proved controversial and contested and the price of over-reach there has been paid by Syrians. However, it is premature to conclude that R2P has morphed into RIP.

International Relations is shaped by the interplay of power and ideas. The global rebalancing underway embraces military, geopolitical, economic and even moral adjustments to the shifts in power, wealth, in-

fluence and ideas of good governance and civic virtue. Westerners have lost their previous capacity to set standards and rules of behaviour for the whole world. As Brazil, China and India, among others, emerge as important growth centres in the world economy, the age of the West disrespecting the rest's role, relevance and voice is ebbing. But, reversing the direction of analysis, so far the signs are that the new global players are more interested in the status and trappings of power than in assuming the burdens of leadership that come with the territory. Nor is it clear that they have the institutional capacity to connect national aspirations of rapid economic development and political stability to breaking global gridlocks on such issues as democratization, political and market freedoms, civil liberties and human rights.

Yet the emerging players – more than any other group of states – will have to ensure that, through global governance mechanisms and international accountability instruments:

1. Vulnerable groups are protected from predations by brutish rulers domestically;
2. Weak countries are protected from the predations of regional or global major powers; and
3. Violators of both sets of norms on the use of force are made to answer for their transgressions.

Preamble

Three preliminary comments are in order by way of a preamble. First, interventions were frequent before R2P was formulated in 2001 and are not guaranteed after R2P's unanimous adoption in 2005. The choice therefore is not if intervention, but whether the intervention will be ad hoc or rules based, unilateral or multilateral, and divisive or consensual. R2P helps to shift the balance towards interventions that are rules

based, multilateral and consensual. To that extent it will help the world to be better prepared normatively, organizationally and operationally to deal with crises of humanitarian atrocities as, when and wherever they arise, without guaranteeing any sort of good outcome.

Second, the debate over R2P is not and ought not to be a North–South issue. But it can be turned into one either because of wilful – and sometimes self-serving – obstinacy on the part of key emerging countries; or because of calculated neglect of their legitimate concerns by a declining West. Many non-Western societies have a historical tradition of reciprocal rights and obligations that bind sovereigns and subjects. As argued by ICISS co-chair Mohamed Sahnoun, in many ways R2P is a distinctly African contribution to global human rights.¹ Asia too has its own rich traditions that vest sovereigns with responsibility for the lives and welfare of their subjects while circumscribing the exercise of power with the majesty of law that stands above the agents of the state. In India, Emperor Ashoka (3rd Century BC) inscribed the following message on a rock edict: “this is my rule: government by the law, administration according to the law, gratification of my subjects under the law, and protection [sic] through the law.”²

Third, the ground realities are such that the only likely sites and targets of intervention in the foreseeable future will be developing countries. It is the *people in developing countries* therefore who will suffer if mass atrocities are being committed and outsiders refuse or fail to help; or if interventions are primarily geopolitical or commercial in motivation rather than humanitarian. Conversely, they will be the principal beneficiaries if interventions are motivated mainly by humanitarian concerns and executed responsibly. But the *interveners* could be from among the powerful countries within developing or advanced countries, or a combination of them, acting in their regions or even globally. Therefore the conversations on R2P should be primarily among developing country governments and civil society, but also between them and the industrialized countries, in order to forge shared understandings and common norms and standards of good international citizenship consistent with contemporary principles of national and global good governance. The relevance and importance of this seems to be surprisingly ignored in New York and many opinion capitals/journals, with a near exclusive dominance of Western names and voices.³

In summary, the developing countries, China and Russia were hostile to the “humanitarian intervention” agenda in 1999, remained suspicious of “humanitarian intervention” within grudging acceptance of R2P in 2001, gave R2P cautious approval in 2005, grew more comfortable with it from 2005 to 2011, in Libya were upset with the unchecked implementation rather than the principle of R2P, and have been far more circumspect about invoking it in Syria in consequence.

Between Unilateral Intervention and Institutionalized Indifference

R2P is the normative instrument of choice for converting a shocked international conscience into decisive collective action – for channelling individual moral indignation into collective policy remedies – to prevent and stop atrocities. In the decades after 1945, the nature of armed conflict was transformed as interstate warfare between uniformed armies gave way to irregular conflict between rival armed groups. The nature of the state too departed from its idealized European version. Many communist and some newly-decolonized countries were internal security states whose regimes ruled through terror, often propped up by the US national security state. Increasingly, the principal victims of both types of violence were civilians. Advances in telecommunications brought the full horror of their plight into the world’s living rooms. In the meantime, the goals of promoting human rights and democratic governance, protecting civilian victims of humanitarian atrocities and punishing governmental perpetrators of mass crimes became more important.

