Libya and the Responsibility to Protect: Between Opportunistic Humanitarianism and Value-Free Pragmatism

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Since the Treaty of Westphalia, sovereignty has been backed by the norm of nonintervention. By contrast, the responsibility to protect (R2P) strikes a balance between unauthorised unilateral interventions and institutionalised indifference. With a rapidly deteriorating humanitarian situation in Libya in early 2011, the United Nations (UN) authorised the use of force to protect an imminent slaughter of civilians but prohibited taking sides in the internal civil war, intervening with ground troops, or effecting forcible regime change. The record of NATO actions in Libya marks a triumph for R2P but also raises questions about how to prevent the abuse of UN authority to use international force for purposes beyond human protection.

Military action by international forces in Libya in 2011 marks the first instance of the implementation of the sharp edge of the new norm of the responsibility to protect (R2P). It was a successful example, if also a controversial one. Until the twentieth century, state sovereignty included the right to go to war and an unchallengeable monopoly on the lawful use of force domestically. Gradually by the time of the creation of the United Nations (UN) in 1945 and more rapidly thereafter, the right to use force internationally was restricted to self-defence against armed attack or under UN authorisation. Historically, the norm of nonintervention notwithstanding, individual states had also intervened inside sovereign jurisdictions to stop the slaughter of kith and kin or co-religionists.[1] Under the impact of the Holocaust and starting with the Genocide Convention in 1948, the international community asserted the collective right to stop states killing large numbers of civilians inside their borders.

Even so, for 350 years—from the Treaty of Westphalia in 1648 until 1998—sovereignty functioned as institutionalised indifference. International interventions in Kosovo and East Timor in 1999 broke that mould and were the backdrop to UN Secretary-General Kofi Annan's search for a new norm. His genius lay in channelling historic ideational transformations into new

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[1] For a study of the relevance of R2P to the problem of states with ethnic ties spread across national borders, see Walter Kemp, Vesselin Popovski and Ramesh Thakur (eds.), *Blood and Borders: The Responsibility to Protect and the Problem of the Kin-State* (Tokyo: United Nations University Press, 2011).

institutional linkages. Instead of collective gnashing and wailing during atrocities followed by a traumatic repeat afterwards, yet again, of promises of 'Never Again', he pushed for a new doctrine to take timely and effective action. With Canada's help, an international commission formulated the innovative principle of the responsibility to protect.[2]

The UN was neither designed nor expected to be a pacifist organisation. On the contrary, its origins lie in the anti-Nazi wartime military alliance among Britain, the United States and the Soviet Union. Its primary purpose is the maintenance of international peace and security. The chief responsibility for doing this is vested in the all-powerful UN Security Council as the world's sole and duly sworn in sheriff for enforcing international law and order.

The system of collective security against interstate aggression never materialised. In the decades after World War II the nature of armed conflict was transformed.[3] Interstate warfare between uniformed armies gave way to irregular conflict between rival armed groups. The nature of the state too changed from its idealised European version. Many communist and some newly-decolonised countries were internal security states whose regimes ruled through terror. Increasingly, the principal victims of both types of violence were civilians. Advances in telecommunications brought the full horror of their plight into the world's living rooms. R2P spoke eloquently to the need to change the UN's normative framework in line with the changed reality of threats and victims.[4]

In the meantime, the goals of promoting human rights and democratic governance, protecting civilian victims of humanitarian atrocities and punishing governmental perpetrators of mass crimes became more important. Our understanding and appreciation of human rights and commitment to their promotion and protection have deepened and broadened.[5] The chief impulse to human rights is the recognition that every human being is deserving of equal moral consideration. It is an acceptance

