RtoP Alive and Well after Libya

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With the exception of Raphael Lemkin's efforts on behalf of the 1948 Genocide Convention, no idea has moved faster in the international normative arena than "the responsibility to protect" (RtoP), which was formulated in 2001 by the International Commission on Intervention and State Sovereignty (ICISS).[1] Friends and foes have pointed to the commission's conceptual contribution to reframing sovereignty as contingent rather than absolute, and to establishing a framework for forestalling or stopping mass atrocities via a three-pronged responsibility—to prevent, to react, and to rebuild. But until the international military action against Libya in March 2011, the sharp end of the RtoP stick—the use of military force—had been replaced by evasiveness and skittishness from diplomats, scholars, and policy analysts.

The increasing and, at times, virtually exclusive emphasis on prevention in the interpretation of RtoP was politically correct but counterproductive. Libya changed that. Security Council Resolution 1973 authorized prompt, robust, and effective international action to protect Libya's people from the kind of murderous harm that Muammar el-Qaddafi inflicted on unarmed civilians early in March 2011 and that he has continued to use against the "cockroaches" who oppose him (his description eerily echoing the term used in 1994 by Rwanda's murderous regime).

Mustering cross-cultural political will to protect civilians is never going to be easy, but Libya may be pivotal. As the situation in Tripoli and across the wider Middle East unfolds, acute dilemmas will remain for decision-makers and humanitarians.[2] If the Libyan intervention goes well, it will put teeth in the fledgling RtoP doctrine. Yet, if it goes badly, critics will redouble their opposition, and future decisions will be made more difficult—for one thing, because the decibel level of claims by contrarians about RtoP's potential to backfire through "moral hazard" will increase.[3] For the moment, however, the usual spoilers are on the defensive.

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While the ICISS certainly did not consider the "prevention" prong of RtoP an afterthought, readers of *Ethics & International Affairs* should nonetheless recall the Canadian government's primary motivation for convening the group: to break new ground about how to react effectively in the face of a conscience-shocking situation. The commission's comparative advantage, at least in relation to other blue-ribbon groups, was its narrow focus on what everyone routinely used to call "humanitarian intervention" prior to the coining of the "responsibility to protect."[4] Widespread receptivity to the ICISS's recommendations reflected its demand-driven character, not just the supply of idealism from like-minded normative entrepreneurs. States sought guidance about intervening across borders to protect and assist war victims. The inconsistent and inconclusive military humanitarianism of the 1990s was hotly debated, as readers of these pages will recall.

The ICISS sandwiched military force between the sliced white bread of prevention and postconflict peacebuilding. With its more popular elements on either end of the RtoP continuum, the option of military intervention to protect human lives became somewhat more palatable than it had been, especially in the global South. Nonetheless, sovereignty remained paramount, and the deployment of military force was objectionable to many critics. RtoP remained contested.

As he has done on too many issues, UN Secretary-General Ban Ki-moon sought to avoid controversy. His January 2009 report emphasized "three pillars" for RtoP—state responsibility, capacity building, and international responses—a formula that aimed to finesse the third pillar, which includes using or threatening to use military force to stop mass atrocities.[5] This evasiveness continued in his July 2010 report on early warning[6]—as if better information and the establishment of a joint office were the real challenges or the real solution to making the words "never again" more than a slogan. The need for greater prevention is indisputable, but it is hard to fathom why UN officials and some scholars—such as Alex Bellamy in the pages of this journal—find it "reasonable" to view RtoP "as a policy agenda in need of implementation rather than as a 'red flag' to galvanize the world into action."[7] Moreover, as William Zartman points out, it is curious that "discussions of prevention continually return to the need for early-warning systems, when the real need is for an authoritative list of proximate triplines and for a determination to act upon them."[8] Indeed. As James Pattison has pointedly reminded us, "humanitarian intervention is *only one part* of the doctrine of the responsibility to protect, but . . . it *is* part of the responsibility to protect."[9]

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Over the last decade, we have witnessed not too much but rather too little armed force to protect human lives. Since Kosovo in 1999, other than a small British deployment in Sierra Leone in 2000 and a smaller essentially French one in eastern Congo in 2003, there has been no substantial multinational effort to protect a people from their own government until Security Council Resolution 1973 authorized "all necessary measures" against Libya to enforce a no-fly zone and to protect civilians. Except for the bullish but as yet unused Article 4(h) of the African Union's Constitutive Act, the hard edge of RtoP has been ignored.[10]

