The Responsibility to Protect and Libya: The start of an "internationalization of the human conscience"?

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The recent and ongoing military intervention in Libya has been heralded as the first real embracement of the "Responsibility to Protect" (R2P) by the international community and a turning point for the doctrine. In March of this year, Ramesh Thakur, a political science professor in Canada and a former "R2P commissioner" at the United Nations (UN), suggested that "Resolution 1973 marks the first military implementation of the doctrine of 'responsibility to protect'". He concluded that "R2P is coming closer to being solidified as an actionable norm". There is evidence to suggest that Thakur may be correct in some of his remarks, but imprecise in others.

Certain aspects of the R2P have been harnessed by the UN Security Council in its response to the troubles in Libya. This is identifiable in a number of provisions found in the aforementioned Resolution 1973, which have been combined with those contained in Resolution 1970. These provisions are not only extensive, but also unprecedented. Resolution 1973 is far-reaching in its authorization of the use of force and allows "every military action necessary for the protection of the civilian population". The combined resolutions allow a foreign occupation force of any form on any geographical part of Libya. Thus far, military action has included air strikes by US, British and French forces. The timing of the decision to adopt Resolution 1973 was highly significant as only a few hours before, Gaddafi proclaimed that his soldiers would massacre civilians in Benghazi. At the time, a humanitarian crisis was imminent.

Humanitarianism has been closely intertwined with the situation in Libya. President Obama declared that the US-led military intervention was needed to avert a "humanitarian catastrophe" and compared the event to the humanitarian interventions of the 1990s. Although there is the obvious irony of calling any bombing campaign humanitarian, the bombing of Libya can be called a humanitarian intervention because, for the time being, it seems that there is little "national self interest" reasoning to the initiatives. Indeed, Resolution 1973 states that the objective of the intervention is to protect the civilian population.

However, the Libyan case can be distinguished from previous major interventions in the post-Cold War era because there is an actual authorization from the Security Council, and major objections from members of the Council have been limited. The bombing of Serbia in 1999, which is often claimed to be a humanitarian intervention supported by the international community, was not authorized by the Security Council. Moreover, Russia, China and India strongly condemned the bombing. So claims that NATO was operating on behalf of the international community in Serbia are not particularly accurate. Similarly, there was no authorization from the Security Council in the 2001 Afghanistan conflict, nor in the notorious 2003 Iraq invasion. Additionally, the measures in Iraq were accompanied by numerous voices of disapproval amongst the international community.

The military intervention in Libya implies that regional organizations such as NATO are not prepared to intervene without the blessing of the UN Security Council. In addition, the bombing campaign can be seen as being supported by Russia and China by the fact that they abstained from exercising their vetoes in the Security Council's vote on Resolution 1973.

Whilst there is evidence that certain R2P principles have been fused with action by the international community in Libya, it is important to stress that there has only been a partial and limited adoption of the R2P thus far. The responsibilities to prevent and react, which are two of the three stages of the R2P in the ICISS' 2001 report, have been addressed, but the third stage of the R2P, "the responsibility to rebuild", remains an unresolved issue.

In many respects, the "responsibility to rebuild" is the one of the most important parts of the R2P as it requires actors to establish clear and effective post-intervention strategy. This section of the R2P establishes three interlinked post-intervention obligations for intervening parties to address.

Firstly, an essential function of an intervention force should be to provide basic security and protection for all members of the state in which intervention is transpiring. This also means that intervening military forces are obliged to prevent revenge killings and even "reverse ethnic cleansing" after the initial objectives of interventions are met. The international community certainly prevented a bloodbath in Benghazi, but there are post-conflict scenarios which could still see mass killing transpire. For example, if Gaddafi is toppled, the abundance of weaponry in the country could make it easy for Gaddafi loyalists to undertake campaigns of killing. In addition, failure to overthrow his regime could lead a series of massacres taking place for power consolidation. For intervention forces, the most logical measure to prevent ethnic cleansing would be to ensure that local security forces are disarmed and demobilized. However, a climate of fear may exist in post-conflict Libya, which would make it difficult for groups to relinquish their arms any time soon.

The second obligation pertains to achieving justice and reconciliation between parties. In accordance with the R2P, "external support for reconciliation efforts should be conscious of the need to encourage this cooperation, and dynamically linked to joint development efforts between former adversaries". In Libya, the issue of administering punishment for war crimes and crimes against humanity committed in the civil war will need to be addressed. Further to this, analysts say that, should Gaddafi be overthrown, it will be important for new rulers to offer reconciliation to those who held positions of responsibility under Gaddafi.

The final peace building responsibility of military intervention should be to encourage economic growth and sustainable development. It is important that intervening parties end any coercive economic measures they may have applied to the country before or during the intervention, and not prolong punitive sanctions. Since February, the UN, the US and the EU have all imposed sanctions on the Libyan government and select Libyan companies, which to date have reportedly resulted in the freezing of Libyan state assets estimated at $120 billion. So if the R2P is followed correctly, these measures will be removed. However, the removal of these sanctions will not hide the fact that Libya's economic recovery will take years with or without Gaddafi in charge.

Ultimately, with the outcome of the civil war in Libya still in doubt, the extent of the international community's utilization of the R2P remains uncertain. Nonetheless, it is certainly a concern that no coherent plans on what will happen if Gaddafi is overthrown have yet emerged from France, Britain, the United States, or other NATO countries.

It also seems difficult to suggest that the Libyan episode will signal some kind of turning point and new dawn for the R2P. Instead, it is probable that future interventions by major powers will continue to be selective and be perceived as exercising many double standards. It is also likely that future use of the doctrine will see case-by-case assessments being made by the Council. As such, interventions will depend on various factors besides purely humanitarian concerns.

In truth, it is contestable that there is an international law norm, or even an ensuing norm – as implied by Thakur – which allows intervention into states in the name of humanitarian concerns. For sure, the argument for the codification of a clear legal doctrine or "right" of intervention, through a UN Charter Amendment or UN General Assembly declaration, has been made numerous times. But the issue still remains highly debated, and one of the main concerns is that a codification of the "right" of intervention would provide a mandate for strong states to appeal to humanitarian concerns in order to exercise "imperialist" ambitions in weaker states. More importantly, however, it is vital to stress that there is not necessarily a legal norm that actually obliges the UN Security Council to apply the R2P. In fact, the R2P does not alter the legal obligation of Member States to refrain from the use of force except in conformity with the Charter.

At the same time, it would be morally repugnant to suggest that there is a license for international actors to turn a blind eye to mass atrocities. If there are grounds for optimism – from a cosmopolitan perspective at least – they may be found with the possibility of creating a consensus that the R2P does not necessarily have to end with Libya. Instead, the Libyan affair could be seen as a potential foundation for the R2P to build upon and an experience to learn from. Emerging crises in Yemen, Syria, Bahrain, Cote d'Ivoire, the Democratic Republic of Congo, Zimbabwe and South Sudan have created their own questions about R2P. Finding effective responses to these crises should be subjected to greater efforts from international actors. Overall, it certainly seems that a new chapter on the age-old debate of intervention in international relations is now being written.