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[2] *The Responsibility to Protect*, Report of the International Commission on Intervention and State Sovereignty (Ottawa: International Development Research Centre for ICISS, 2001). The Report is available on the website at <www.iciss.gc.ca>. See also Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington: Brookings Institution, 2008); Ramesh Thakur, *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics* (London: Routledge, 2011) and *The People vs. the State: Reflections on UN Authority, US Power and the Responsibility to Protect* (Tokyo: United Nations University Press, 2011); Thomas G. Weiss, *Humanitarian Intervention* (London: Polity, 2007); Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Cambridge: Polity, 2009).
[3] See Andrew Mack et al., *Human Security Report 2005* (Oxford: Oxford University Press, 2005).
[4] For an account of the UN's transformation since 1945, see Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2006).
[5] See Roger Normand and Sarah Zaidi, *Human Rights at the UN: The Political History of Universal Justice* (Bloomington: Indiana University Press, 2008).

of a duty of care by those living in safety towards those trapped in zones of danger. The UN's normative mandates on security, development and human rights alike embody this powerful intuition.[6]

Failure to act in the 1994 Rwanda genocide[7] and non-UN-authorised humanitarian intervention in Kosovo in 1999 set off angry and deeply divisive recriminations around the world for acts of omission and commission.[8] In the wake of that controversy, the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS) argued that the essential nature of sovereignty had changed from state privileges and immunities to the responsibility to protect people from atrocity crimes. Where the state defaulted on its solemn responsibility owing to lack of will or capacity, or because it was itself complicit in the commission of the atrocities, the responsibility to protect tripped upwards to the international community acting through the authenticated structures and procedures of the UN.

The importance of sovereignty as the key organising principle of the modern world order needed and received a strong affirmation in the ICISS report. The Commission took pains to emphasise that a cohesive and peaceful international system is more likely to be achieved through the cooperation of effective and legitimate states than in an environment of fragile, collapsed, fragmenting or generally chaotic states.[9]

Reconceptualising sovereignty as responsibility[10] was not a radical departure from established precept and practice. Nowhere is the authority of the state absolute. Internally, it is constrained and regulated by constitutional power-sharing arrangements and shared between different *levels* of government: local, provincial and national. It is also distributed among different *sectors* of public authorities at any one given level, such as the legislature, executive, judiciary and bureaucracy. Internationally, too, in human rights covenants, UN practice and state practice itself, sovereignty is understood as embracing responsibility. The UN Charter is itself an example of an international obligation voluntarily accepted by member states.

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[6] This is most powerfully articulated in Kofi A. Annan, *In Larger Freedom: Towards Development, Security and Human Rights For All*, Report of the Secretary-General, document A/59/2005 (New York: United Nations, 21 March 2005).
[7] See Kingsley Moghalu, *Rwanda's Genocide: The Politics of Global Justice* (Houndmills: Palgrave Macmillan, 2005).
[8] See Albrecht Schnabel and Ramesh Thakur (eds.), *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action, and International Citizenship* (Tokyo: United Nations University Press, 2000).
[9] This was the assumption behind a joint project between the Carr Center of Harvard University, the International Peace Academy and the United Nations University: Simon Chesterman, Michael Ignatieff and Ramesh Thakur (eds.), *Making States Work* (Tokyo: United Nations University Press, 2005).
[10] For further elaboration, see Trudy Jacobsen, Charles Sampford and Ramesh Thakur (eds.), *Re-envisioning Sovereignty: The End of Westphalia?* (London: Ashgate, 2008).

There is no transfer or dilution of the *status* of state sovereignty. But there is a necessary change in the *exercise* of sovereignty: from sovereignty as control to sovereignty as responsibility in both internal functions and external duties. Anne Orford argues that contrary to claims that the requirement is to put the R2P principle into practice, ICISS in fact put evolving practice of contingent and softening sovereignty, and of increasing international intrusions, into a new concept: the justificatory principle followed practice, words followed deeds. R2P is an attempt to integrate existing and evolving but dispersed practices of protection into a conceptually coherent account of international authority.[11]

