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R.I.P R2P?:

The Responsibility to Protect as Seen in the Arab Spring

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At the turn of the twenty-first century, the international community was struggling with challenge of reconciling the core concepts of state sovereignty and protection of human rights. In 2001, the International Commission on Intervention and State Sovereignty (ICISS), a panel of international experts chaired by Gareth Evans and Mohammed Sahnoun, released their report arguing that states have a responsibility to protect (R2P) their citizens from major human rights violations and war crimes. If a state fails to meet this responsibility, the international community should be prepared to take action to protect citizens. A version of R2P language was adopted at the U.N.'s 2005 World Summit. The U.N. Security Council indicated support for some R2P language in resolution 1674 in 2006. The U.N. also began creating a bureaucracy to implement the concept. Early on, R2P seemed an accepted new international norm in the process of transitioning into full customary international law. Subsequent years, though, revealed that many countries had not fully accepted R2P, that its language had been watered down as it progressed from ICISS report to U.N. statements, and that, most crucially, it was not being implemented to address ongoing human rights cases in Sudan, Sri Lanka, Somalia and elsewhere. Academics and policy-makers, began to question whether it would ever become more than just a nice slogan (Evans 2008; Hehir 2010; Reinold 2010). These discussions highlight that one of the worst things for an emerging norm is for it to be ignored.

In 2011, world events and U.N. action breathed new life into R2P. The concept was employed in Cote d'Ivoire and then, more dramatically, in Libya. Libya was the first case of the U.N. using R2P to authorize the use of force against an existing state to protect civilians. Supporters of the concept hailed the actions as an important next step in moving the world from words to actions. Evans, for example, has argued that at the outset Libya was "a textbook case of the RtoP norm working exactly as it was supposed to" (Evans 2011). Over time, though, it

became apparent that the debates over Libya before the authorization of force and the discussions and criticisms of the mission both as it continued and afterward show that there remain deep divisions over key issues. Countries continue to disagree over how much weight should be given to preserving sovereignty, whether the vagueness of R2P criteria mean that decisions of when and where to intervene will always reflect political considerations as much as humanitarian issues, and which groups can properly authorize an R2P intervention. The Libya case also shows that there are questions of proper implementation that previously had received less attention. These implementation issues include which forces should carry out the intervention on behalf of the international community, what the political and military goals of the intervention should be, and what responsibility the international community has after an R2P intervention. These discussions about Libya show that, for an emerging norm, perhaps the only thing worse than being ignored is being implemented in a way that reinforces old fears and raises new controversies.

The full impact of the Libyan case on R2P may not be known for years since the passage of time can lead to different conclusions than immediate analysis, and because interventions are often judged by their long-term outcomes and Libya's future still remains uncertain. In the short term, though, the Libyan case has complicated international responses to violence and thus appears to have dealt a severe blow to R2P's future. The limited influence of post-Libya R2P can be seen in international responses to violence in Syria.

Developing R2P

The idea of humanitarian intervention first rose to prominence in the 1990s as the end of the Cold War increased the chance for global cooperation, shifted focus to regional issues, but

also saw the outbreak of new intra-state conflicts. The U.N. authorized actions in Somalia and Bosnia in 1992. Neither mission was a full success and the U.N.'s inaction in Rwanda in 1994 seemed to confirm that, although there was some desire to protect civilians and others from abuses, it was outweighed by major political and practical barriers to successful intervention. The latter half of the 1990s saw leadership of interventions shift more toward regional groups and actors. For example West Africa forces intervened in Sierra Leone and Liberia, U.S. forces in Haiti, and Australian forces in East Timor. This trend to regional groups was highlighted by NATO actions in Bosnia in 1995 and Kosovo in 1999. These regional actions proved more coordinated and forceful than the U.N. actions, but raised the crucial issue of whether intervention without U.N. approval was illegal. In the famous words of the Independent International Commission on Kosovo, NATO's intervention was "illegal but legitimate" (Independent, 2000, 4).

