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# Into the Eleventh Hour

R2P, Syria and Humanitarianism  
in Crisis



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# Into the Eleventh Hour: R2P, Syria and Humanitarianism in Crisis

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## Into the Eleventh Hour: R2P, Syria and Humanitarianism in Crisis

The ongoing humanitarian crisis in Syria poses major challenges to doctrines, legal frameworks, and institutional norms about the moral imperative to intervene on behalf of afflicted populations. At the heart of this challenge presented by Syria is the debate surrounding the Responsibility to Protect, or R2P, doctrine. Since its initial publication in 2001, R2P has been heralded by some as a triumph of human security over outdated conceptions of state or national security, and has significantly contributed to humanitarian protection by altering core components of the international political system, most notably state sovereignty. On the other hand, R2P's successes have been intensely scrutinized by observers based on instances of selective enforcement, contested meanings of R2P's core values, and questions surrounding whether there is, in fact, a responsibility to protect at all. This e-volume brings together some of the most important voices on R2P and humanitarian intervention to examine the doctrine's validity in the context of Syria's civil war and humanitarian emergency.

## About the Editors

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# Introduction

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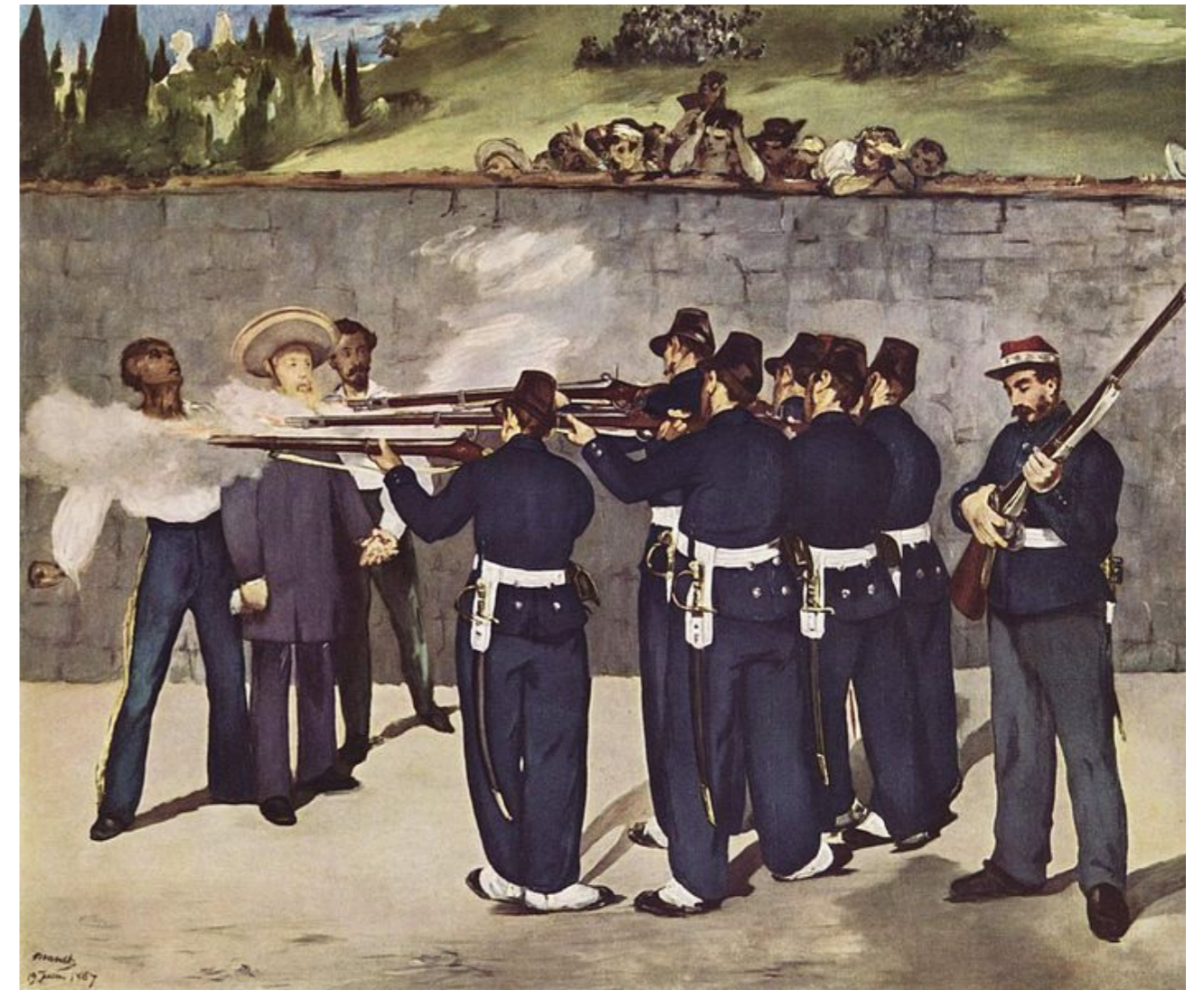


