

The Responsibility to Protect and Libya: Uncovering the Achilles' heel of R2P-based intervention

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ABSTRACT

The concept of responsibility to protect (R2P) has been highly criticized after its use concerning the intervention in Libya in 2011. However, this paper shows that although the criticism from some states is justified, this does not negate the overall value of R2P. On the contrary, securitization theory shows that the identification of R2P's necessity and relevance was successful in the case of Libya – it is the implementation i.e. mobilization that is still flawed and will need further demarcations and delimitations if the principle is to be used effectively in the future.

Keywords

Responsibility to Protect, securitization theory, Libya, interventionism, United Nations Security Council

INTRODUCTION

“It takes a village to raise a child.” This proverb, of which the origin remains debatable, resonates with people all over the world. It might even be seen as a principle that is universally applicable to all families. A child is not just raised by its parents, but also by the community in which it grows up – multiple factors determine how it will develop. Similarly, the proverb serves as an analogy for the role of the state in protecting its inhabitants. Mirroring the role of the parent, the state is responsible for ensuring the safety of its own citizens. However, if the state is unable to do so, surrounding states – the village – should assist the state in fulfilling its responsibilities to sufficiently provide protection for its people – raising the child. Therefore, in the case that a state has failed to protect its people or might be the cause of the disruption of safety itself, the regional or international community should intervene directly. The call for such a collective responsibility became increasingly urgent after failures to act led to tragedy in Rwanda, Kosovo and Bosnia during the nineties, and resulted in the adoption of the phrase Responsibility to Protect through the 2005 World Summit¹.

Since its conception, there have been a handful of resolutions that have made specific reference to the principle of R2P. Yet it has been applied sparsely and diversely, which has raised questions on how the principle should be operationalized and implemented. Most notably, the novel use of R2P to justify a military intervention in Libya during the 2011 Arab Spring has resulted in polemical debates that lack consensus on inter alia the political goals of the actors involved, the interpretation of Resolution 1973, as well as its long-term effects on the credibility of R2P. Therefore, I aim to elaborately assess

and evaluate the application of R2P to the international intervention in Libya in 2011.

THE THREE PILLARS OF R2P

R2P is characterized by a so-called pillar structure. It was stipulated in a report by the SG that the first pillar is concerned with state's own responsibility to protect its population from ethnic cleansing, war crimes, crimes against humanity and genocide. The second pillar requires the international community to assist other states in fulfilling its responsibility under the first pillar, by means of e.g. capacity-building missions. The final pillar attributes the responsibility to the international community to respond timely and decisively when a state manifestly fails to protect its population from the abovementioned mass atrocities – and peaceful measures have failed. A variety of tools can be used as coercive measures, while a military intervention is considered a last resort and has to be authorized by the United Nations Security Council [UNSC]. The framework does not purport that the pillars are to be employed sequentially or temporally. This, in conjunction with the abstract ‘timely and decisive’ response, has not contributed to a clear view on how to apply R2P in practice – leaving the debate open on what is to be understood under a successful R2P-based intervention.

Since its controversial invocation in the case of Libya, academic research has focused mostly on questions regarding its legitimacy, its necessity, its success or its consequences. Yet, there is not much work on synthesizing these various aspects by looking at the process. By asking how the principle was applied, rather than why or if it has been applied successfully, the gap between the necessity and legitimacy, and the perception of the operation as either a success or failure can be bridged. It allows for a thorough understanding of what has shaped these different perspectives and can therefore be of relevance to further development of R2P both theoretically and practically.

SECURITIZATION THEORY

Securitization theory focuses on the process that elevates or transfers an issue from one realm to the other, subsequently identifying the factors enabling the issue to become securitized. Important indicators are (1) what issue is being presented as a security issue i.e. the referent object, (2) who is framing the issue as such i.e. the securitizing actor (3) for whom is the narrative being told i.e. the audience, and (4) what is the goal and under what conditions is it to be reached. In the case of Libya, the issue being presented as a security issue was the threat of mass atrocities, i.e. crimes against humanity being perpetrated by Qadhafi's regime. The securitizing actors were the

multiple UNSC Member States and regional organizations who believed in the necessity of intervention, therefore trying to achieve UNSC authorization and invoke R2P. The audience were those Member States who were hesitant towards the employment of collective action. The focus on the UNSC and regional organizations is due to the existing guidelines of implementing R2P, which specifically state that a R2P-based military intervention should be authorized by the UNSC. Moreover, regional organizations are to be consulted as an integral part of invoking R2P. Whereas Buzan et al. contend that securitization is achieved through the speech act alone, Roe argues that the act of identification i.e. rhetorical securitization, and mobilization i.e. active securitization should be differentiated as it allows for separate analyses of both acceptance of and response to the securitized issue. This conceptualization is preferable considering its specificity, which adds another dimension. It allows further examination on the complexity behind the differing levels of acceptance concerning the ramifications and actual implementation of UNSC Resolution 1970 and 1973.²

