

Uncharted terrain: Libya and the 'responsibility to protect'

by Julia Rabar

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As the coalition's airstrikes continue in Libya, analysts have already begun to speculate on what the Libyan intervention means, both for the future of Libya and the future of the 'Arab spring'. But the fallout isn't just about political order in the Middle East—the international community's intervention in Libya represents an important test case for the Responsibility to Protect (R2P) doctrine. R2P was endorsed by the United Nations Security Council (UNSC) in April 2006. It dictates that the international community must suspend a nation's sovereignty in situations where that nation's rulers are unwilling or unable to protect their population from genocide, war crimes, crimes against humanity, and ethnic cleansing.

R2P: Pretty on paper, more challenging in practice

The objective behind R2P is noble: to avoid a repeat of the Rwandan genocide in 1994 in which the international community sat idly by while nearly one million Rwandans were killed. In theory, at least, R2P is on the side of the angels. It speaks to grand, universal principles; it aims to make intervention a humanitarian issue rather than a matter of strategic and political calculation.

But the Libyan experience demonstrates how difficult it is to maintain that astrategic stance. In practice, operationalising the doctrine has meant intervening directly in a civil war in Libya—and any such intervention cannot help but look both strategic and humanitarian. President Obama's recent address to the National Defense University seems not to recognise that point.

Some believe the intervention has been too constrained by academic niceties. In the US, *Washington Post* columnist Charles Krauthammer has described the Libyan intervention as a 'professor's war', a war that prizes legitimacy but shies away from strategic change. Many more commentators have pointed to the lack of a clear endgame in the coalition's planning. For advocates of R2P, the conflict highlights the tension between humanitarian impulses and strategic consequences.

Consensus on the fly?

Within the UNSC itself, the five 'abstainers' on the authorising resolution were all big players: the BRIC countries (Brazil, Russia, India and China), plus Germany. Let's not beat around the bush: five of the world's great powers did not accept the need for R2P to apply even in this case. And among the

coalition forces taking action in Libya there seems to be an ongoing debate about strategic objectives and operations—a sort of 'make it up as we go along' approach.

The Arab League's endorsement of the resolution seems to have been genuine—but clearly some prominent individuals within the League have had second thoughts as the operation unfolded. Robert Gates, the US Secretary of Defense, has raced to Cairo to ease Egyptian concerns about a potential crisis in their neighborhood. The United Arab Emirates and Qatar are the only two (out of twenty-one) Arab nations to pledge military support to Operation Odyssey Dawn. Kuwait and Jordan have offered logistical support. No support has been forthcoming from Tunisia or Egypt, both the beneficiaries of earlier 'democratic revolutions' and both of whom could play key roles in the unfolding campaign. The coalition's failure to yet involve any major Arab state will only reinforce Qaddafi's anti-colonial diatribe, and encourage him to paint the intervention as one more Western plot against the Arab world. His complaints would doubtless intensify were the civilian casualty rate to grow.

There's a rich irony in that. President Obama seems to have been a late convert to the cause, and already he finds himself under domestic pressure to limit US involvement in Libya, with troops facing a new battle season in Afghanistan and domestic economic problems still hounding the administration. The approval of the Arab League for a no-fly-zone triggered a 'sea change' in US government opinion, coinciding with a push from the US State Department. The UNSC—clearly sensing the time pressures from the advance of Qaddafi's forces on Benghazi—passed the resolution the following day. There's nothing wrong with the timing—indeed, had the UNSC operated more slowly and more deliberately, they might well have authorised intervention to protect a smoking ruin. But again, there's a degree of 'policy on the fly' here.

The foreign forces in Libya will reiterate that the mission's mandate is to protect Libyan civilians. As a justification, it is the only one that has any hope of withstanding censure. The more fanciful justifications will endure too: that Libya is central to regional transformation and that Qaddafi's political survival would put a stake through the heart of regional democratic revolutions. The narrative of the 'Arab Spring' is exciting but over-simplified. It might in time also demonstrate that public opinion turns like the tides: the same people who demanded international action in Libya will be the first to shred the mission's legitimacy if it is perceived as a matter of strategic interests rather than humanitarian concern.

Objectives

Since passage of the UNSC resolution, the international community has struggled with the tension between humanitarian objectives and strategic consequences. Although Resolution 1973 allegedly has a limited scope—to protect civilians—it is unclear whether or not the parameters can be stretched to include regime change. Since the civilians are being 'protected' from their own government, the unwritten part of the mandate, of course, is that Qaddafi must go. But the West is reluctant to say that straight out. Indeed, former Australian foreign minister and advocate of R2P Gareth Evans claimed that R2P has a very narrow mandate: to protect civilians from Qaddafi's capacity for 'murderous harm'. The scope of R2P and last week's Security Council Resolution 1973 does not, in his opinion, allow foreign forces to pursue regime change. And Gates has been explicit that no such mandate exists. Even Obama has been cautious in declaring his designs for Libya's future. He maintains that the purpose of the resolution is not to overthrow Qaddafi. Amr Moussa, secretary general of the Arab League and contender for Egypt's presidency, reiterates that 'It is not a question of supporting a regime, a government or a council'. In contrast, other heads of state and military heavyweights—French President Nicolas Sarkozy, British Prime Minister David Cameron, UK Defence and Foreign Secretaries Liam Fox and William Hague, and French Defense

Minister Alain Juppe—have all at some point indicated that regime change may be considered.