Image of *The Execution of Maximilian* supplied online by Cecilia Fletcher

The French artist Edgar Degas once remarked that “Art is not what you see, but what you make others see.”<sup>1</sup> Indeed, it is often true that communicating core themes and ideas can be aided by harnessing visual aids. Pictorial images can make concepts more concrete, thereby making people “see” and understand the issues involved. Taking such thoughts into consideration, the work of Eduard Manet is harnessed here to present the key conceptual currents which flow through this volume from e-International Relations.

Manet’s *The Execution of Maximilian* is one of his most compelling yet controversial works. The painting depicts the execution by firing squad of Emperor Maximilian I—emperor of the short-lived Second Mexican Empire—and his two generals. The painting is alarmingly graphic in its renderings. In the picture, General Mejía, to Maximilian’s right, seems to have been hit and, across his body, the smoke from the shots is compacted in an unpleasant, dark grey to convey the impact of the bullets. Maximilian himself survives, but, pale and ghostly, seems to be fading into another realm, while the

other general, Miramón, remains alert and curious. Beside him, the smoke drifts, dispersing and transparent in places to the wall behind. The picture captures not only the instantaneous element of the shooting, but also extends it in slow motion. In turn, we replay the action the longer we gaze at the atrocity.

If we move our eyes to the bottom right corner of the picture, we catch a glimpse of a shadow. When we look a little longer, we slowly start to identify the owner of the shadow: the viewer. With this inclusion, Manet seems to have transformed our role from being merely an observer to an active bystander to an atrocity. Produced in 1868,<sup>2</sup> the painting chillingly represents broader thematic parallels with the darker episodes of mankind's existence, particularly the way in which we observe atrocity and suffering, and, perhaps more importantly, the dilemma of how to act when one is observing such events unfold.

The recurring horror of mass atrocities has been one of the most troubling aspects of human history, and the inability and/or failure of bystanders to prevent or halt such events has been equally disconcerting. It took the cruelty of the Holocaust to compel the international community to make commitments aimed at ending suffering more seriously. The proclamation made after the Second World War of "Never Again" to genocide was codified in the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted by the United Nations General Assembly on 9 December 1948 as General Assembly Resolution 260.<sup>3</sup>

In the decades which followed, however, it seemed the memory of "plus jamais" was pushed to the back of people's minds and sat in the edge of the international community's vision, as it made only modest progress in stopping genocide and suffering. Consider that no one came to the rescue of 1 million Igbos killed in Biafra in the 1960s,<sup>4</sup> 2 million Cambodians in the 1970s, and 800,000 Rwandans in the 1990s.<sup>5</sup> Arguably, then, the interventions in Kosovo in 1999 and East Timor in 1999-2000 were exemptions rather than trends, and the espoused humanitarian motives to these interventions have been highly scrutinised.<sup>6</sup>