In developed countries, this wave of interventions led to debates over when countries should act outside of their national interests to protect civilians in other countries and what resources and sacrifices were justifiable in such cases. Less developed countries (LDCs) were frequently more critical of the interventions. They argued that the interventions were a violation of state sovereignty, a new form of Western imperialism, and driven by double standards in that Western countries and allies were immune from focus (Ayoob 2004). One commentator summarized sentiment saying, "at the turn of the century, it has become clear that the concept of HI [humanitarian intervention] has no future; that it is not acceptable to the majority of U.N. member states" (Gierycz, 2010, 112).

The ICISS 2001 report and other efforts to develop R2P attempted to move away from the terms and specific policies of humanitarian intervention, but continue to build on the

sentiment that international actions should be taken to protect civilians. The focus shifted from a right to intervene to a responsibility to protect, and from a focus on sovereignty granting control to “sovereignty as responsibility” (ICISS 2001). States retained the prime responsibility for protecting their citizens from genocide, mass murder, and ethnic cleansing, but if the state was unable or unwilling to meet its responsibilities then the international community should consider action and the principle of non-intervention could be set aside. The report argued that intervention should be supplemented with policies of prevention and post-conflict peace building. It also argued that military force was only one form of intervention. Thus, “The ICISS sandwiched military force between the sliced white bread of prevention and postconflict peacebuilding. . . [so] the option of military intervention to protect human lives became somewhat more palatable than it had been, especially in the global South” (Weiss 2011, 2). The report also argued that Just War criteria should be used to judge particular cases, namely, would the intervention stop gross violations of rights, was force reserved as a last resort and did the intervention have a reasonable prospect of success. The ICISS placed primary responsibility for authorization in the U.N. Security Council, but also suggested that the five permanent members not use their veto unless vital national interests were at stake. A deadlocked Security Council could be addressed by going to the General Assembly or regional groups.

R2P was explicitly endorsed in two paragraphs of the U.N.’s 2005 World Summit Outcomes Document. This inclusion was a victory for R2P supporters, but, because it came after several years of questions and criticisms being raised, several compromises were made that weakened the concept compared to the ICISS report. The result was “R2P lite.” (Weiss 2007, 117). Authorization was put firmly back in the Security Council’s hands, but the idea of limiting vetoes was firmly rejected by China, Russia and the United States. The Just War criteria were

not included. Protection would include cases of genocide, war crimes, ethnic cleaning and crimes against humanity, but there was no further clarification on the required level of these threats and intervention was to be judged on a case-by-case basis. The threshold for a state failing to meet its responsibilities was raised to “manifest failure.” There also was no stated obligation to act, only a call for preparation to take action.

Even with the weakened language, there was a degree of “buyer’s remorse” among certain states that further weakened R2P implementation following the 2005 World Summit (Evans 2008, 288). Several states such as Algeria, Brazil, and Egypt argued that the 2005 agreement called for further study and debate, rather than immediate implementation. Key countries including Russia and China also raised new concerns about sovereignty and non-intervention. In 2006, Security Council Resolution 1674 broadly supported R2P, but only after the resolution was watered down to just reaffirm the 2005 wording. In subsequent years, criticisms and back-sliding continued and there were no cases of authorized R2P intervention.

First, the whole concept stemmed from an effort to address the challenges of humanitarian intervention. Second, interventions draw public attention and focus policy-makers debates in different ways than prevention or less dramatic interventions, so interventions will shape overall perceptions of R2P. R2P is not an exact synonym for humanitarian intervention, but it must address many of the same challenges that limited support for humanitarian intervention. Thus, almost all observers recognized that R2P’s first major test case in Libya would be a shaping event for the norm’s future.

Sovereignty

Over the last century, there has been a growing development of international norms and laws protecting individual human rights. This movement has always had to deal with the issue of how to balance the state's right of sovereignty and non-interference in domestic affairs with the individual's rights. This issue is of course dramatically highlighted by cases of humanitarian intervention directly aimed at changing state behavior and, in many cases, seeking regime change. Concerns over sovereignty were central to many developing countries' worries in the 1990s and the development of R2P has brought back those same worries. Additionally, R2P has sought to redefine sovereignty and alter existing notions of its benefits and obligations.

