

Responsibility To Protect: What For?: R2P And The Non-Intervention In Syria

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Abstract

On March 17th 2011, the United Nations Security Council approved the Resolution 1973 which authorized the use of force in Libya in order to protect civilians from the attacks performed by the state armed forces. The military action by NATO in Libya has resulted in diverse and divided opinions. The recourse of Responsibility to protect appeared later as a measure intended to be implemented in the ongoing conflict in Syria, but after two failed resolutions, it became clear that some UN Security Council members are not willing to repeat the Libyan scenario. This text aims to examine some basic notions of the R2P concept, its application in Libya and the implications of the results after the Libyan case on its possible application in Syria.

Should the discussed objectives behind the application of Responsibility to Protect in the Libyan case and its results be determinant on the decision whether this doctrine can be applied in Syria? Is it possible that the mistakes committed in Libya, the atrocities now experienced in Syria and the non-response by the international community could mark the end of the whole concept of Responsibility to Protect? These questions are intended to be discussed in this paper.

Keywords: Responsibility to protect, Syria, Libya, Military intervention, Sovereignty, Use of force, Civilian protection

Introduction

Responsibility to protect was officially applied for the first time to establish a non-fly zone over Libya. The recourse of Responsibility to protect also appeared at the beginning of the conflict in Syria, but soon became clear that there would be no repetition of the Libyan scenario. This text aims to examine some basic notions of the concept, its application in Libya and the implications of the results of the Libyan case for the possible application in Syria.

In the first part of the paper, the concept of Responsibility to Protect will be presented. This document will first discuss the origins of R2P as a response to the failures of states and the international community to prevent mass human rights atrocities, as well as its subsequent development. Its development will be examined with a specific case of study: Libya, focusing on the criticisms that followed NATO's intervention.

Subsequently, a revision of the current situation in Syria and the response by the international community will be presented. At this stage of the text, it will be possible to establish a comparison between the conditions in which the intervention in Libya was executed so then there is some space for questioning whether the Syrian crisis fulfills the same criteria. Finally, this document aims to recognize the principles of R2P, the main characteristics of the Libyan and the Syrian crisis and the international reaction towards both situations under the concept of Responsibility to Protect.

This paper is grounded on the idea that R2P has deviated its focus of protecting civilians when mass atrocities are being perpetrated. Considering the difficulty in turning the doctrine from words to actions it is necessary to explore alternative forms to define in a more precise way the scope of the whole concept. Despite the importance

of its contributions in protecting civilians, the experiences of Libya and Syria could mark the end of Responsibility to Protect. The bases on which the decisions of intervening or not in each case were made are not clear. At the end of this document, the question on the practicality and applicability of the model of Responsibility to protect will be opened.

Origins of R2P

Responsibility to protect was developed in the late 1990s in response to the failures of states and the international community to prevent mass human rights atrocities such as the experienced during the holocaust, and later on in cases like Rwanda, Srebrenica. By the failure of the international community to prevent such mass atrocities and after several attempts to outline a framework applicable when a state fails to protect individuals during internal armed conflict, the International Commission on Intervention and State Sovereignty (ICISS), composed by members of the UN General Assembly and initiated by Lloyd Axworthy, then-Canadian Minister of Foreign Affairs set and named the concept of Responsibility to Protect on 2011. The concept stressed on when and how international community should take action to prevent or stop grave human rights abuses committed against civilians by state. (Van Landingham, 2012; Tarnogórski, 2012). The first major instance of Security Council practice under R2P's third pillar was the March 2011, NATO led, intervention to prevent atrocity crimes being committed by the government of Libya against its own citizens. (Williams et al, 2012, 12)

R2P rests on three pillars; the first two referring to the responsibility of States and International community to protect the civilian population from genocide, war crimes, ethnic cleansing, and crimes against humanity, as well as from their incitement. States are responsible for protecting their own population, while the international community has the responsibility to assist a

state to fulfill its duty. R2P is primarily about prevention, so that intervention is only required when the state fails to fulfill its responsibility to guarantee the safety of civilians among its territory. Intervention must be considered as last resort - Responsibility to react-, followed by the mission to provide international assistance after the actions -Responsibility to rebuild- (Bellamy, 2012; Tarnogórski, 2012)