Act of identification

The 2011 crisis in Libya was unexpected, as it was considered stable in comparison to its neighboring countries with a high GDP and literacy rate.³ Yet as soon as the first reports surfaced on violence being perpetrated by the government forces of Qadhafi, countries were quick to voice their concerns, as shown by the high attendance numbers of the UNSC briefing on the 22nd of February.⁴ SG Ban-Ki Moon repeatedly framed Libya in terms of responsibility to protect. He stated that he believed it was “the first obligation of the international community [...] to do everything possible to ensure the immediate protection of civilians at demonstrable risk.” He then continued on to emphasize that the international community had the responsibility to “take protective action in a collective, timely and decisive manner.”⁵

The Council adopted a resolution that urged Libya to “meet its responsibility to protect its population”, and noted that the ongoing violations of human rights “may also amount to crimes against humanity”.⁶ The fact that regional organizations had publicly condemned the violence and called for international action added to the credibility of the securitizing actors. Subsequently, the UNSC drafted a resolution that would invoke the principle of Responsibility to Protect and focus on providing humanitarian assistance as well as safety and security for the Libyan population. Yet, the Organization of the Islamic Conference [IOC] as well as the African Union [AU] explicitly stated that although they saw need for intervention they did not support military intervention as they respected the territorial integrity and sovereignty of Libya, and the principle of non-interference.^{7 8}

Resolution 1970

On the 26th of February, the UNSC adopted Resolution 1970 unanimously – a unique achievement considering its expansive content. It was heavily embedded in R2P language, stressing first the responsibility of the Libyan state to protect its own population in correspondence with

R2P’s pillars. The resolution demanded an immediate end to all violence and urged the Libyan authorities to take their responsibility in safeguarding human rights. For the first time, it referred the case of Libya to the International Criminal Court [ICC] without awaiting prior investigations to assess the allegations. This is interesting considering 5 of the 15 UNSC members are not members of the Rome Statute, yet all voted in favor of the referral regardless. India pointed out that a letter written by the Permanent Representative of Libya asking for such a referral was decisive in its final positive vote.

Furthermore, Resolution 1970 authorized the enforcement of a total, impartial embargo in very comprehensive terms. It also allowed neighboring countries to monitor the inflow of cargo to check if weapons were being shipped amongst other goods. A travel ban was imposed, as well as a freeze of assets, employing all available – excluding military – sanctions within the scope of the UNSC. The resolution also underscored the importance of supporting and encouraging humanitarian assistance and relief agencies stationed in Libya.⁹

Resolution 1973

Resolution 1973 on Libya was adopted on the 17th of March, 2011 with 10 votes in favor and 5 abstentions.¹⁰ It emphasized that Libyan authorities had the first responsibility to protect the civilian population, with the first operative clause demanding an immediate stop of attacks against civilians. Operative clause 4 authorized the use of force, i.e. ‘all necessary measures’, although it explicitly rejected the deployment of ground forces. Operative clause 6 dealt with the no-fly zone and constituted a prohibition on all forms of aviation, rather than only military aviation. However, the main goal of the no-fly zone above Libya was to protect civilians, not to provide humanitarian relief.¹¹ Accordingly, the mandate stretched beyond neutralizing Qadhafi’s aerial capacities, and instead formed a tool to protect civilians primarily.¹²

Russia and China’s abstentions as permanent members in essence meant they were not opposed to the plan. As Medvedev stated, he did not consider Resolution 1973 to be wrong, rather he stated that “overall this resolution reflects our understanding of events in Libya too, but not completely.”¹³ China, although recognizing the dire situation in Libya, and expressing its concerns over possible mass atrocities, maintained to have “serious difficulty with parts of the resolution.”¹⁴ Russia had already stated after Resolution 1970 that it was not in favor of more coercive measures. It maintained that the best way to ensure safety and appropriate protection of civilians was the establishment of a ceasefire, thereby emphasizing the need for a political solution. Moreover, it expressed concerns with the new provisions, arguing that they went beyond the requests made by the League of Arab States [LAS].¹⁵ The request of the LAS and other regional organizations played a crucial role in the securitizing process. The LAS submitted a document to the UNSC that summarized its conclusions of the Special Session held in Cairo on the 12th of March. It stated specifically that a no-fly zone was to be imposed immediately.¹⁶ The Gulf Cooperation Council had already convened on the 7th of

March, and released a statement that demanded the UNSC to take “all necessary measures to protect civilians, including enforcing a no-fly zone over Libya.”¹⁷ The value of these resolutions was mentioned by both Russia and China, with the latter stating it “attached great importance to the relevant position by the 22-member Arab League on the establishment of a no-fly zone over Libya.”¹⁸

The other three abstaining states were Brazil, Germany and India. Brazil’s decision followed from mainly pragmatic considerations, whereas India wanted to wait for more official reports before taking military action. Germany’s abstention came as a surprise to its NATO-allies, but did so from a political commitment to refrain from using military force as a foreign policy tool.¹⁹

Act of mobilization

Soon after its adoption it became clear that the resolution was problematic regarding several aspects. It has been suggested that some NATO-allies and most notably Qatar have covertly aided rebels, in an attempt to support the political objective of an eventual regime change.²⁰ They derived the authority to do so from the ambiguous phrasing of paragraph 4 which seems to allow arms trade between countries and rebels if deemed conducive to ensuring protection of civilians by the individual state. Then USA Secretary of State Hillary Clinton stipulated that it was a specific measure falling under the ‘all necessary measures’ paragraph.²¹ However, this view was disputed by Russia, China and the AU as a whole, who substantiated their restrictive reading with prior interpretations of UN embargoes.