The unanimous endorsement of R2P by the largest ever collection of world leaders at the UN summit in 2005 was historic, for it spoke to the fundamental purposes of the UN and responded to a critical challenge of the 21st century. Some 150 world leaders tightened the application of R2P to four atrocity crimes: war crimes, genocide, ethnic cleansing, and crimes against humanity. They affirmed that states have the primary responsibility to protect all people within their territorial jurisdiction but that if they manifestly failed to do so, owing to incapacity, unwillingness or complicity in the crimes, then the international community, acting through the UN Security Council, would take timely and decisive action to implement the international responsibility to protect.[12] Secretary-General Ban Ki-moon then refined the principle further in the language of three pillars: Pillar One as the state's own responsibility; Pillar Two as international assistance to strengthen state capacity to implement R2P obligations; and Pillar Three as coercive international action, including measures not involving the use of force under Article 41 of the United Nations Charter (for example economic sanctions, arms embargoes, and asset freezes) and, ultimately, military force under Article 42.[13]

R2P captures and channels the convergence of some significant trends in world affairs. Its preventive and rebuilding pillars involve strengthening a state's capacity to handle its own law and order problems. But its hard edge requires the international community, acting through the UN, to take up the slack when any state defaults on its sovereign responsibility to protect all people inside its borders.

By its very nature, including unpredictability, unintended consequences and the risk to innocent civilians caught in the crossfire, warfare is inherently brutal: there is nothing humanitarian about the means. Still, the fact is that our ability and tools to act beyond our borders have increased tremendously.

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[11] Anne Orford, *International Authority and the Responsibility to Protect* (Cambridge: Cambridge University Press, 2011).

[12] *2005 World Summit Outcome*, adopted by UN General Assembly Resolution A/RES/60/1, 24 October 2005, paras. 138-40.

[13] Ban Ki-moon, *Implementing the Responsibility to Protect: Report of the Secretary-General* (New York: United Nations, Doc. A/63/677, 12 January 2009).

This greatly increases demands and expectations 'to do something' and the fundamental question cannot be avoided: under what circumstances is the use of force necessary, justified and required to provide effective international humanitarian protection to at-risk populations without the consent of their own government? Absent R2P, the intervention is more likely to be ad hoc, unilateral, self-interested and deeply divisive. With the R2P norm and guiding principles agreed to in advance, military action is more likely to be rules-based, multilateral, disinterested and consensual.

Not a Western Implant

The R2P debate is emphatically not a West versus The Rest narrative. Instead the theory and practice of state sovereignty is itself decidedly European. Developing countries, not Western ones, are the likely targets of international military interventions. If their people are the principal beneficiaries and their states the main victims when R2P is put into practice, their scholars, think tank analysts, public intellectuals and journalists should be the lead debaters. Asia has its own rich traditions that vest sovereigns with responsibility for the lives and welfare of subjects while circumscribing the exercise of power with the majesty of law that stands above the agents of the state. In India Ashoka, the great Mauryan emperor (269–232 BC), inscribed the following message on a rock edict: "this is my rule: government by the law, administration according to the law, gratification of my subjects under the law, and protection through the law".[14]

The debate is also wrongly framed on substance. In the real world, we know that there will be more atrocities, victims and perpetrators—and therefore more interventions. They were common before R2P; they are not guaranteed with R2P. The real choice is not if interventions will take place, but when, why, how, by whom and under whose authority. Unilateral and ad hoc interventions will sow and nourish the seeds of international discord. Multilateral and rules-based interventions will speak powerfully to the world's determination never again to return to institutionalised indifference to mass atrocities.

R2P attempts to strike a balance between unilateral interference and institutionalised indifference. It will help the world to be better prepared— normatively, organisationally and operationally—to meet the recurrent challenge of external military intervention wherever and whenever it arises again, as assuredly it will. To interveners, R2P offers the prospect of international legitimacy, reduced compliance and transaction costs and more effective results. To potential targets of intervention, R2P offers the reassurance of a rules-based system. Absent an agreed new set of rules,

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[14] Quoted in Stanley Wolpert, *A New History of India* (New York: Oxford University Press, 1977), pp. 66–7.

there will be nothing to stop the powerful from intervening 'anywhere and everywhere'.