Lamenting on the failures to prevent the atrocities of the past in his 2000 Millennium Address to the General Assembly, Secretary-General Kofi Annan asked the difficult question: "If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that offend every precept of our common humanity?"<sup>7</sup>

Attempts were made to formulate an adequate response to this question in 2001, as the International Commission on Intervention and State Sovereignty (ICISS) was established to suggest means by which this record could be improved. The ICISS produced a report that sought to alter understandings of an essential norm of international politics, namely national sovereignty, and hold world leaders and institutions accountable for protecting human security in a consistent and legal manner. According to the ICISS, sovereignty was not an inviolable legal right, but rather a delicate responsibility contingent

upon the protection of human population. This framework was known as the "Responsibility to Protect" or R2P. The doctrine of R2P is premised upon three pillars: the responsibility to prevent atrocity, the responsibility to protect and intervene when atrocities are committed, and a responsibility to rebuild in the wake of intervention.

After its initial publication in 2001, R2P struggled to get traction in the international community based on the events of 9/11 and the subsequent perversion of R2P's principles by the Bush Administration in its justifications for the invasion of Iraq in 2003. By 2005, the world was willing to return to discussing R2P and in that year, the UN General Assembly adopted the R2P in principle through the World Summit Outcome Document. The 2005 version of R2P differed from the tenets of the original ICISS report and justified invocation of R2P under four specific circumstances: genocide, war crimes, crimes against humanity, and ethnic cleansing.

In spite of acknowledging and adopting R2P in principle in 2005, the international community still proved hesitant to honour it when situations of humanitarian crisis emerged. The 300,000 deaths in the brutal Darfur war<sup>8</sup>—named by Kofi Annan as the first genocide of the twenty first century—offered a glaring example of the supposed "responsibility to protect" innocent victims being avoided again.

The R2P met the next phase in its evolution in 2009 when UN Secretary-General Ban Ki-moon released a report entitled "Implementing the Responsibility to Protect."<sup>9</sup> This report led to a UN General Assembly debate in July 2009, and it was the first time since 2005 that the General Assembly had come together to discuss the R2P in a meaningful way. Ninety-four member states spoke and the majority supported the R2P principle, although some important concerns were voiced. Discussions led to questions surrounding how R2P could be consistently and legally implemented in crisis situations around the world. The debate highlighted the need for regional organizations, like the African Union, to play a strong role in implementing R2P; the need for stronger early warning mechanisms in the United Nations; and the need to clarify the roles UN bodies would play in implementing R2P. An important outcome of the debate was the first resolution referencing R2P adopted by the General Assembly. The Resolution (A/RES/63/308) showed that the international community had, in principle, not forgotten about the concept of R2P, and it decided "to continue its consideration of the responsibility to protect."<sup>10</sup> Only time would tell if this would have the desired effect on the international community.

In spring 2011, the UN Security Council approved an intervention in Libya in response to the Gaddafi regime's brutal suppression of political protests. In passing Resolution 1973 in March 2011, the Security Council authorized the establishment of a no-fly zone in order "to protect civilians and civilian populated areas under threat of attack."<sup>11</sup> For the first time in its history, the UN Security Council approved the use of military intervention in a sovereign state against the express will of that state's government.

To some, the Libya intervention was heralded as a new dawn for the R2P doctrine. Ban Ki-moon

declared that the NATO-led intervention marked the “coming of age” for R2P. Similarly, Ramesh Thakur described the intervention as a “game-changer” for R2P, representing the first successful implementation of the doctrine.<sup>12</sup> According to Gareth Evans, “[t]he international military intervention (SMH) in Libya is not about bombing for democracy or Muammar Gaddafi’s head. Legally, morally, politically, and militarily it has only one justification: protecting the country’s people.”<sup>13</sup>

In the aftermath of the intervention in Libya, the same issues and dilemmas have surfaced again with the malaise that has been engulfing Syria. Though historically rooted, Syria’s current situation was sparked on the backburner of the so-called Arab Spring. In March 2011, in the form of public demonstrations, protesters demanded the end to nearly five decades of Ba’ath Party rule, as well as the resignation of Syrian President Bashar al-Assad. A month later, the Syrian government deployed the Syrian Army to quell the uprising and soldiers were ordered to open fire on civilians. The protests eventually evolved into an armed rebellion as opposition forces became increasingly armed and organized as they unified into larger groups and began receiving military aid from several foreign countries.