Issues of sovereignty and non-interference are commonly raised by less developed countries. Ayooob has argued that these countries are particularly sensitive to the loss of sovereignty because they have only just achieved it at independence from colonialism (Ayooob 2004). The memory of colonialism also makes them sensitive to the idea of Great Powers interfering in domestic politics. Their state of development may also make them worry that they will be targeted for intervention. Many developing countries have multiple ethnic groups, so there is a chance of ethnic violence. Many also are weaker states who may be challenged by internal groups and feel the need to use repression and violence to keep order. Many European states had violent pasts, but today the rules have shifted and internal violence risks international intervention.

During the 1990s, developing countries repeatedly opposed interventions on the grounds that they violated sovereignty. In 2000, the South Summit of 122 states rejected "the so-called 'right' of humanitarian intervention which has no legal basis in the United Nations Charter or in the general principles of international law" (Gierycz 2010, 125). India, Brazil, South Africa and other leading less developed countries have, at times, expressed similar feelings. In 2001

discussions of the R2P report, the Chinese delegation argued, “the assertion of ‘human rights transcending sovereignty’ has serious fallacies in theory and lends no help to the legalization of humanitarian intervention” (Ayoob, 108). Importantly, Russia has voiced similar views, so two veto-wielding powers often seek to defend the existing concept of strong sovereignty.

R2P reframed the sovereignty issue, but reactions have been similar. In 2005, India’s ambassador argued that discussions of R2P must not be allowed to confer legitimacy on a right of intervention. The Coordinating Bureau of the Non-Aligned Movement (NAM) observed there were “similarities” between R2P and humanitarian intervention and reasserted that there was no right to intervention (Bellamy 112). Ayoob has again warned that the Great Powers are creating legal justifications for the interventions they always desired (Ayoob 2002). It should be noted that the LDCs are not united in opposition as many countries in Africa and Latin America have expressed support for the R2P concept or for particular actions.

To some, raising issues of sovereignty may conjure an image of an abusive dictator hiding behind a legal curtain, but it must be remembered that sovereignty has been a bedrock principle of international law, referenced by the powerful as well as the weak, the good as well as the bad, so alterations in the definition must be carefully considered by the international community as a whole. R2P’s logic that sovereignty brings certain responsibilities builds off the recent work of U.N. advisors Francis Deng and Roberta Cohen (Cohen and Deng 1998). International legal terms are flexible and develop through usage, but it is unrealistic to expect that the entire international community would shift its understanding of a centuries-old core principle within just a few years. If countries do not accept the redefinition, then the sovereignty discussion will play out much like it has for decades and few R2P interventions will be authorized.

From the above discussion, it is noteworthy, and probably surprising to some doubters, that in the Libyan case the U.N. did authorize the use of all means necessary to protect civilians. This shows sovereignty concerns can be overcome, but Libya was a highly unusual situation, furthermore the actions taken in Libya reinforced LDC worries, so a repeat elsewhere is far from guaranteed.

In early discussions of Libya, several countries resisted the use of force or even sanctions. Russia and China led calls for a ceasefire and internal Libyan solution, and were supported by India, Brazil and Germany. Eventual, forceful action in Libya was driven by a number of factors. First, conditions for civilians continued to worsen and a massacre of civilians appeared imminent. Gaddafi had also directly threatened to kill civilians who opposed him. Second, Gaddafi did not have good relations with many regional leaders and Libya did not have major ties to either Russia or China. Third, several regional organizations called for intervention, so it became easier for Russia and China, but also the United States, to say that they were following the will of the community. Rarely will these factors all come together again.

Even with the factors supporting intervention, Resolution 1973 explicitly rejected “a foreign occupation force of any form on any part of Libyan territory.” Enforcing a no-fly zone would affect sovereignty, but in a less direct way. The Resolution passed 10-0, with Russia, China, India, Brazil and Germany all abstaining. The abstentions show that many significant international actors have not yet fully accepted R2P’s challenge to sovereignty. Those abstaining cited their long-standing views on non-intervention and preference for a political solution, but by that point the political pressure not to block action was significant.