Gaddafi in the Crosshairs of a Changing Normative Order

R2P is narrow—it applies only to the four crimes of ethnic cleansing, genocide, crimes against humanity, and war crimes. But it is deep: there are no limits to what can be done in responding to these atrocity crimes. In a matching symmetry, support for R2P has been broad but shallow.[15] Libya in 2011 provided an opportunity to convert the noble sentiments and solemn promise of R2P into meaningful action whose import will resonate long and far. In poignant testament to its tragic origins and normative power, R2P was the discourse of choice in debating how best to respond to the crisis.

R2P is not solely about military intervention. The world's comfort level is greater with action under Pillars One (building state capacity) and Two (international assistance to build state capacity) than Pillar Three (coercive international action with the final option being military intervention to protect at-risk populations from atrocity crimes). But, to be meaningful, the R2P spectrum of action must include military force as the option of last resort.

Three sets of issues were involved in framing the most appropriate and effective response to the Libyan crisis: military capacity, legal authority, and political legitimacy. Analysts were divided on the scale, complexity and feasibility of a no-fly zone. Only the West has the requisite assets and operational capability for military action in the Libyan theatre. But NATO would have been ill-advised to take any military action on its own authority. Political commentators warned of mission creep. But that would arise only if ownership of the uprising was appropriated from the Libyans. No one asked for foreign boots on the ground. UN legal authorisation could be restricted to four military tasks: surveillance and monitoring, humanitarian assistance, enforcement of the arms embargo, and enforcement of a no-fly zone.

The UN Security Council, Human Rights Council and Secretary-General Ban Ki-moon called on Libya to respect its R2P, human rights and international humanitarian law obligations.[16] When their appeals were ignored, on 26 February, the Security Council demanded an end to the violence in Libya, which "may amount to crimes against humanity"; imposed sanctions; affirmed Libya's R2P obligations; and referred Gaddafi to the International

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[15] See Ramesh Thakur, 'The Responsibility to Protect and the North–South Divide', in Sanford R. Silverburg, ed., *International Law: Contemporary Issues and Future Developments* (Boulder: Westview, 2011), pp. 32–47.
[16] See 'Security Council Press Statement on Libya', United Nations document SC/10180 AFR/2120, 22 February 2011, <http://www.un.org/News/Press/docs/2011/sc10180.doc.htm> [Accessed 5 September 2011]; 'Ban Strongly Condemns Qadhafi's Actions Against Protesters, Calls for Punishment', <http://www.un.org/apps/news/story.asp?NewsID=37599> [Accessed 5 September 2011].

Criminal Court (Resolution 1970).[17] On 4 March, both the Global Centre and International Coalition for R2P published an open letter to the Security Council pointing out that Resolution 1970 had failed to halt attacks taking place at the moment and calling for additional protective measures.[18]

Although Britain and France took the lead in trying to mobilise diplomatic support for some military action to help the Libyan rebels, the critical turning point was US backing. The key decision was made by President Barack Obama at a meeting with top officials on 15 March. R2P gave him the necessary intellectual and normative tool to act. He decided to side with pro-interventionist advisers in favour of a definition of the Libyan crisis that was closer to his instincts and consistent with the narrative that won him the White House.[19] The game-changer was the juxtaposition of R2P as a powerful new galvanising norm; the defection of Libyan diplomats who joined the chorus of calls from the rebels for immediate action to protect civilians; and Arab, French and British participation that provided political cover and international legitimacy. In Iraq in 2003, Washington was the ardent suitor for military intervention. In Libya in 2011, Washington was the reluctant follower.

