

## **RESPONSIBILITY TO PROTECT (R2P): PANACEA OR TROJAN HORSE FOR INTERVENTION?**

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The international system is characterized by increased instability, the sharpening of deadly conflicts, mass atrocities and the emergence of transnational extremists armed groups such as the Islamic State of Iraq and Syria (ISIS).

A century since the systematic slaughter of 1.5 million Armenians, and over half a century since 6 million Jews were killed in the Holocaust, Human Rights Investigators for the UN discovered recently that the ISIS's persecution and killings of Yazidis, a religious minority in Northern Iraq, appeared to be clearly orchestrated constituting a probable genocide.

On 8 January 2015, UN Secretary General (SG) Ban Ki Moon delivered to the General Assembly his views on opportunities and challenges for the coming years. Reminding that 2015 marks ten years since the endorsement of Responsibility to Protect (R2P), he identified several “hot spots” pushing “response capacities to the limit”, notably Syria, the Central African Republic, Mali, South Sudan, Democratic Republic of Congo, Iraq, Israel/Palestine, and Nigeria. “In too many crises the International Community (IC) does not act on early warning signs, or fails to match rhetoric with responses”. The next report on R2P will focus on ways to operationalize the norm and reclaim the people-centered focus that made the endorsement of the principle possible in the first place.

### **Historical accounts on R2P**

In the early 17<sup>th</sup> century, Grotius introduced the modern idea of natural rights of individuals, postulating that everyone has to accept that each person as an individual is entitled to preserve himself. But it was in 1864 that the notion of protecting human lives and preventing large scale massacres became effective with the establishment of the International Red Cross. After World War II, the UN Resolution 260 of 9 December 1948 adopted the Convention on the Prevention and Punishment of the Crime of Genocide as a direct response to the horror of the Holocaust. Nevertheless, quite too often in the second half of the past century, crimes against humanity (as in Rwanda and in the Balkans) have been condemned but, as a new subsequent slaughter occurred, little was then done to prevent successive atrocities.

In the past decade, the International Community (IC) has developed a new terminology to address such atrocities, the Responsibility to Protect (R2P), in the hope that adequate tools and resources would be made soon available.

R2P is a new and evolving concept in international relations that addresses the failure of states – whether unable or unwilling – to protect their population from mass atrocities.

In 2005, R2P was approved by the UN and enshrined in the 2005 World Summit Outcome document, whose paragraph 138 details the three pillars of the R2P doctrine (1). In effect, most countries are willing and able to protect their citizens (Pillar I); a few countries are willing but unable (Pillar II, thus needing assistance to protect their citizens) while some oppressive regimes have not only been unwilling to protect their citizens but have also engaged their military and police forces in atrocity crimes, thus requiring Pillar III intervention.

On 22 February 2011, the Global Centre for R2P called upon UN to protect the population of Lybia from mass atrocities: the UN Security Council adopted Resolution 1970 on 26 February 2011 (arms

embargo) and, successively, on 17 March 2011, Resolution 1973 authorizing Members States “to take all necessary measures to protect civilians and civilian populated areas under threat of attack”.

## **R2P as of today**

The R2P concept is still very much a developing norm and its acceptance varies according to the needs of each organization.

Being a norm and not a law, it is nevertheless firmly grounded in international law, especially the laws relating to sovereignty, peace and security, human rights and armed conflict (2). R2P may be considered an expression of a widespread *opinio juris*, relevant to the creation of an international custom; the other element of custom, *diuturnitas*, that is to say a general practice, however, is still lacking.

After the resort in Libya, in 2011, of the R2P doctrine, its wavering over Syria may offer several valuable Lessons Learned (LL) which may help facilitate development of a more realistic approach to protecting international human rights.

The first LL is that states still react differently to violations of humanitarian norms than they do to violations of security-related norms: they are much more likely to assume an aggressive and possibly interventionist posture when it comes to security norms.

The second LL is that many states (including Russia and China, permanent UNSC members) are against intervention into the territory of sovereign states (which could lead to regime change): this is why Russia and China, feeling cheated by the Libya intervention (3), only approved the most narrow disarmament agreement, completely ignoring the underlying humanitarian crisis in Syria. The third LL is that civilians can still be killed: simply putting a new humanitarian or moral doctrine like R2P in place cannot solve the problem of parochial world politics.