The anguished hue and cry about RtoP being a ruse for Western imperialism is disingenuous but resonant in parts of the global South. The result, as Simon Chesterman summarized some time ago, is "the overwhelming prevalence of inhumanitarian nonintervention."[11] Will Libya be an aberration? Is the assertive liberal interventionism of the 1990s ancient history? At that time "sovereign equality looked and smelled reactionary," wrote Jennifer Welsh in this journal a year ago. "But as the liberal moment recedes, and the distribution of power shifts globally, the principle of sovereign equality may enjoy a comeback."[12] Let us hope that Libya proves her wrong. At the very least, the current military effort reinforces Jarat Chopra's and my assertion in a 1992 article in this journal that "sovereignty is no longer sacrosanct."[13]

In order for preventive measures to be considered credible, negotiations to be successful, and the ultimate safety of civilians to be ensured, military force is occasionally necessary—and always the threat to use it. Indeed, the mere consideration of military action in Libya undoubtedly made the initial decision on other Chapter VII measures easier: Security Council Resolution 1970 included an arms embargo, assets freeze, and travel bans, and referred the case to the International Criminal Court. These compromises were robust (for the UN at least) and were agreed to immediately and unanimously in late February 2011. Simultaneously, for the first time the Human Rights Council referred to the responsibility to protect, in Resolution S-15/1, which led to General Assembly Resolution 65/60 suspending Libya from that council.

Despite widespread opprobrium and numerous UN resolutions, the collective hesitancy in 2010–2011 to oust Laurent Gbagbo and install Alassane Ouattara in Côte d'Ivoire provides a contrast to Libya and illustrates what happens in the absence of a serious military option. The departure of Gbagbo in April followed a half year of dawdling as Côte d'Ivoire's unspeakable disaster unfolded. Three times in March 2011 alone the Security Council menaced the loser of the

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November 2010 elections and repeated its authorization to "use all necessary means to carry out its mandate to protect civilians." But the UN soldiers on the ground did little until the early-April 2011 action led by the 1,650-strong French Licorne force. The international unwillingness to use significant armed force abetted Gbagbo's intransigence. Was it really necessary to allow war crimes, crimes against humanity, a million refugees, and a ravaged economy to continue so long? Could and should international military action not have taken place much earlier?

Military humanitarianism is a necessary, albeit insufficient, component of the responsibility to protect. Those seeking to make "never again" more than an aspirational slogan should consider the demonstrated limits of moral outrage and diplomacy not just in Côte d'Ivoire but also in Darfur, the Democratic Republic of the Congo (DRC), and Zimbabwe.[14] In the face of massive murder and displacement in Darfur, the Security Council's dithering since early 2003 mirrors its inability to address the even longer-running woes and the millions of dead in the DRC. Mediocre mediation in Zimbabwe reflects the disparity between lofty multilateral rhetoric and the lack of meaningful international political will to prevent or halt atrocities.

Let us be clear: Military force is not a panacea, and its use is not a cause for celebration. However, in situations of ongoing mass atrocities it is a crucial option, as the ICISS recognized. Despite the original conceptualization of the responsibility to protect, armed force was absent from the international RtoP agenda until Libya. This fact substantiates the evaluation by the Overseas Development Institute that the 2005 World Summit "set a high-water mark of rhetorical concern . . . but opinion is highly divided on what responsibility this actually implies for international actors."[15] Or as Gary Bass has put it, "We are all atrocitarians now—but so far only in words, and not yet in deeds."[16]

Is it possible to rediscover the rhetorical passion and commitment to humanitarianism that followed our collective *mea culpa* after the tragedy in Rwanda? Washington's and London's disingenuous "humanitarian" justifications for the Iraq war were almost a conversation stopper for RtoP. In addition, the former practice among senior UN officials of mounting the bully pulpit even before major powers and regional organizations have pronounced themselves on a crisis issue has all but disappeared. As a result, the view that there was insufficient military action undertaken to halt the murder of some 800,000 Rwandans became unfashionable. Many states and the diplomatic context at the United Nations shifted in favor of

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the critics of the so-called new militarism—a minority in the global South who condemned RtoP as the Trojan Horse of Western neoimperialism. In reality, however, until the international action in Libya, RtoP often constituted an alibi for avoiding military force for human protection.

Clausewitz is the usual point of departure for those who argue that diplomats should step aside when negotiations fail and let soldiers pursue politics by other means. However, the responsibility to protect requires that diplomats succeed in securing agreement either on preventive measures or on the deployment of military force. In the latter case, diplomats stand aside after they have succeeded, and soldiers do what diplomats cannot—halt mass atrocities. Today, the main challenge facing the responsibility to protect is how to act, not how to build normative consensus. The shibboleth of Western imperialism is a distraction when there are foundations across the global South on which to build a case for robust humanitarian action;[17] in this regard, the support of the Arab League and the African Union for outside intervention in Libya is noteworthy and perhaps a harbinger.