Lack of Criteria and Politicization

International norms and customary law always allow a degree of interpretation and thus can be flexible to meet particular circumstances. The downside of flexibility is that political calculations may shape interpretation leading to inconsistent application of laws across time and across cases. This inconsistency leads to claims of political agendas and double standards. The 1990s interventions were particularly susceptible to these accusations because there was neither an accepted legal definition of humanitarian intervention nor established criteria for action. There were frequent complaints that Western allies, particularly Israel, were given a free pass, while enemies of the West faced international action. There also was a feeling that problems in Yugoslavia and Haiti were addressed quickly because they were geographically close to major powers, while much worse problems in African countries were allowed to continue.

The language adopted at the 2005 World Summit, reinforced by the Security Council, moved R2P beyond humanitarian intervention by establishing a politically and legally binding set of standards (Gierycz). The R2P standards are, though, intentionally vague on a number of points. Countries must protect their citizens, but there are no firm guidelines for when a state has crossed the line. This vagueness will inevitably trigger political battles--one need only think of the many disputes over what constitutes genocide that have occurred even after acceptance of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Second, international action should come when states are “manifestly failing to protect their populations.” Again, there will be debate over when such a condition exists. Third, the international community has the “responsibility to use appropriate diplomatic, humanitarian and other peaceful means,” and only consider force “should peaceful means be inadequate.” These ideas follow the Just War principle of last resort, but could allow for long debates about whether peaceful means have been exhausted. For all of these reasons, R2P is left as a case-by-case

decision and one that carries no legal obligation to act. This lack of specificity is intentional. It is favored by countries wary of R2P who do not want to give it further legitimacy with set standards, but it is also favored by the Great Powers who do not want to have their political options reduced. This leaves the world with little more clarity than existed with humanitarian intervention. Thus, complaints of inconsistency are sure to reemerge.

As previously mentioned, in the Libyan case, several key countries favored continued political pressure and negotiation rather than force. If Gaddafi had shown a true interest in meeting with foreign negotiators and had made some strategic concessions, he potentially could have delayed action, much as Sudan has done in the case of Darfur. The fact that action was taken in Libya then opens the question of why there was no equivalent action in Egypt, Bahrain, or Yemen where the Western countries have more political ties. The perceived Western bias of R2P was highlighted just days after the U.N. authorized force, when Russian Prime Minister Vladimir Putin commented, “In general, it reminds me of a medieval call for a crusade” (Levy and Shanker 2011). Overall, there is no simple solution to the complications brought by vague terms, but that very point means that critics will continue to see R2P as a selective, political tool.

Authorization

A major reason why both humanitarian intervention, and R2P, has been perceived as politically driven and selective is because of the workings of the U.N. Security Council. The Council is a political body, not a panel of neutral jurists, and gives major power to the five permanent seats, and its voting rules can often end in stalemate. Even with these issues, a vast

majority of states would rather the U.N. have the authority to authorize R2P rather than to allow unilateral action by Great Powers or regional groups. It is therefore a matter of how to make the best of an imperfect situation.

The U.N.'s failure to agree on action in Rwanda and Kosovo were prominent issues as R2P was being formulated. The ICISS argued that all R2P actions should seek Security Council approval to reinforce the importance of the U.N. and sustain international law. The ICISS, though, also suggested three further points on authorization. First, they suggested that the permanent members follow a code of conduct under which they would not veto R2P actions unless there was a vital national interest at stake. This idea may have intellectual merit, but it was dead on arrival in the real world. The veto, of course, goes back to the founding of the U.N. and was seen as a way of enticing the Great Powers into the U.N. The veto, and the threat of a veto, has given the powers major leverage that they have never been willing to limit in any previous U.N. reform package. Their view was recently restated by Putin who wrote to a Russian and foreign audience, "Let me remind you that the veto right is not a whim but an integral part of the global system, codified in the U.N. Charter, by the way, at the insistence of the United States." The idea of a code was simply dropped as discussion of R2P moved forward in the U.N..

The ICISS, also suggested that if the Security Council did not act, the issue could be taken to the General Assembly through the "Uniting for Peace" resolution. The resolution dates to 1950, when western powers were trying to assure that the Soviet Union could not block action aiding South Korea. The resolution states that when the Security Council fails to act to maintain international peace and security, the General Assembly can issue recommendations. The legitimacy of the resolution is questioned by those who argue that it contradicts the Charter's

allocation of duties, plus the legal weight of General Assembly resolutions is minimal. In any case, for R2P, any potential General Assembly role was negated by the 2005 World Summit document which directly reaffirmed the Security Council as the legitimate forum for authorization.