These LL clearly show that expectations regarding humanitarian intervention need to be significantly tempered, but they also point to practical steps that can be taken to help revitalize the world's desire and ability to protect human rights.

Most importantly, the damage caused by the over-zealous Libya intervention must be addressed by the adoption of “baby steps”. Russia and China willingness to be open to some limited form of humanitarian intervention may be achieved once trust is restored and clear mechanisms to keep interventions limited and transparent are developed. The UN can help by more clearly categorizing various types of global norms.

## **R2P and Genocide**

The basis of R2P is that all humans should be protected from the four mass atrocities crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity. But what are the legal, political, cultural, economic and historical conditions leading to genocide, the worst of crimes?

History, politics, economics, legal systems, and culture play a role in genocide but don't cause it. This is why we cannot anymore portray genocide as having occurred because people hate those of a different faith, background or race, thus giving impunity to governments or to politicians looking for excuses to not take action.

Genocide does not arise in a vacuum, being preceded by patterns/processes of discrimination/dehumanization facilitated by the silence of an International Community which, adding insult to injury, believes that preventing or recognizing a particular genocide is not in its economic or political interest.

As for perpetrators, they don't act in isolation: there are plenty of ordinary people who - whether because of careerism, score settling, fear of retribution, or promise of financial gain – will run the camps, pack the gas chambers, and join the firing squads.

To prevent future genocides we must cultivate a culture where the protection of any group of people from genocide is in everyone's best interests.

### **R2P's Pillar III**

R2P's Pillar III appears politically divisive and conceptually weak. If R2P is to become a more influential factor in international decision-making on response to intrastate humanitarian crises it must respond to several major challenges. The most immediate obstacle to further operationalization of Pillar III is a lack of trust between UNSC members in the aftermath of Libya. The release of Brazil concept on “Responsibility While Protecting” (RWP) is an important first step towards restarting the discussion on R2P. RWP, which may be seen as an attempt to bridge the gap between Western powers and R2P sceptics as Russia, China and India is intended to complement R2P by remedying its two major conceptual weaknesses.

The first one is the lack of objective criteria to guide UNSC decision-making in resorting to military force: RWP proposes a set of principles including use of force as last resort, proportionality, and likelihood of success.

The second shortcoming is related to the relationship between the means and ends of military interventions: there is a need for general clarification of whether and how R2P intervention can be carried out effectively without also resulting in the removal of the government. RWP suggests that the UNSC establish monitoring and compliance mechanisms to assess how mandates are interpreted and implemented. Developing oversight of Council-authorized military interventions would reduce the potential for R2P to be used as a pretext for the pursuit of other strategic objectives.

The UNSC timely and decisive authorization to intervene in Libya was triggered by an unusual alignment of political and factual circumstances. The post-Libya backlash against R2P was evident in the UNSC inability to agree on any effective action in Syria: this is why decisive UNSC responses, as in Libya, are likely to remain the exception. This doesn't mean that R2P cannot develop more effectively in the future: at present it is unclear whether R2P current challenges are a temporary pain or a serious sign of terminal illness.

### **Pro and Cons of R2P**

Put simply, R2P is a doctrine calling for fundamental alterations to our concepts of national sovereignty and security. R2P sees sovereignty as conditional upon state's willingness to protect its own people.

There is a considerable number of thinkers and decision makers backing R2P which is also a powerful and effective political lobby group. Various think-tanks, research institutes and international organizations are advocating the growth and adoption of R2P principles.

Jennifer Welsh, current UN Special Adviser on R2P, has emphasized that the focus of her tenure is mainstreaming the R2P norm while simultaneously turning an emphasis towards Pillar II, namely

the International Community's responsibility to protect states in growing capacity to better protect their citizens from crimes.

Louise Arbour, of the International Crisis Group, said that R2P is the most important and imaginative doctrine to emerge on the international scene for decades.

Anne-Marie Slaughter from Princeton University has called it the most important shift in our conception of sovereignty since the Treaty of Westphalia in 1648.