R2P is based on the idea of respect of sovereignty of states and non-intervention in internal affairs. The idea of sovereignty, even though involves self determination and territorial integrity as the most important rights of a state, also implies the responsibility to protect civilians under its territory. The principle of non-intervention was fundamental for the creation of the UN. However, according to the third pillar of R2P, the international community is responsible for taking action, when the state has failed to protect its population from one or more of the four crimes (Bellamy, 2012). Every state has the primary responsibility of protecting populations within its jurisdiction against acts of genocide, war crimes, ethnic cleansing, and crimes against humanity. Nevertheless, in the event of a failure on the part of the territorial state, when the state is unable or unwilling to stop these crimes, the international community has the responsibility to intervene. Sovereignty entails responsibility, so that non-intervention depends on the territorial state fulfilling its duty to protect its population. (Evans, 2012; Omorgobe, 2012; Pommier, 2011)

R2P in Libya

The roots of the Libyan crisis lie in the political upheavals associated with the 'Arab Spring' protests started in the early months of 2011. Political protests demanding an end to Muammar Gaddafi's rule began in the capital of Tripoli and spread across the country, descending into a civil war and a humanitarian crisis. From February until

August 2010 Gaddafi forces arrested thousands of people across the country, including antigovernment protesters, suspected government critics, and people alleged to have provided information to international media and human rights organizations. (Maluwa, pp. 200-232, cited by Omorogbe, 2012).

Aware of the situation, the Arab League took a strong position against the use of force by the Gaddafi regime, suspended Libya from the league and convened an extraordinary session calling on the Security Council to take the necessary measures to impose a no-fly zone, and to intervene to protect the population, while respecting the sovereignty and territorial integrity of neighboring States. "Following extensive human rights abuses, and statements of intent to commit mass atrocities by Muammar Gaddafi, on February 26, 2011, the UN Security Council passed resolution 1970/88 in an attempt to resolve the Libya crisis peacefully. The resolution cited the Libyan authorities' responsibility to protect its population, further referring the Libyan situation to the ICC, imposing an arms embargo, travel ban, and asset freeze on a number of specified individuals" (Williams et al, 2012, 12). On early March UN Security Council authorized a no-fly zone over Libya and air strikes to protect civilians, over which NATO assumes command. Finally, on 17th March 2011, the U.N. Security Council authorized military action in Libya, stating that the point of the action was to protect the Libyan people.

NATO's military intervention in Libya was initiated under the principle that the world should not stand by while mass atrocities go on within a sovereign state. As a response to the widespread and systematic attacks by the regime of Libyan President Gaddafi against civilians, the United Nations Security Council adopted Resolutions 1970 and 1973 that called for an arms embargo and a no-fly zone. Resolution 1973 also authorized member countries and regional organizations to take "all the necessary

measures” to protect civilians and population centers in the country from the threat of attack. The NATO mission expanded over time beyond its mandate to give air support for anti-Gaddafi forces. NATO conducted a seven-month operation to protect civilians from the threat of attack in Libya, launched thousands of air strikes on government targets during the conflict, some of which killed civilians. (Bopolion, 2011; NATO, 2010; HRW, 2012).

On July 2011, the National Transitional Council (NTC), which describes itself as the only legitimate body representing the people of Libya and the Libyan state as the legitimate government of Libya, was formally recognized as the main opposition group. Later that year, in October, Gaddafi was finally captured and killed. After declaring Libya as officially "liberated" and announcing the upcoming elections, The Security Council ordered to end the international military action in Libya. Finally, the Security Council unanimously passed a resolution ending the UN mandate allowing military intervention and terminating a no-fly zone over Libya that had been imposed in March.

R2P in Syria

Starting on March 2011, the crisis in Syria has transformed from remote peaceful protests into large-scale demonstrations, followed by the creation of the Free Syrian Army by President Bashar al- Assad's regime. Since then, the regime's army has performed brutal attacks against the civilian population, from arrests of political activists to torture and killings on a massive scale. Syria has denied that its government was committing such atrocities and justified its actions as a reaction to the attacks by the opposition forces. (Droholowska-Polak, 2012; Mohamed, 2012; Gatlin, 2012). Massive human rights violations have been

and are still being committed. There have been many examples of peaceful, unarmed protesters being killed by the Syrian government forces than in Libya where armed rebels were engaging in revolt. However, Responsibility to Protect has not been contemplated. Unlike in the Libyan case, the proposed resolution concerning Syria did not authorize any use of international force or sanctions. (Hall Findlay, 2011)