The ICISS further noted that in cases of Security Council inaction, concerned states may still wish to act. They discouraged unilateral action, given fears of political motives and a further weakening of the U.N., but suggested that there could be actions by regional groups and retrospective legitimacy given by Security Council approval. Interestingly, the Libyan case shows regional groups playing a different role, not as independent actors, but as “gatekeepers” for U.N. action (Bellamy 2011, 841). On March 7, the Gulf Cooperation Council (GCC) called on the Security Council to use all means necessary to protect civilians. The Organization of Islamic Countries issued a similar statement, but with direct emphasis that no foreign ground troops should be involved. The African Union was more cautious as it criticized Libya, but did not call for forceful intervention. The key group, though, was the League of Arab States (LAS). The LAS called for a no-fly zone and establishment of protected safe areas for civilians. The LAS statement help tip the United States to support the use of force. It also made it more difficult for Russia and China to oppose the use of force, although they still could use the threat of a veto to keep the force’s mandate limited.

With the code of conduct and General Assembly ideas removed, R2P authorization rests firmly with the Security Council. In the past, this has allowed China and Russia to end discussions of actions in Myanmar or Sri Lanka and to modify actions in the Libyan case. Regional groups pushing R2P in the Libyan case contributed to action, but this development raises long-term questions. If regional groups act as gatekeepers, can they veto operations they

oppose? Can they ever pressure the U.N. to take actions that the Great Powers oppose? There also are questions of what group should be considered the true spokesperson for a region. R2P thus will either have to move forward with a highly political and divided U.N., or with a complicated and likely controversial multi-tiered authorization system. These are not problems for R2P alone, but since these same problems about authorizing action on other issues have not generated significant U.N. reform, it is unlikely that R2P will.

Whose Forces and Decisions

Over its first decade, R2P remained largely a theoretical concept, so most discussion centered on questions of triggering actions. Now, more attention needs to be focused on implementation issues. A leading concern here comes from another U.N. structural issue, namely that there is no U.N. army or standing peacekeeping force. Some R2P actions may be delayed, or even never implemented, if no countries are willing to volunteer their forces and material. Further, U.N. forces will be weak if they are drawn mainly from less developed armies. As of 2011, the ten top troop-contributing countries for peacekeeping were Bangladesh, Pakistan, India, Nigeria, Ethiopia, Nepal, Egypt, Jordan, Rwanda, and Ghana. Some of these countries have highly regarded troops, but the lack of major power involvement is still a problem if R2P missions are to be successful.

In cases where major powers do volunteer forces, the larger problem becomes that those countries will then expect to make the decisions on military tactics and goals. This further politicizes the action and raises the risk that there will be a mismatch between the original authorizing resolution and actions taken on the ground. For example, the initial stages of 1992 intervention in Somalia involved almost exclusively U.S. troops. The mission therefore was seen by some as a U.S. intervention, with U.N. cover. In time, other countries' troops and officials

from arrived, and the U.N. was given responsibility and authority, but tensions then emerged between U.S. and U.N. officials. There remained heavy U.S. influence until U.S. troops were removed in 1993, an action that effectively meant the U.N. needed to end its involvement.

In the case of Libya, the U.N. authorized member states “acting nationally or through regional organizations” to use all means necessary. England and France led many of the initial strikes. The United States was active, although President Obama announced that U.S. troops would quickly assume a supporting role focused on intelligence, logistics, and search and rescue. A senior White House official noted that Obama always stressed that US involvement should be “days, not weeks” (Cooper and Myers 2011). On March 31, NATO took command of the international effort over Libya.

The shift to NATO control broadened the number of countries involved, but still left England, France, and the United States as the military and political leaders. At an April 14 meeting of Foreign Ministers from NATO Allies and non-NATO Partners, the alliance committed to using all necessary resources and operational flexibility to meet the U.N. mandate until all attacks on civilians and civilian-populated areas ended, the Libyan government had withdrawn all military and para-military forces to bases, and permitted immediate, full, safe and unhindered access to humanitarian aid for the Libyan people. These new goals did not directly contradict the original U.N. resolution, but they were a modification and showed that the power of decision on specific goals often goes to those who advance the troops.