Adopted on 17 March by a 10-0-5 (China, Russia, Brazil, Germany, India) vote, UN Security Council Resolution 1973 authorised the use of "all necessary measures … to protect civilians and civilian-populated areas": the first UN-sanctioned combat operations since the 1991 Gulf War.[20] In the Balkans, it took NATO almost the full decade to intervene with air power in Kosovo in 1999. In Libya, it took just one month to mobilise a broad coalition, secure a UN mandate to protect civilians, establish and enforce no-fly and no-drive zones, stop Gaddafi's advancing army and prevent a massacre of the innocents in Benghazi.

Carefully crafted both to authorise and delimit the scope of intervention, Resolution 1973 specified the purpose of military action as humanitarian protection and limited the means to that goal. At a time when the recapture of Benghazi by Gaddafi loyalists seemed imminent, Resolution 1973 authorised military action to prevent such civilian slaughter but not intervene in the civil war (any state has the right to use force to suppress armed uprisings), nor effect regime change. Occupying or dismembering Libya was

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[17] United Nations Security Council, *Resolution 1970 (2011)*, 26 February 2011.
[18] International Coalition for the Responsibility to Protect and the Global Centre for the Responsibility to Protect, 'Open Letter to the Security Council on the Situation in Libya', 4 March 2011, <http://globalr2p.org/advocacy/index.php> [Accessed 5 September 2011].
[19] See Helene Cooper and Steven Lee Myers, 'Obama Takes Hard Line with Libya after Shift by Clinton', *New York Times*, 18 March 2011.
[20] United Nations Security Council, *Resolution 1973 (2011)*, 17 March 2011. Previous operations, such as in Bosnia, East Timor, Somalia or Congo, were or are peace operations authorised to use force if challenged and not conceived as combat operations from the outset.

prohibited. Gaddafi was not to be directly targeted. To the extent that he was so targeted, NATO exceeded UN authority in breach of the Charter law.

Obama's insistence that the United States would not be deploying ground troops aligned military means to the limited ambitions and objectives: humanitarian protection, not regime change.[21] In contrast to the Bush doctrine, under Obama the United States will act in concert with others, not alone; coax, persuade and heed, not impose its will; and set clear limits on goals and means. This did not please some shadow warriors. Referring to the role of Hillary Clinton, Susan Rice, and Samantha Power in the decision to join the intervention against the inclinations of Defense Secretary Robert Gates, National Security Adviser Thomas Donilon and Chief of Counterterrorism John Brennan, Jacob Heibrunn derided Obama for effectively having been henpecked into interventionism by "these Valkyries of foreign affairs".[22] Not to be outdone on misogyny, Mark Krikorian commented caustically that "our commander-in-chief is an effete vacillator who is pushed around by his female subordinates".[23]

Norm Consolidation or Abuse

As the collection of articles in this special issue makes clear, there is a close normative and operational link between R2P and the protection of civilians (PoC). The jury is still out on whether international military action in Libya and Côte d'Ivoire will promote consolidation or softening of the twin norms. There were inconsistencies in the muted response to protests and uprisings in Bahrain and Saudi Arabia where vital Western geopolitical and oil interests are directly engaged, and with the lack of equally forceful military action in Syria and Yemen. Western failures to defend the dignity and rights of Palestinians under Israeli occupation have been especially damaging to their claims to promote human rights and oppose humanitarian atrocities universally instead of selectively.

Despite the doubts, the alternative of standing idly on the sidelines yet again would have added to the shamefully long list of rejecting the collective responsibility to protect. Gaddafi would have prevailed and we have no reason to doubt his threat to embark on a methodical killing spree of rebel

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[21] The commendable initial clarity was soon muddied, and policy benchmarks made needlessly tougher, when Obama joined the British and French leaders in writing that although the goal of military action was "not to remove Qaddafi by force", "it is impossible to imagine a future for Libya with Qaddafi in power". Barack Obama, David Cameron and Nicolas Sarkozy, 'Libya's Pathway to Peace', *International Herald Tribune*, 14 April 2011.