Another contested issue was its mandate. Resolution 1973 encouraged and underscored all initiatives focused on negotiating and settling the conflict by political means. Nevertheless, according to a co-ed by Barack Obama, Nicolas Sarkozy and David Cameron, the prospect of protected Libyans could only be guaranteed with the ousting of Qadhafi.²² Although Resolution 1973 does not state that regime change is an objective, it does not explicitly reject it as a goal either. The resolution does not provide any monitoring or evaluative measures that are to be used in assessing the scope and appropriateness of the missions aimed at protecting civilians. Therefore, the conception of what entailed necessary protection was not universal, with one side arguing the removal of Qadhafi was indispensable, and the other view stating the military measures were not to coincide with political objectives such as regime change and should remain defensive in its nature.

Operation Unified Protector

The problematic nature of its interpretation became apparent during its actual implementation, which was done through NATO’s Operation Unified Protector [OUP]. Right after its commencement, countries started to object the scope of the air strikes and bombings taking place – arguing them to be too extensive and serving a political rather than a military objective i.e. regime change. LAS SG Amr Moussa stated that “[w]hat has happened in Libya differs from the goal of imposing a no-fly zone and what we want is the protection of civilians and not bombing other civilians.”²³ It was clear from comments made both

by NATO as well as the NATO-allies that although it stated that the strikes served mere military and no political objectives, it also argued that an eventual removal a long-term political solution would have to include the removal of Qadhafi.²⁴ The already hesitant Brazil, Russia, India, China and South-Africa [BRICS] joined Moussa in his critique and expressed their doubts in a joint declaration, reiterating that they felt the “use of force should be avoided.”²⁵

NATO maintained that it did not exceed the mandate, as the strikes were necessary to protect civilians under threat of attacks from the Libyan authorities – yet reports started to surface that NATO’s bombing strikes were resulting in additional casualties. A Commission of Inquiry later concluded that although NATO had indeed made casualties, it had not done so purposefully and had aimed to minimize this risk by deploying sophisticated technology and the most advanced weaponry.²⁶ Despite the criticism, a resolution was adopted that extended the NATO mandate for an additional three months in September 2011. This underscores that the problematic character of the military mission is not intrinsic to the mandate of the mission, but rather to its excessive expansive implementation. What divides the two understandings, is whether or not regime change was indeed indispensable to the responsibility to protect civilians.

CONCLUSION

If the community wants to continue to move forward with the principle of R2P, it is of the utmost importance to reflect on its use in the past and to learn from previous issues or controversies, particularly those surrounding the intervention in Libya. This thesis has answered the question that is at the center of the debate, i.e. “How was the principle of Responsibility to Protect applied to the intervention in Libya?”

By using securitization theory, I have critically assessed the contextual background of the crisis in Libya preceding the intervention, and causal key events during the international intervention. Subsequently, it can be concluded that R2P was applied to the situation in Libya during the stage of securitizing the issue and instilling a sense of necessity to act. The application of the principle is twofold; (1) through identifying i.e. invoking R2P in the UNSC resolutions as well as the official statements by relevant regional organizations such as the LAS; (2) through the mobilization i.e. implementation of the no-fly zone, the embargo and ‘all necessary measures’ by the NATO to protect civilians.

The criticism that the intervention has received should not be nullified. Indeed, although its initial application was seen as justified and necessary, its eventual implementation remains controversial and is not without mistakes. It is clear that the mandate was exceeded and more prudent measures could have been construed. From a securitization perspective, it is therefore apparent that the application of R2P was successful with regards to its identification and subsequent acceptance by the audience, yet the implementation of it was not – or at least not by all involved agents and audiences.

Consequentially, this paper has shown that R2P was applied with the idea of protecting civilians in Libya, yet the understanding of how this was best achieved – the scope of the measures – differed. It shows that general consensus on this crucial issue lacks; it is the “Achilles heel” of R2P. The lack of demarcations and delimitations function as an obstacle to the full application of R2P and as such, interference will remain dependent upon the willingness of select actors, motivated by self-interest. If the principle is to be used and integrated effectively in policies worldwide, the conditions under which certain measures are applied will have to be clearly defined in the

future and should be included in the resolution itself. The development of such a monitoring framework that links theory with practice through continuous feedback, will prove instrumental in ensuring clear and successful implementation.

ROLE OF THE STUDENT

Saskia Postema was an undergraduate student working under the supervision of Sami Faltas when the research in this report was carried out. The topic was proposed by the student, and narrowed down accordingly by the supervisor. The design, writing, as well as formulation of conclusion of the research were done by the student.

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