R2P spoke eloquently to the need to change the UN’s normative framework in line with the changed reality of threats and victims. In the vacuum of responsibility for the safety of the marginalized, stigmatized and dehumanized out-group subject to mass atrocities, R2P provides an entry point for the international community to step in and take up the moral and military slack. Pared down to its essence, R2P is the acceptance of a duty of care by all those who live in zones of safety towards those trapped in zones of danger. It strikes a balance between unilateral interference rooted in the arrogance of power and institutionalized indifference that dislocates the “Other” from the Self.

The practice of intervention – and the belief that this is in the best interests of the natives who will warmly welcome and benefit from it – has a long but not necessarily distinguished lineage. We were successful in repositioning the international consensus because we rejected the language and discourse of “humanitarian intervention.” During our intense and extensive consultations in 2001, we quickly discovered the visceral hostility to any so-called right of humanitarian intervention across the developing world rooted in their historical encounter with the West in the era of colonialism. To dismiss their claims is to deny their history and disrespect their collective memory.

1 “Africa: Uphold Continent’s Contribution to Human Rights, Urges Top Diplomat,” *allAfrica.com*, 21 July 2009 (<http://allafrica.com/stories/printable/200907210549.html>).

2 Quoted in Stanley Wolpert, *A new history of India*, New York: Oxford University Press, 1977, 66–67.

3 A Carnegie roundtable on R2P after Libya, for example, included only five Westerners; *Ethics & International Affairs* 25:3 (Fall 2011).



R2P was published in December 2001 and endorsed by the High-level Panel on Threats, Challenges and Change in 2004 and by UN Secretary-General Kofi Annan in 2005. Its unanimous endorsement by world leaders in 2005 added clarity, rigor and specificity, limiting the triggering events to war crimes, genocide, ethnic cleansing and crimes against humanity, and so realigning the emerging global political norm to existing categories of international legal crimes.

UN Secretary-General Ban Ki-moon's four special reports (2009–2012) have sustained and consolidated the new international consensus on the subject. Civil society organizations have promoted a vigorous process of R2P norm socialization and crystallization. The annual debates by the UN General Assembly on Ban's special reports have helped to forge a shared understanding of R2P to distinguish it from humanitarian intervention and align it with building capacity to help states exercise their sovereignty more effectively.

Libya 2011

Both the potential mobilizing power and the limitations of R2P as a call to international arms were demonstrated in Libya in 2011. Carefully crafted both to authorize and delimit the scope of intervention, Security Council Resolution 1973 (17 March 2011) specified the purpose of military action as humanitarian protection and limited the means to that goal. NATO ignored the restrictions to target Gaddafi directly in a transparent effort at regime change, spurned hints of any willingness by the Gaddafi regime to negotiate a ceasefire, intervened in the internal civil war and broke the UN's arms embargo by supplying weaponry to the rebels. If 1973 restrictions had been respected, the civil war and the international intervention could well have been longer, more protracted, messier and prolonged the misery for everyone concerned. Ignoring them may thus well have been justified on the logic of military necessity and efficiency. But the insistence by some NATO powers that they fully adhered to UN-authorized "all necessary measures" to protect civilians and civilian-populated areas is not credible. Their denials rest on "legal sophistries."⁴ All the BRICS countries objected strongly to the shift from the politically neutral posture of civilian protection to the partial goal of assisting the rebels and pursuing regime change.

Moreover, ongoing volatility and violence continue to cast a long shadow over post-Gaddafi Libya's stability and commitment to a liberal democratic culture. With the capture and killing of Gaddafi, hard questions, unasked so as not to complicate the push for victory,

came to the fore. Who are the rebels? What do they stand for? For whom do they speak? How much popular support do they command? How committed are they to eschewing rule by terror?