On March 16, U.N. envoy, Kofi Annan, developed a six-point plan for peace in Syria. President Assad accepted the plan and assured that his regime would comply. Nevertheless, government forces continued to murder demonstrators. On 4 February 2012, the UN Security Council voted on a draft resolution, resulting on 13 votes in favor, and the veto of China and Russia. On 19 July 2012, China and the Russia used their veto again to block another resolution. This time, South Africa and Pakistan abstained, and stressed the importance of finding a peaceful settlement through dialogue as well as the importance of maintaining Syrian territorial integrity. The failure to pass a resolution on Syria was directly related to the actions of the NATO intervention in Libya. Some scholars affirm in this regard that the disagreements within the Security Council could have a direct impact on the future of the Responsibility to Protect. (Gatlin, 2012; Koops, 2012)

According to the explanations provided by China and Russia, the two states that used their right to veto on the last two resolutions about the Syrian case, the vetoes against a first draft Security Council resolution in early 2011 were not emitted because Syria lacked any responsibility to protect its people but due to the resolution's failure to hold opposition forces accountable. In the case of the second resolution in October 2011, their veto was due to the failure of the resolution to appropriately call on the opposition to disassociate with extremists, and because they –China and Russia-, along with India,

Brazil, and South Africa, were concerned that the resolution was a pretext for armed intervention similar to what they believed occurred in Libya. (Van Landingham, 2012)

Why Libya and not Syria?

On one side, based on the concept of sovereignty as the most important right of a State, R2P stands on the principle stating that international community should not execute military interventions. “The Syria crisis illustrates the extent to which the international community must exhaust its peaceful options before low intensity military options could be considered. In Syria, the international community has tried multiple rounds of regional and UN-brokered peace plans, and sanctions without success. In fact, the Assad regime’s attacks on civilians have intensified, with the regime increasingly relying on heavy military weapons such as cluster bombs and helicopter gunships.” (Williams et al, 2012, 20). Military intervention is considered a measure of last resort and only used when every non-military option for the prevention or peaceful resolution of the crisis has been explored. R2P does not prescribe a particular course of action, nor aims at authorizing military intervention. Instead, it makes emphasis on the responsibilities of sovereign states and commits them to take consecutive, steps to mitigate the risk of mass atrocities, based on existing legal obligations. (Hall-Finlay, 2011; Tarnogórski, 2012)

On the other side, it could also be argued that military intervention is justifiable and sometimes necessary as last resort to stop mass atrocities when the state is not able to do it by itself. According to Claudia McGoldrick (2011), Special Adviser to the International Committee of the Red Cross Presidency and journalist who worked in West Africa, even though the use of force to protect civilians as a last resort is sometimes unavoidable, it might be perceived as a political construct aimed at weakening the notion of state sovereignty. Additionally, the

political, military, and humanitarian agendas of the key international players in the Libyan case were difficult to read. It appeared that the military operations were aimed at supporting the forces assembled by the National Transition Council.

The idea of the legitimacy of the use of force to ‘protect civilians’ had become unclear although “military intervention is an essential part of Responsibility to Protect, in the Libyan case, the intervention was highly imperfect, placing the region’s long term stability in the hands of rebels and leading to an inconsistent protection of the civilian population” (Pommier, 2012; Bellamy, 2011, pg 269). It is argued by many scholars that NATO’s operation in Libya went far beyond its main objective of protecting civilians to become an intentional action against its regime (Boloipion, 2012; Welsh, 2011; Hall-Finlay, 2011; Pommier, 2012). “UN’s mandated measures restricted Libyan state terror and tipped the balance of forces in favor of the rebel forces” (Dunne & Gifkins, 2011). The objective of the executed operations seemed more oriented towards the defeat of Gaddafi’s regime by supporting the rebel forces. The operation in Libya has introduced doubts, about the intentions of some international actors involved, about the validity of the principle of using force to protect civilians, and even about the validity of the idea that the world has a responsibility to protect citizens from their rulers. (Pommier, 2011; Boloipion, 2011)

Approved with ten votes in favor and five abstentions, it is clear that many countries were not sure or even opposed the Security Council's action in Libya. Abstentions during the Security Council vote indicated that some governments already had reservations about implementing the protection of civilians by force in Libya, same states that are now hesitant to support intervention in Syria. The countries that opposed the Security Council's action, now believe the Western operation has gone far beyond merely protecting Libyans, and it is now widely seen as an action intended from

the start to get rid of the Libyan ruler (Pommier, 2011; Bolopion, 2012).