[22] Jacob Heibrunn, 'America's Foreign Policy Valkyries: Hillary Clinton, Samantha Power, and Susan Rice', *National Interest*, 21 March 2011, <http://nationalinterest.org/blog/jacob-heilbrunn/americas-foreign-policy-valkyries-hillary-clinton-samantha-p-5047> [Accessed 5 September 2011].

[23] Mark Krikorian, 'They Know Who Wears the Pants in This Country', *National Review Online*, 21 March 2011, <http://www.nationalreview.com/corner/262607/they-know-who-wears-pants-country-mark-krikorian> [Accessed 5 September 2011].

leaders, cities and regions alley by alley, house by house, room by room. Had the world shirked its responsibility, Libya could have been the graveyard of the new R2P norm and the UN might as well have sounded the last post for it.

Libya marks the first time the Security Council has authorised an international R2P operation. Côte d'Ivoire is the first time it has authorised the use of military force by outside powers solely for PoC. Between them, Resolutions 1973 and 1975 show that including R2P language in the preamble might provide the normative justification for PoC demands in the operational paragraphs of the UN mandates.

Many PoC champions fear the more overtly politicised agenda of R2P. This ignores the reality of how they come together when atrocity crimes are being committed. PoC advocates are nervous about being cross-contaminated by R2P because they tend to focus on the soft side of the subject, such as programs to train peacekeepers, rather than the sharp end of robust military action. In justifying the authorisation of all necessary measures by the UN peace operation in Côte d'Ivoire, UN Security Council Resolution 1975 reaffirmed "the primary responsibility of each State to protect civilians" and, in the same sentence, reiterated that "parties to armed conflict bear the primary responsibility to take all feasible steps to ensure the protection of civilians".[24]

Seamus Milne, convinced that the Arab revolution had been hijacked by the imperialist West in Libya, argued that "If stopping the killing had been the real aim, Nato states would have backed a ceasefire and a negotiated settlement, rather than repeatedly vetoing both".[25] Terry Macalister, the Guardian's energy editor, believes that "The Libyan conflict has been a war about oil if not 'for' oil". The British and French governments have worked "hand in glove" with the big energy companies in the war to rid Libya of Gaddafi and secure access to future energy supplies, he argues. He asks whether their cooperation is "a potent symbol that western politics and oil are so closely intermeshed that the agendas of both are indistinguishable"?[26]

In his speech to the General Assembly, India's Prime Minister Manmohan Singh made a thinly-veiled attack on the expansive interpretation by NATO of Resolution 1973: "Actions taken under the authority of the United Nations must respect the unity, territorial integrity, sovereignty and independence of

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[24] United Nations Security Council, *Resolution 1975 (2011)*, 17 March 2011.
[25] Seamus Milne, 'Libya's Imperial Hijacking Is a Threat to the Arab Revolution', *Guardian*, 24 August 2011, <http://www.guardian.co.uk/commentisfree/2011/aug/24/libyas-imperial-hijacking-threat-arab-revolution> [Accessed 5 September 2011].
[26] Terry Macalister, 'So, Was this a War for Oil?' *Guardian*, Friday 2 September 2011, <http://www.guardian.co.uk/commentisfree/2011/sep/02/next-war-libya-one-for-oil> [Accessed 5 September 2011].

individual states".[27]   Russia and China led the chorus of dismay at the UN appearing to take sides in the internal conflicts in Libya and Côte d'Ivoire.[28] They may be less willing in future to permit sweeping endorsements for tough action, either by a coalition (Libya) or by UN peacekeepers (Côte d'Ivoire).