Perhaps Libya will make policy- and decision-makers realize that between 1999 and 2011 we witnessed not too much military intervention to protect human beings but rather not nearly enough. The international action against Libya was not about bombing for democracy, sending messages to Iran, implementing regime change, keeping oil prices low, or pursuing narrow interests. These may result from such action, but the dominant motivation for using military force was to protect civilians. A collateral benefit is that the (to date) encouraging nonviolent and democratic revolutions in Tunisia and Egypt may have greater traction. Now that the Arab world is no longer a democracy-free and human rights–free zone, Qaddafi's "model" for repression will no longer be interpreted as an acceptable policy option by other autocratic regimes.

Speaking in Brazil shortly after imposing the no-fly zone for Libya, U.S. President Barack Obama saw no contradiction between authorizing military action and his Nobel Peace Prize: one can be in favor of peace but still authorize force to halt the butchering of civilians. Later, when addressing the U.S. public, Obama defended this decision, which provided no political advantage but prevented massacres that would have "stained the conscience of the world." Libya suggests that we can say no more Holocausts, Cambodias, and Rwandas—and occasionally mean it.

NOTES

[1] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001). See also Thomas G. Weiss and Don Hubert, *The*

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Responsibility to Protect: Research, Bibliography, Background (Ottawa: International Development Research Centre, 2001).

[2] See Michael Barnett and Thomas G. Weiss, *Humanitarianism Contested: Where Angels Fear to Tread* (London: Routledge, 2011).

[3] See Alan J. Kuperman, "Mitigating the Moral Hazard of Humanitarian Intervention: Lessons from Economics," *Global Governance* 14, no. 2 (2008), pp. 219–40; Alan J. Kuperman, "The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans," *International Studies Quarterly* 52 (2008), pp. 49–80; and Alan J. Kuperman, "Darfur: Strategic Victimhood Strikes Again?" *Genocide Studies and Prevention* 4, no. 3 (2009), pp. 281–303.

[4] The author's version is Thomas G. Weiss, *Humanitarian Intervention: Ideas in Action* (Cambridge: Polity Press, 2007).

[5] Ban Ki-moon, "Implementing the Responsibility to Protect: Report from the Secretary-General," UN document A/63/677, January 12, 2009.

[6] Ban Ki-moon, "Early Warning, Assessment and the Responsibility to Protect: Report of the Secretary-General," UN document A/64/864, July 14, 2010.

[7] Alex J. Bellamy, "The Responsibility to Protect—Five Years On," *Ethics & International Affairs* 24, no. 2 (2010), p. 166.

[8] I. William Zartman, "Preventing Identity Conflicts Leading to Genocide and Mass Killings," International Peace Institute, 2010, p. 4.

[9] James Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (Oxford: Oxford University Press, 2010), p. 250, emphasis in original.

[10] Kwame Akonor, "Assessing the African Union's Right of Humanitarian Intervention," *Criminal Justice Ethics* 29, no. 2 (2010), pp. 157–73.

[11] Simon Chesterman, "Hard Cases Make Bad Law: Law, Ethics, and Politics in Humanitarian Intervention," in Anthony F. Lang, Jr., ed., *Just Intervention* (Washington, D.C.: Georgetown University Press, 2003), p. 54.

[12] Jennifer Welsh, "Implementing the Responsibility to Protect: Where Expectations Meet Reality," *Ethics & International Affairs* 24, no. 4 (2010), p. 428.

[13] Jarat Chopra and Thomas G. Weiss, "Sovereignty Is No Longer Sacrosanct: Codifying Humanitarian Intervention," *Ethics & International Affairs* 6 (1992), pp. 95–117.

[14] See Thomas G. Weiss, "Politics, the UN, and Halting Mass Atrocities," in Adam and Ernesto Verdeja, eds., *The International Politics of Genocide* (Boulder, Co.: Lynne Rienner, forthcoming).

[15] Sarah Collinson et al., *Realising Protection: The Uncertain Benefits of Civilian, Refugee and IDP Status* (London: Overseas Development Institute, 2009), HPG Report 28, p. 3.

[16] Gary J. Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York: Knopf, 2008), p. 382.

[17] Rama Mani and Thomas G. Weiss, eds., *The Responsibility to Protect: Cultural Perspectives in the Global South* (London: Routledge, 2011).

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