The war has engendered huge amounts of human suffering. Estimates of deaths in the Syrian Civil War, per opposition activist groups, vary between 95,850 and 130,435.<sup>14</sup> UN reports suggest that approximately 1.5 million Syrians have been displaced as a result of the civil war, and this number continues to increase.<sup>15</sup> Reports have documented human rights abuses from both sides. International organisations have also accused the government and Shabiha of using civilians as human shields, of intentionally targeting civilians, and of adopting a scorched earth policy. Anti-government rebels have been accused of torture, forced displacement, kidnapping, unlawful detention, and execution of civilians, Shabiha, and soldiers.<sup>16</sup>

On 21 August 2013, a series of videos, photographs, and reports from within Syria indicated that a new chemical weapons attack had killed a large number of civilians in rebel-held areas outside of Damascus, in what has been described as the world’s most lethal chemical weapons attack since the 1980s. The footage shows a large number of children among the victims of the attacks. Casualty estimates have varied widely, from 500 to over 1,300.<sup>17</sup> The alleged use of chemical weapons is morally repugnant and poses pressing challenges to the international community.

The dilemma about intervention in Syria is deepening, according to some, and has long passed, according to others. Arguments rage about the justification, legality, and legitimacy of a potential military attack, especially without UN Security Council approval, and about any attack’s aims and effectiveness. More crucially, it raises the question of whether the R2P doctrine obliges a response from the international community. Further complicating matters has been the so-called peace process in Geneva, arguably aimed more at halting Iran’s nuclear program than at achieving an end to Syria’s civil war. As a consequence, it is the intent of this new publication from e-International Relations to present a diverse collection of viewpoints on the impact of non-intervention in Syria and ramifications for the R2P doctrine moving forward.

Professor Gareth Evans begins the collection by considering the future of the R2P in light of the Syrian crisis. Though mindful of the failures of the international community to prevent and alleviate suffering in Syria, Evans suggests that it is too early to despair over the future of the R2P and that there are many grounds for optimism.

Following this, James Pattison assesses the criteria for moving the R2P doctrine forward in the aftermath of the Arab Spring. Through revisiting the issue of criteria and guidelines for humanitarian intervention discussed in the 1990s and early 2000s, Pattison suggests that, contra to the prevailing views, there are already criteria for intervention in the R2P. Pattison then argues that a more explicit acceptance of the existence of criteria, and an interpretation of them that is morally judicious, should be the key elements moving the R2P forward after Libya and Syria.

Thomas Weiss’ chapter examines whether the Syrian crisis will see the withering of the R2P. Weiss contests that the Syrian case highlighted that geopolitics trumped the protection of civilians and, because of this, the episode currently shames the collective international conscience. But he also suggests that this does not mean that we have heard the death knell of R2P. Reflecting on Libya, Weiss hopes that this event was not an aberration and concludes that we are capable of uttering “no more” to atrocities and meaning it.

Ramesh Thakur examines the reasons for the failure to protect Syrian civilians. Thakur argues that whilst the Syrian crisis has presented challenges, it has not thrown out the R2P entirely. He moves on to suggest that there is interest in clarifying the norm further and tightening operational safeguards to prevent misuse, but no demand to rescind the norm entirely.

David Carment and Joseph Landry analyse the regional dynamics affecting potential intervention in Syria. The writers see the failure of major regional players in the Middle East and North Africa region to apply and enforce the R2P doctrine in the case of the Syrian civil war representing a significant challenge to the international community, generally, and the norms of the doctrine itself.