Value-free pragmatism is no more an answer to the challenge of reconciling realism and idealism than opportunistic humanitarianism.   Brazil, China, Germany, India, and Russia joined the African Union (AU) in positioning themselves on the wrong side of the war—as witnessed in the triumphal visit of British Prime Minister David Cameron and French President Nicolas Sarkozy to Libya in September—and on the wrong side of history insofar as the emerging normative architecture is concerned.   The AU moved to recognise the rebel Transitional National Council on 20 September, only after they had captured Tripoli. Among others, one risk for the AU is that the new regime will highlight its Arab over its African heritage and identity.[29] The reason this matters is that, following the Libya precedent, regional organisations may well acquire a critical 'gatekeeping role' in the global authorisation of R2P-type operations.[30] As long as the rising new powers remain more concerned with consolidating their national power aspirations than developing the norms and institutions of global governance,[31] they will remain incomplete powers, limited by their own narrow ambitions, with their material grasp being longer than their normative reach.

The Libyan people's euphoria and NATO's relief over the successful military campaign is likely to temper criticisms of the manner in which NATO rode roughshod over UN authorisation to protect civilians. For NATO had indeed intervened on behalf of one side in a civil war and pursued regime change. That said, we should not retreat into naivety on what may be required in particular circumstances. Already in 2003, replying to criticisms of the ICISS report by Adam Roberts, I had noted that "the primary motivation behind intervention—the cause rather than the necessary condition—must not be defeating an enemy state". But "If defeat of a non-compliant state or regime

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[27] 'Manmohan Slams West for Using Force to Change Regimes', *Times of India*, 25 September 2011, <http://articles.timesofindia.indiatimes.com/2011-09-25/india/30200524_1_libya-sovereignty-countries> [Accessed 26 September 2011].

[28] See Patrick Worsnip, 'ANALYSIS-U.N. Protection of Civilians at Issue after Libya', *Reuters*, 13 May 2011 <http://www.trust.org/alertnet/news/analysis-un-protection-of-civilians-at-issue-after-libya> [Accessed 5 September 2011].

[29] See Knox Chitiyo, 'Has Africa Lost Libya?', *Guardian*, 19 September 2011, <http://www.guardian.co.uk/commentisfree/2011/sep/18/africa-libya-not-lost> [Accessed 19 September 2011].

[30] See Alex J Bellamy and Paul D Williams, 'The New Politics of Protection? Côte d'Ivoire, Libya and the Responsibility to Protect', *International Affairs*, vol. 87, no. 4 (2011), pp. 825-50.

[31] See Amitav Acharya, 'Can Asia Lead? Power Ambitions and Global Governance in the Twenty-first Century', *International Affairs*, vol. 87, no. 4 (2011), pp. 851-69.

is the only way to achieve the human protection goals, then so be it".[32] In Libya, the West's strategic interests coincided with UN values. This does not mean that the latter was subordinated to the former. It does mean, as with Australia vis-à-vis East Timor in 1999, that there was a better prospect of sustained NATO engagement than if Western interests were not affected.

Paris, London and Washington—and Ban—did not waver in their resolve, despite critics from the left pushing for diplomacy, not war and critics from the right calling for boots on the ground. The protracted wars in Iraq and Afghanistan notwithstanding, too many expected or demanded instant military gratification. In fact six months to overthrow an entrenched and determined dictator is not excessively long. Moreover, it is also true that had all the restrictions of Resolution 1973 been scrupulously observed, the war would have been more protracted and messier, and coalition unity of purpose and action would have been even more strained.

The outcome is a triumph first and foremost for the citizen soldiers who refused to let fear of Gaddafi's thugs determine their destiny any longer. It is triumph secondly for R2P. It *is* possible for the international community, working through the authenticated, UN-centred structures and procedures of organised multilateralism, to deploy international force to neutralise the military might of a thug and intervene between him and his victims with reduced civilian casualties and little risk of military casualties. NATO military muscle deployed on behalf of UN political will help to level the killing field between citizens and a tyrant.