The resolution specifies only that a coalition will 'take all necessary measures to protect civilians under attack in the country... while excluding a foreign occupation force of any form'. It also specified 'the need to intensify efforts to find a solution to the crisis that responded to the legitimate demands of the Libyan people'. In essence, though, and despite the initial successes of the coalition's airstrikes, it's going to be hard to protect the Libyan population solely by the use of airpower. How will a no-fly-zone successfully protect civilians from attack if Qaddafi's forces get smarter about employing ground forces directly in cities and villages? What are the parameters of a no-fly-zone—can UN forces fire on loyalist tanks if they are fleeing a village? How does the mandate relate to places like Sirte, Qaddafi's home town, already the target of a rebel advance but where the population is broadly pro-Qaddafi? And, most importantly, what happens if Qaddafi digs his heels in and is not prepared to negotiate on Libya's future? Does the no-fly-zone have an expiry date? If the UN mission is terminated and Qaddafi is still in power, what will that mean for the civilian populations, regional stability, and revolutions throughout the Arab world?

The Libyans

The situation might be more palatable if the rebels represented a more attractive and viable alternative. But they seem a disparate bunch—given what we know of them at all—united only by their desire to topple President Muammar Qaddafi. France was the first country to recognise the Libyan Transitional National Council as the primary opposition party with legitimacy to contest Qaddafi's leadership. But on the ground, the rebels appear to have no command structure. Without Western intervention, they were fighting a losing battle. There are no political institutions that will enable a platform for democratic reform. The country's oil fields will also be a source of friction, as most are in the country's east where the rebel forces are. The intervention does more than protect the population—it enables the rebels and implicitly legitimises their agenda. The intervention chooses a side.

The Russians, still hoping to play a role in the outcome despite abstaining in the Security Council vote, are holding out hope that loyalty to Qaddafi within the military might fracture and delegitimise his grip on power. But Libya is not Egypt. The Egyptian people successfully overthrew President Hosni Mubarak in a prolonged protest ending on 11 February 2011 in which the military played a key role. But Libya's military leadership is staffed with members of Qaddafi's own family. Furthermore, the loyalist forces in Tripoli and further east seem willing—coerced or not—to carry out Qaddafi's threats of seeing out the war to its bloody end. Many Libyans have benefited from the status quo under Qaddafi, and it's probably wrong to imagine that the political elite will go gently into the night.

Likely outcomes

The coalition forces urgently need to agree on operational parameters, as well as an exit strategy, within the mandate they were given in UNSC Resolution 1973. Military spokesmen have struggled in press conferences in regard to questions about what is being targeted and why. Demonstrations of confusion and mixed messages will do nothing to promote R2P as a robust international norm. The countries that sat on the fence during the Resolution 1973 vote are not guaranteed to stay there for a follow-up resolution if the current mission is perceived as stretching the existing operational mandate.

The most likely outcome from here is for a continuation of the civil war, with the UN backing the rebels under the auspices of preventing a 'Srebrenica on steroids' in Libya. That civil war could easily settle into de facto partition, since neither side

would be well placed to defeat the other in a slow-motion, ground-based military contest. In those circumstances, an eventual ceasefire could also see the UN more involved on the ground. A peacekeeping operation could easily involve more than 10,000 peacekeepers operating under an international mandate to enforce political autonomy while a protracted process of reconciliation unfolds. Of course, it is also possible that Qaddafi will quit. But what happens then? A Libya that slides into chaos would not be in anyone's interest. In those circumstances, the UN might well be looking to deploy a follow-up mission—to maintain order on the ground in Libya.

In short, R2P might have some distance to go yet in Libya. The current mission is more likely to expand than it is to contract. It would be advisable for the Australian Government to do some preliminary planning against the possibility that Australian forces will be asked to contribute to a peacekeeping force in Libya once a ceasefire is successfully enforced.

Conclusion

Overall, what does Libya tell us about R2P? Essentially, it tells us that operationalising the doctrine is harder than merely stating it. Critics might well label R2P a hypocritical fantasy. Since Rwanda in 1994 the international community has sat idle while massacres and crimes against humanity have occurred in many other countries: millions starving under the brutality of the North Korean communist dictatorship; tens of thousands dead in Darfur by murder, starvation or disease and millions more internally displaced; and millions dead in the Democratic Republic of Congo since the late 1990s. Robert Mugabe's Zimbabwe didn't attract an intervention. Clearly, R2P was always going to be a doctrine selectively applied. And the test for intervention is high: even in relation to the Middle East in 2011, it doesn't seem to apply to Syria, Yemen or Bahrain, cases that Secretary of State Clinton has described as policing actions rather than the deliberate waging of war against a population. But selectivity makes R2P look more like a norm of convenience than a genuine doctrine of international responsibility. At the moment, it is hard to tell whether R2P will emerge from Libya with more or fewer credentials than when the international community intervened.

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