Luke Glanville’s contribution challenges the perception of some commentators that the lack of military intervention in response to the Syrian crisis provides evidence that the supposed norm of intervention for the protection of populations has no meaningful impact on the actual behaviour of states. Instead, Glanville contests that the lack of intervention in Syria teaches us little about the intervention norm. He suggests that norms matter, but so do the material and strategic interests of great powers, and a norm is not rendered meaningless by the fact that it is sometimes trumped by such interests.

Michael Aaronson evaluates how the international community has failed to protect and assist civilians who in large numbers are being killed, injured, brutalised, bereaved, displaced, or impoverished by the Syrian conflict and suggests that, given the prevailing approach to international intervention since the end of the Cold War, this failure is unsurprising. Aaronson’s article concludes that respect



for humanitarian principles provides a better approach than so-called “humanitarian intervention.”

In his chapter, Philip Cunliffe examines the theoretical underpinnings of R2P and critiques the notion that liberal idealism underlies the foundational elements of the doctrine. Cunliffe argues that the evolution of R2P has seen a devolution of liberal idealist tenets starting with a retreat from universalism, moving to a retreat from cosmopolitanism and culminating in the case of Syria with a retreat from peace. His analysis concludes that rather than being a doctrine of liberal idealism, R2P accepts many of realism's core assumptions and defending R2P from a liberal perspective is a fundamental misreading of its goals.

Robert Murray argues that the largest obstacle to consistent implementation and enforcement of R2P remains its flawed epistemological foundations. From Murray's vantage, if there is ever a genuine hope of progressing the debate about how best to meet the needs of innocent civilians, it may be time for a paradigm shift away from the flawed foundations of R2P and toward a more pragmatic notion of protection grounded in what states are actually capable of in the current structure of the international system.

In the concluding article, Aiden Hehir focuses on what the crisis suggests about the evolution of the international system and, specifically, the current redistribution of power. Focusing on the fate of five actors—the US, Russia, China, Saudi Arabia, and the UN—Hehir argues that the evidence suggests an irresistible shift towards multipolarity has begun. Whilst cautioning against the use of analogies too heavily, Hehir suggests that Syria may well come to be seen as akin to the Suez Crisis; a moment which marked a profound redistribution of geopolitical power.

## Endnotes

- 1 Quoted from Goodreads. Accessed at <http://www.goodreads.com/quotes/2444-art-is-not-what-you-see-but-what-you-make> (Jan. 14, 2014).
- 2 *The Execution of Maximilian* is actually a series of paintings. The version used in this case (1868 version) is arguably the most popular. Manet produced three large oil paintings, a smaller oil sketch, and a lithograph of the same subject. All five works were brought together for an exhibition in London and Mannheim in 1992-3, and at the Museum of Modern Art in New York in 2006.
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- 17 Dominic Evans and Khaled Yacoub Oweis, “Syria gas ‘kills hundreds,’ Security Council meets,” Reuters (Aug 21, 2013). Accessed at <http://www.reuters.com/article/2013/08/21/us-syria-crisis-idUSBRE97K0EL20130821> (Jan. 14, 2014).

# The Consequences of Non-Intervention in Syria: Does the Responsibility to Protect Have a Future?

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After 1000 days of conflict, more than 120,000 deaths, and with nearly half the population displaced within and beyond its borders, there is no end in sight to Syria's civil war. The hoped-for diplomatic momentum following the breakthrough agreement on chemical weapons in September 2013 has not eventuated, and expectations are minimal for the Geneva talks scheduled to commence in late January 2014.