On the opposite side, many critics have focused on the risk that it creates a “moral outrage and hysteria”, a dangerous Western “right to intervene” through humanitarian interventions often concealing the true strategic aim, thus becoming another name for proxy war. They argue it is either too ambitious, a new form of colonialism with a fancy name, or it has been significantly watered down as it was evident during the Libyan crisis in 2011, when regime change, rather than civilian protection and moral principles, was a priority. In particular, India's UN Ambassador Singh Puri stated that the Libyan case gave R2P a bad name. “Arms were supplied to civilians without any consideration of its consequences, a no-fly zone was established only for flights in and out Tripoli and targeted measures were implemented insofar as they suited the objective of regime change”. Russia and China both issued statements to the effect that in their opinion R2P had been abused by the US as a pretext for regime change and that experience would make them extremely suspicious of any future Security Council Resolution invoking R2P.

Advocates of R2P, in contrast, find in the Libyan episode a vindication, signaling that humanitarian intervention does not require state consent and asserted the central role of the UNSC.

Libya is, anyway, a clear warning of what happens when interventionism is only a mid-summer night dream (taken half way without a long-term commitment). Invoking morality has never been a compelling argument and the thought of committing to interventions with no clear end game other than realizing human security is irrational.

## **Conclusions**

Beyond operational and political questions, military intervention involves international law and legal issues. Russia, China and India are particularly worried that it could create a precedent for the International Community to have a say in how they treat their own minorities.

The willingness to use armed forces is also inevitably influenced not only by the desperation of the affected population but also by geopolitical factors, including the relevance of the country to the world community, regional stability, and the attitudes of other major players.

US is limiting its action to aerial bombing not of Syrian armed forces but of ISIS forces fighting against the government and any opponent rebel faction in Syria. No ground troops will be sent: after the backlash in Afghanistan and Iraq and the consequent heavy death toll, the US now prefer to resort to diplomatic pressure, stressing the role of regional actors and neighbors.

It is necessary to prevent unrealistic expectations of R2P, rebuilding trust among the great powers, and permitting greater understanding of options for dealing with humanitarian crises: there are no silver-bullet solutions to the complex reality of intrastate violence. A response must be tailored to each individual case. Prevention is always the better policy: timing is everything and often, the earlier the International Community acts decisively, the better.

Those who point to a global deadlock between “Western” interventionists and “non-Western” stalwarts of sovereignty as a cause of lack of progress fail to cope with the real challenges of R2P which is both a national and international responsibility.

To implement R2P is necessary to protect both responsibly (by preventing abuses by great powers) and effectively (by developing policy instruments, assessing risks, and identifying the least of evils in every particular situation). Responsible policy-making requires all the stakeholders to design policies based on evolving knowledge, risk assessment, reflection and learning.

We have to avoid that callous and Machiavellian political leaders, spineless and cold-hearted UN officials and public opinion can again maintain that the fact that nobody saw a reason to stop the murder is everyone else fault.

Many cite the famous Edmund Burke quote “The only thing necessary for the triumph of evil is for good men to do nothing”.

For too long the world has stood by in the face of atrocities. R2P urges an end to impunity, inaction and amnesia regarding atrocities, so that there may be fewer moments when the world looks back and asks “how could this have happened?”

- (1) The three founding Pillars of R2P are:
  - I. A state has a responsibility to protect its population from genocide, war crimes, crimes against humanity, and ethnic cleansing.
  - II. The International Community (IC) has a responsibility to assist the state to fulfill its primary responsibility.
  - III. If the state manifestly fails to protect its citizens from the four above mass atrocities and peaceful measures have failed, the IC has the responsibility to intervene through coercive measures such as economic sanctions. Military intervention is considered the last resort.
- (2) R2P provides a framework for using tools already existing (mediation, early warning mechanisms, economic sanctions, and UN Chapter VII powers) to prevent mass atrocities. Civil society organizations, states, regional organizations, and international institutions all have a role to play in the R2P process. The authority to employ it as last resort and intervene militarily rests solely with the UNSC.
- (3) The Libya mission was authorized by the Security Council on grounds of purely humanitarian norms (R2P doctrine). But it quickly shifted from the narrow protection of civilians in threatened cities like Benghazi to one of broader regime change, thus creating a new red line for many other countries such as India, Brazil, Arab League states, now contrary to more R2P-style missions authorized by the UN.