The decisions on tactics also go largely to those doing the fighting. NATO forces bombed government forces near rebel strongholds, but also support facilities, command centers, and government offices. Within days of Resolution 1973’s approval, Chinese, Russian and other officials were calling for an end to bombing, noting that civilians were being killed in a mission

designed to protect civilians. They were later sharply critical of attacks that killed members of Gadaffi's family. In all, NATO aircraft flew nearly 10,000 strike missions. No foreign ground troops were used, but as fighting continued NATO effectively became the air force for the rebels fighting to overthrow the regime.

If future R2P missions are authorized, careful consideration should be given to who will actually lead the forces. The Libyan experience may lead some countries to want more explicit military goals and rules of engagement included in resolutions. Requirement for more details could further delay approval of resolutions as details are explored and debated. Countries putting their troops at risk may then chafe under the idea of others making military decisions for their soldiers. An alternative would be to pass resolutions more frequently, so that they can adjust to changing circumstances on the ground. This approach, though, would require repeated diplomatic work and would risk having missions terminated or significantly altered halfway through. All together, these practical difficulties of finding troops and setting goals and tactics reduce the overall likelihood of future R2P missions.

Appropriate Goals

A main goal of humanitarian intervention is to stop human rights violations and war crimes. R2P espouses a similar goal of protecting civilians from those crimes. How best to achieve this goal is not always clear. Outside forces could, for example, set up safe havens for civilians or establish corridors for humanitarian aid. There could be efforts to negotiate a ceasefire. There could be more dramatic actions to address the violations at their root by bringing regime change or defeat of one faction in a civil war. These clearly are very different types of actions, so thought should be given to which objective is most likely to be necessary and

the chosen objective should be made clear up front, so that those authorizing force understand what they are agreeing to do.

In the 1990s, the U.N. favored tactics at the less aggressive end of the spectrum in part because this lessened challenges to sovereignty and increased the chance of global support. Forces were sent in as “impartial” actors. Writing about these interventions, Richard Betts has made the strong case that impartiality is in fact a “delusion” (1994). Using force always will change the dynamics on the ground and thus political outcome, so it is never fully impartial. Further, Edward N. Luttwak (1999) has argued that the steps taken by outside observers at times may actually make situations worse in the long-run. Establishing safe havens encourages civilians to stay in a region and thus remain in harm’s way if the safe haven fails. Ceasefires do not resolve the underlying political dispute, so violence may restart in the future and, in the meantime, forces may regroup and rearm so that the second wave of violence is worse than the first.

Another problem with past interventions is that limited mandates, along with an underlying desire to limit casualties of intervening troops, encourages interveners to use the least force that could possibly solve the problem. This does prevent massive and disproportionate force, but often the least force turns out to be insufficient. For example, when U.N. troops were sent to Bosnia they had a limited mandate and light arms. They were unable to stop some of the worst massacres of the war at Srebrenica. In Kosovo, the decision was made and publically announced that ground forces would not be used. This led to NATO aerial bombing with major destruction and to increased violence on the ground as Serbian forces continued to control the territory.

In Libya, the tactics chosen resemble those of Kosovo. Airstrikes again proved to be militarily impressive, but an imprecise tactic as both civilians and fighters seeking to oust Gaddafi were killed and civilian infrastructure was damaged. On the ground, Libyan government forces were still able to inflict major damage, so the protection of civilians was far from perfect. The opposition groups also inflicted major damage and put civilians in jeopardy, yet there was no effort to stop their operations. Had ground troops been introduced, civilian deaths still would have occurred, but that tactic was ruled out not on the comparative cost-benefit to civilian protection or on military grounds, but rather on political grounds. The issue of blunted tactics became increasingly obvious as the war stretched from weeks into months and would have become even more glaring had it dragged into years of engagement. Ground troops may not be appropriate for every R2P operation, but if they are simply taken off the table, R2P will struggle to reach its goal of protecting civilians.