However, diverse scholars (Hall Finlay, 2011; Dunne & Gifkins, 2011) support the idea that the future of R2P should not be defined by the origins and effects of the operation in Libya. The no-fly zone and other punitive sanctions were in place for five months before the Gaddafi regime fell. It could be said then, that it is still too soon to make a definitive estimation on the R2P success. According to the statements presented below, such considerations about the objectives behind the Libyan intervention and its final results should not be a determinant for the decision whether to take or not action in the Syrian case. "The Syria crisis highlights the current limitations of the R2P doctrine. Despite R2P's important contributions to the protection of populations over the past decade, the Security Council's veto system can still create situations where states are permitted to commit mass atrocity crimes against their citizens. At present, R2P lacks a framework for the limited use of force when the Security Council fails to act. In its present formulation, therefore, R2P is missing a crucial component". (Williams et al, 2012, 2) As Gatlin (2012) has stated, "the international community is doing little to contest the horrors in Syria. If military intervention was warranted in Libya, the United Nations should not deny the same cause of action for Syrian civilians, where the population is four times larger than that of Libya and the circumstances are arguably worse". Further hesitation for military intervention under R2P is only leading to more Syrian citizens casualties.

Conclusion

It is argued by many scholars that the coalition's objective during the intervention in Libya was the collapse of the Gaddafi regime, finally considering this objective as one of the necessary measures to protect civilians and civilian populated areas under threat. Additionally, there has been an imbalance between the sides and the reported systematic attacks on unarmed civilians by government forces, leading to debate about the imperative of protecting civilians, initially primarily by means of the imposition of a no-fly zone aimed at preventing Gaddafi's air force from attacking civilians, but the hidden pretext was to stop his forces. (Pommier, 2012; Bolopion 2012; White, 2011)

Originally, Responsibility to Protect appears as a response to the unquestionable need to prevent mass crimes. However, the guidelines about how and when the operations by the international community should take place are very imprecise and there has not been an agreement on the situations in which the concept applies. It is known that the current situation in Syria has led to a large number of deaths at the hands of national authorities, a situation which, if not intervened on time, could lead to many other abuses by the local government. The question about whether or not the possibility of a military intervention in Syria should be considered must be resolved based on the six criteria on military intervention, established by Responsibility to protect, and not based on the past events experienced in Libya.

Non-military options for the resolution of the crisis have been already explored. After several attempts of dialogue with the local government, Syrian authorities keep denying the commission of any crimes against the civilian population and the country remains in conflict as the Assad regime murders demonstrators and opposition. "When peaceful measures have been exhausted and the Security Council is deadlocked, R2P's third pillar should allow

the use of only those low intensity military options, such as no-fly zones and humanitarian safe havens that are focused on protecting populations. This approach would advance R2P's development by establishing specific criteria that allow for the limited use of force when the Security Council fails to act. In doing so, R2P will be able to fulfill its primary purpose of preventing mass atrocities within a sovereign state, thus preventing future tragedies similar to those that have been seen in Bosnia, Rwanda, Darfur, and now Syria." (Williams et. al, 2012 pg 1)

Even if the causes for interventions may be equally just, it is unavoidable that specific internal, external and regional conditions and configurations affect the likely success and overall justification of an intervention. A large scale loss of civilians' lives is indeed one of the main issues of the Syrian conflict, fact that makes of this case a just cause for military intervention according to Responsibility to Protect guidelines. Even though, the Security Council is failing to act. As stated by Gatlin (2012) the Syrian crisis serves as the impetus for a new discussion on the legitimacy of military intervention under the concept of R2P. Like the Libyan crisis, more remarkable action to protect civilians is needed in Syria. In conclusion, despite the importance the contributions that the concept of Responsibility to Protect has done to the prevention of mass atrocities and protection of civilians in conflict situations, the scope of the concept is still very questionable. However, the crisis of the concept of responsibility to protect is not a product of the outcomes of the Libyan intervention. It has been Syria the case that has placed the concept of R2P in crisis. The lack of military intervention in Syria calls into question the mere existence of this doctrine.

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