Who is to blame for the failure to prevent or halt this ugly war, the world's worst continuing conflict? Was there any kind of intervention—and if so, by whom and when—that could have made a difference? More generally, does Syria sound the death knell for the new Responsibility to Protect (R2P) norm, embraced unanimously, with hope and fanfare, by the UN General Assembly meeting at head of state and government level in 2005, and applied with conspicuous effect by the Security Council in Côte d'Ivoire and Libya in 2011? Are mass atrocity crimes—genocide, ethnic cleansing, major war crimes and crimes against humanity—going to become, once again, the subject of global indifference?

There are no easy answers to any of these questions, and they are going to be long debated. But despair would be premature. There are at least some grounds for optimism that—even if it has come too late to avert the worst of the suffering in Syria—we are not necessarily condemned to go on repeating the horrors of the past, the catastrophes of Cambodia, Rwanda, Bosnia, and the like, now etched so deeply in our collective memory.

The tensions that exploded in Syria in early 2011 were long in the making and never going to be easily containable. But a major opportunity to break the cycle of violence breeding violence was completely lost with the failure of the UN Security Council to even condemn the behaviour of the Assad regime, let alone take more robust measures, when it first became obvious that unarmed protestors were being savagely attacked, and for many months thereafter. That gave the regime a sense of untouchability and impunity, leading to further repressive behaviour which energised a fight-back by opposition forces, helped by military defections and some external support, which spiralled quickly into the full-scale civil war we have been watching, with horror, unfold ever since.

What was needed in mid-2011 was not a Security Council decision mandating the use of coercive military force. The Syrian situation was then, and has remained since, very different from that in Libya, and the case for military intervention has always been very much harder to make: at every relevant stage, such action would almost certainly have resulted in more casualties, not less. But the case for a condemnatory *statement* was overwhelming, and had that been supplemented by the kind of measures that were initially applied in Libya—sanctions, an arms embargo, and threat of International Criminal Court prosecution—Assad would certainly have been given cause for pause.

So what went wrong? There is an obvious answer, even if it continues to be met with denial and resistance by those who most need to accept it. And that is the perception by a large number of countries—led by the so-called “BRICS” (Brazil, Russia, India, China and South Africa)—that the

major Western powers, as the NATO-led intervention in Libya went on, overreached the civilian protection mandate they had been given by the Security Council by demanding, and achieving, nothing less than the complete destruction of the Gaddafi regime.

There was no problem at the outset, just as there was (and has remained since) no problem with the quickly concluded military action in Côte d'Ivoire. In allowing Resolution 1973 of March 2011 to pass, authorising as it did "all necessary measures... to protect civilians and civilian populated areas under threat of attack," all members of the Council knew exactly what they were doing. The NATO-led airborne forces did precisely what they were expected to do, and the immediately-feared massacres in Benghazi and elsewhere did not eventuate. If the Security Council had acted equally decisively and robustly in the 1990s, the 8,000 murdered in Srebrenica and 800,000 in Rwanda might still be alive today.

The real complaints related to the days, weeks, and months which followed, when it became very evident, from both their words and deeds, that the three permanent member states driving the intervention (the US, UK, and France, or "P3") would settle for nothing less than regime change, and do whatever it took to achieve that. The charge sheet includes the interveners rejecting ceasefire offers that may have been serious, and which certainly should at least have been explored; striking fleeing personnel that posed no immediate risk to civilians; striking locations that had no obvious military significance (like the compound in which Gaddafi relatives were killed); and, more generally, comprehensively supporting the rebel side in what rapidly became a civil war, ignoring the very explicit arms embargo in the process.

The P3 continues to have some strong answers to these criticisms. If civilians were to be protected house-to-house in areas like Tripoli under Gaddafi's direct control, they say, that could only be by overturning his whole regime. If one side was taken in a civil war, it was because one-sided regime killing sometimes leads (as now in Syria) to civilians acquiring arms to fight back and recruiting army defectors. A more limited "monitor and swoop" concept of operations would have led to longer and messier conflict, politically impossible to sustain in the US and Europe, and likely to have produced many more civilian casualties.