The Libyan case also highlights the issue of deciding the ultimate solution to protect civilians. Resolution 1973 made no mention of regime change and had that idea explicitly been included, it is certain the resolution would have faced a Russian or Chinese veto. Just days after the resolution, however, leaders such as David Cameron, Barack Obama and Nicolas Sarkozy began arguing that Gaddafi must be removed from leadership. From a practical perspective, the longer the fighting continued, the harder it became to imagine any result short of Gaddafi's removal. If he remained in power, there would have been a day when Gaddafi could reignite his efforts to crush the opposition. Also, with the statements of key leaders, NATO's reputation was increasingly tied to bringing about regime change.

Not surprisingly, countries wary of any intervention sharply opposed the drift toward the goal of regime change. In April, Russian Foreign Minister Sergei Lavrov argued, "The U.N.

Security Council never aimed to topple the Libyan regime. All those who are currently using the U.N. resolution for that aim are violating the U.N. mandate” (NATO 2011). Russian, Chinese and other diplomats suggested that they had been tricked into agreeing to an R2P mission only to see it become a regime change mission. Academics have argued that the shift from R2P to regime change alters the moral legitimacy of the action. James Pattison (2011) argues that Just War theory would support a R2P mission since there were sufficient reasons to act and there would be low costs. However, there was not sufficient cause for a Just War of regime change and that goal would bring such high costs that “this bar is unlikely to have been met in Libya.”

In many cases, R2P interventions will require regime change to be fully effective. Saying this upfront will make them more controversial and less often approved. Saying it only once operations have begun will lead to poorly coordinated actions and resentment. Ultimately, widespread international acceptance that certain situations require regime change is needed, but such acceptance is unlikely to emerge in today’s political climate.

Post-conflict Rebuilding

The ICISS report and subsequent U.N. documents have argued that R2P needs to move beyond prevention and action to consider rebuilding after interventions. As the report described it:

Too often in the past the responsibility to rebuild has been insufficiently recognized, the exit of the interveners has been poorly managed, the commitment to help with reconstruction has been inadequate, and countries have found themselves at the end of the day still wrestling with the underlying problems that produced the original intervention action.

Not only have these issues received much less academic and policy attention, but frustrations over troops deaths in cases such as Somalia, and over long-term commitments with no clear end dates such as in Bosnia and Kosovo, have meant that a main focus on post-conflict issues has been on developing exit strategies that seek to end interventions quickly. The lack of planning and the desire to rush out quickly must be reversed if R2P is to prove a long-term benefit.

The ICISS suggested focusing on the key areas of security, justice and reconciliation, and development. Security requires functioning police and armed forces that are loyal to the new government, properly trained, and willing to perform the tasks they are assigned. In many cases, security requires disarming and demobilizing factions. Justice and reconciliation requires a functioning judicial system. Countries also must consider options of trials, truths commissions, or amnesties for those involved in the previous government. Long-term stability requires economic development to provide jobs, services, and a viable tax base.

Libya is still in the early stages of rebuilding, but some points are emerging. An interim government and cabinet headed by Prime Minister Dr. Abdurrahim El Keib was formed. To assist the new government, the U.N. authorized the United Nations Support Mission in Libya (UNSMIL) in September 2011. NATO ended its operations in late-October 2011. This left security fully in the hands of the interim government. Steps have been taken to rebuild the military and police forces, but it will take time for them to be seen as fully functioning and legitimate. One major challenge the new government faces is disarming the factions and assuring control of what once were major and advanced weapons in the Libyan military's arsenal. A second major challenge will be finding an acceptable degree of federalism to please the region around Benghazi that has long felt neglected by Tripoli. These would be major

challenges for any government, but are especially daunting for an interim government, so international focus and offers of technical assistance must be ongoing.

The new government's efforts at justice began with a jarring start when Gaddafi was killed after his capture. Other revenge killings occurred, but they did not spiral out of control. The government, therefore, has begun to consider establishing a truth commission expressly modeled on those in Chile, Argentina and South Africa. The focus would be on fact finding and reconciliation rather than retribution. Trials, though, are likely for the leaders of the Gaddafi regime. Again the international world must keep focus on Libya so that fair standards are established, and must offer it technical assistance when requested.

Libya does have an advantage compared to many possible R2P cases, namely that its oil and large foreign assets provide it with major resources. Allocating those resources in an equitable way is, however, more of a challenge. Before the war, income distribution was extremely skewed. This reality will not suddenly reverse, so the new government will face the challenge of citizens with higher expectations, but no immediate prospects for long-term, equitable growth.