But the ruins of Libya's political infrastructure and parlous state of its coffers mean that the third component in the ICISS formulation R2P—the international responsibility to rebuild and reconstruct[33]—will also be called on. This will require the international community to stay engaged with state building in Libya for some time. Fortunately, Libya's physical infrastructure remains mainly intact as there was no Iraq-style shock-and-awe bombing campaign. The willingness, nature and duration of outside help will also help to shape the judgment of history on whether Western motivations were primarily self-interested geopolitical and commercial, or the disinterested desire to protect civilians from a murderous rampage. As with the war itself, however, the lead role will have to be assumed by Libyans themselves, while the international community can assist without assuming ownership of the process or responsibility for the outcome.

The price of that in turn may require the international community to accept and live with the political choices made by the Libyans. The Transitional

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[32] Ramesh Thakur, 'In Defence of The Responsibility to Protect', *International Journal of Human Rights*, vol. 7, no. 3 (Autumn 2003), p. 163.
[33] The substance of this is incorporated within Pillar Two (international assistance) in the subsequent reformulation of R2P by Secretary-General Ban.

National Council's immediate priorities are to establish security, law and order; prevent lootings and reprisals and avoid attacks on black Africans by lighter-skinned Arabs as the new normal; defeat remaining pockets of resistance by Gaddafi loyalists and prevent them from turning into a protracted low-level insurgency, and establish control over the whole country; restore infrastructure and public services; and ameliorate the humanitarian situation. National reconciliation based on the politics of concessions, compromises and power-sharing accommodation, reconstruction and continuing regional and international support will be the next order of business after immediate humanitarian needs have been met.

Conclusion

In both Libya and Côte d'Ivoire, regimes that had lost all domestic and international legitimacy declared war on their own people. In both, global political responses were shaped by universal values as well as strategic interests, so that UN member states moved closer to mirroring traditional UN policy and perspectives. Because the UN is taking the lead in redefining sovereignty by aligning state prerogatives with the will and consent of the people, the ruling class of any country must now fear the risk and threat of international economic, criminal justice and military action if they violate global standards of conduct and cross UN red lines of behaviour.[34]

The two operations in Libya and Côte d'Ivoire therefore mark a pivotal rebalancing of interests and values. In the old world order, international politics, like all politics, was a struggle for power.[35] The new international politics will be about the struggle for the ascendancy of competing normative architectures based on a combination of power, understood as the disciplined application of force, and values and ideas.

At the time of writing, the rebels had captured Tripoli but not Gaddafi. Hard questions, unasked so as not to complicate the push for victory, will now come to the fore. Who are the rebels? What do they stand for? For whom do they speak? How much popular support do they command? Albeit qualified and incomplete, therefore, Libya nevertheless does mark an important milestone on the journey to tame atrocities on their own people by tyrants.

In the words of former Secretary General Dag Hammarskjöld, the UN was "not created in order to bring us to heaven, but to save us from hell".[36]

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[34] For the intimate relationship between the twin normative agendas of R2P and international criminal justice, see Ramesh Thakur and Vesselin Popovski, 'The Responsibility to Protect and Prosecute: The Parallel Erosion of Sovereignty and Impunity', in Giuliana Ziccardi Capaldo (ed.), *The Global Community: Yearbook of International Law and Jurisprudence 2007*, vol. 1 (New York: Oxford University Press, 2008), pp. 39-61.

[35] This was most famously formulated in Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, 4th ed. (New York: Alfred A. Knopf, 1967).

[36] Quoted in Brian Urquhart, *Hammarskjold* (New York: W. W. Norton, 1994), p. 4.

Failures in Africa and the Balkans in the 1990s reflected structural, political and operational deficiencies that accounted for the UN's inability to save people from a life of hell on earth. R2P responds to the idealised UN as the symbol of an imagined and constructed community of strangers: We are our brothers' and sisters' keepers.

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