Syria 2012

The questions are relevant to the Syrian crisis. By the end of 2011 the peaceful Arab Spring had mutated into a bloody armed uprising and then a full-fledged civil war in 2012 in Syria, in which upwards of 30,000 people have been killed. Possible courses of action in Syria cannot be contemplated without acknowledging that the crisis is also about relations with Iran, Russia and China, and that the caution about another Western invasion of yet another Muslim country deepened with the low odds of success and the good odds of unintended-cum-perverse consequences in attacking a more formidable enemy in a more volatile strategic environment.

China and Russia remain resolutely opposed to any resolution that could set in train a sequence of events leading to a 1973-type authorization for outside military operations in Syria. They warn that such a resolution would put Syria on the path to civil war; the Security Council is not in the business of imposing the parameters of an internal political settlement on member states and dictating to them who stays in power and who must go; opposition groups too must be condemned for perpetrating violence (the moral hazard argument) and exhorted to engage constructively with the government; the draft resolutions would have inflamed, not calm the situation; and the only solution to the Syrian crisis is through an inclusive, Syrian-led process to address the legitimate aspirations of the people in an environment free of violence and human rights abuses. While there are unquestionably strategic and economic imperatives behind Russia's policy in particular, the strength of the Sino–Russian opposition also reflects a conflict of political approaches and a rejection of armed domestic confrontation backed by international enablers.

India and South Africa have emphasized the primary responsibility of the Security Council to renounce violence in any form in favour of resolving internal differences through peaceful means. They noted that the draft October 2011 resolution failed to condemn the violence perpetrated by the rebels and to require them to engage with the government in seeking a peaceful solution through political processes. Both voted in favour of the draft resolution on February 2012. The Delhi Declaration (March 2012) signalled growing self-consciousness by the five BRICS that they have global weight and mean to begin using it. It emphasized the importance of peaceful transition and diplomatic dialogue in "a Syrian-led inclusive process" that respects its independence, territorial integrity, and sovereignty.

⁴ Jonathan Eyal, "The Responsibility to Protect: A Chance Missed," in Adrian Johnson and Saqeb Mueen, eds, *Short War, Long Shadows: The Political and Military Legacies of the 2011 Libyan Campaign* (London: Royal United Services Institute, Whitehall Report 1-12, 2012), 59.

The debate on how best to operationalize R2P requires a respectful conversation among proponents and sceptics over when, how and by whom to execute the international responsibility to protect. The consensus on R2P in ICISS in 2001 and at the UN in and since 2005 resulted from a genuine North–South dialogue. Had R2P merely repackaged the Western humanitarian warriors' wishes and brushed aside the sensitivities of the formerly colonized, it never would have gained rapid uptake and traction culminating in unanimous endorsement by world leaders in 2005.

The R2P consensus underpinning Resolution 1973 was damaged by gaps in expectation, communication and accountability between those who mandated the operation and those who executed it. Brazil offered a paper on “Responsibility while Protecting” with the potential to bring in some agreed parameters on the conditions that will govern the use of UN-authorized R2P operations. Its two key elements are to formulate an agreed set of criteria or guidelines to help the Security Council in the debate before an R2P military intervention is authorized, in order to achieve consensus; and a monitoring or review mechanism to ensure that the Council has an oversight role over the operation during implementation, in order to sustain that consensus.

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As exemplified in the Brazilian initiative, critics should engage with R2P and seek to improve the means and manner of implementing the norm. This way, the Southern players will become joint and responsible stakeholders in the emerging new world order. As long as the rising new powers remain more concerned

with consolidating their national power aspirations than developing the norms and institutions of global governance, they will remain incomplete powers, limited by their own narrow ambitions, with their material grasp being longer than their normative reach.

Conclusion

The collision of different UN Charter norms produced the heated and tense debates over “humanitarian intervention” in 1999. Reframing “humanitarian intervention” as the responsibility to protect re-established an international consensus. However, the implementation of the sharp, military end of Pillar Three in Libya last year shows that the global consensus on R2P is tenuous and fragile, not robust and resilient. Above all, the Libyan example shows that success in an R2P intervention is no more self-guaranteeing than in any other type of external intervention. Good intentions is not a magical formula by which to shape good outcomes in foreign lands. On the contrary, there is no humanitarian crisis so grave that an outside military intervention cannot make it worse. The use of military force must always – *always* – be the option of *last resort*, not the tool of choice for dealing with threatened or occurring atrocities. Equally, however, it *must* be the option of last resort; it cannot be taken off the table.



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