If Libya falls into political instability, violence, or economic stagnation, or if it requires major long-term international commitments of time and resources, it will be harder to convince the international community to support future R2P actions.

Libya's Implications for Syria and Beyond

At the beginning of the intervention in Libya, Obama and others stressed that the Libyan case was unusual and should not be seen as establishing set criteria and expectations for future

actions. The reality, though, is that since Libya was the first major use of force for R2P actions, this case will have major implications for the norm's future. For those favoring the development of R2P, the very fact of action in Libya with U.N. consent is an important milestone. However, the operation brought back many of the unresolved issues of the past and reinforced many of the critics' worries. It also showed the major challenges of implementation and rebuilding that have until now received less attention in R2P discussions. Overall, the use of R2P in Libya has decreased the likelihood of actions in Syria and elsewhere.

Russian officials have been the most explicit about the connection of Libya and Syria. They repeatedly have said that they will not accept a "Libya-style" solution for Syria. Putin recently wrote, "Learning from that bitter experience, we are against any U.N. Security Council resolutions that could be interpreted as a signal for military interference in the domestic processes of Syria" ("Russia's Putin" 2012). Russia has long-standing ties with Syria, sees those ties as a way to keep Russian influence in Middle East discussions, continues to sell Syria military supplies, and has a naval base in Syria. Russia's stance on many issues also has toughened as Putin reasserts power as the future President. Russia thus has both practical and philosophical objections to major action in Syria. Additionally, China has renewed focus on protecting sovereignty, so the two countries have used a double veto in the Security Council to block even mild punishments for Syria. India, South Africa and others also appear to have become more opposed to intervention as a result of events in Libya.

The Western countries, too, are wary after Libya, so there has been much less discussion of using force. When force has been raised as an option in the U.S. Senate, military officials have responded by explaining why military operations in Syria would be much more difficult than in Libya. Pragmatic constraints, not the levels of civilian deaths, carry the day.

The previously discussed unresolved issues about R2P have reemerged in discussions of Syria. Great focus has been put on sovereignty and non-interference. Russia's Lavrov has argued, "We never said President Assad remaining in power is the solution to the crisis. What we did say is that it is up to the Syrians themselves to decide how to run their country" ("Russia Won't" 2012). Lavrov also has noted that, "regime change is not our profession" (MacFarquhar 2012). Further, Russia and China have been hesitant to pass resolutions with any mention of punishment for fear that the process will end in calls for force and regime change. The Libyan case therefore seems to have sensitized key players to the point that major R2P action seems highly unlikely.

The Syria case also shows the ongoing issues around who can authorize action. In this case, the vetoes of Russian and China have blocked action, despite 13-2 votes in the Security Council. More subtly, the threat of vetoes has led to repeated efforts to water down resolutions, for example by taking out any mention of the word sanctions. This reinforces the fact that, with current U.N. rules, future R2P resolutions are likely to be blocked or to be so toothless that they put little additional pressure on states. Frustrated with the Security Council stalemate, those wanting action turned to the General Assembly. In February 2012, the General Assembly supported a resolution condemning human rights violations and calling for Assad to step down. The vote was 137-12 with 17 abstentions. The General Assembly resolution explicitly built off the ideas of the Arab League, another instance of regional groups becoming active in pushing for internal reforms. Neither the General Assembly nor the Arab League, though, has been able to convince Assad to end the violence or consider stepping down. These resolutions also have not convinced Russia or China to change their stance. General Assembly resolutions can indicate global preferences, but R2P actions depend on the politics of the Security Council.

Overall, it appears that if R2P is not dead, it is on life support. R2P prevention efforts may continue, although it is not clear that these efforts really need the term R2P to move forward. On the more dramatic idea of R2P interventions, key issues have never been resolved and recent events have only highlighted these issues and heightened critics' fears. The terms have changed from humanitarian intervention to R2P, but the debates are largely the same. In the wake of the Libyan case, interventions are likely to dwindle much as they did for the first decade of the 21st century following the backlash against the humanitarian interventions of the 1990s.

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