While these arguments all have force, the trouble remains that the P3 resisted debate on them at any stage in the Security Council itself, and other Council members were never given sufficient information to enable them to be evaluated. Maybe not all the BRICS are to be believed when they say that, had better process been followed, more common ground could have been achieved: Russia's position on Syria was from the outset manifestly *realpolitik*-driven. But they can be believed when they say they feel bruised by the P3's dismissiveness during the Libyan campaign—and that those bruises will have to heal before any consensus can be expected on tough responses to such situations in the future.

The question arises now as to whether, as a result of these events, there has been irretrievable

breakdown in the Security Council as to how to react to the hardest mass atrocity crime situations, or whether consensus can be recreated. There are four reasons why I am optimistic that we are not headed back to the bad old days of the 1990s in this respect.

First, when the Security Council was confronted with unequivocal evidence of a mass atrocity crime, with the 2013 chemical weapons attacks in Ghouta, consensual action swiftly followed, authorising the destruction of the Syrian regime's chemical weapons and foreshadowing consideration of coercive action under Chapter VII of the UN Charter should it not cooperate. True, the decision was framed as a response to the proven use of an outlawed weapon of mass destruction, rather than a major war crime or crime against humanity breaching R2P principles. But what drove the decision was manifestly a unanimous sense of the total unconscionability, in this day and age, of this kind of indiscriminately inhumane action.

Second, for all its paralysis over Syria, the Security Council has, since its March 2011 decisions on Côte d'Ivoire and Libya, endorsed ten other resolutions directly referring to R2P: one concerning trade in small arms, but the others adopting measures to confront the threat of mass atrocities in Yemen, Libya, Mali, Sudan, South Sudan, and the Central African Republic.<sup>1</sup> None of these have authorized the use of military force, but together they confirm—as Simon Adams, head of the Global Centre for the Responsibility to Protect, puts it, paraphrasing Mark Twain—that the rumors of R2P's death in the Security Council have been greatly exaggerated.

Third, annual debates in the General Assembly continue to provide strong evidence that, disagreements over Libya notwithstanding, there is effectively universal consensus on basic R2P principles. No state is now heard to disagree that every sovereign state has the responsibility, to the best of its ability, to protect its own peoples from genocide, ethnic cleansing, and other major crimes against humanity and war crimes. No state disagrees that others have the responsibility, to the best of their own ability, to assist it to do so. And no state seriously continues to challenge the principle that the wider international community should respond with timely and decisive collective action when a state is manifestly failing to meet its responsibility to protect its own people. Certainly there is less general comfort with this last pillar than the first two, and there will always be argument about what precise form action should take in a particular case, but the basic principles are not under challenge. In this year's annual General Assembly debate on R2P in mid-September, in which 68 countries—more than ever before—participated, there was overwhelming support for these basic principles;<sup>2</sup> and that support was repeated two weeks later in many strong leaders' statements in the general debate opening the new session.<sup>3</sup>

Fourth, for all the division and paralysis over Libya and Syria, it is possible to see the beginning of a new dynamic in the Security Council that would enable the consensus that matters most—how to react in the Council on the hardest of cases—to be re-created in the future. The ice was broken in this respect by Brazil in late 2011 with its proposal that the idea be accepted of *supplementing* R2P, not replacing it, with a complementary set of principles and procedures which it has labelled

“responsibility while protecting” or “RWP.” The two core elements of the proposal were that there should be a set of prudential criteria fully debated and taken into account before the Security Council mandated any use of military force, and that there should be some kind of enhanced monitoring and review processes which would enable such mandates to be seriously debated by all Council members during their implementation phase, with a view to ensuring so far as possible that consensus is maintained throughout the course of an operation.<sup>4</sup>

While the disposition of the P3 so far has been to dismiss the Brazilian proposal as a spoiling tactic, albeit more sophisticated than most, it has become increasingly clear that, if a breakthrough is to be achieved—with un-vetoed majorities once again being possible in the Council in support of Chapter VII-based interventions in extreme cases—they are going to have to be more accommodating. The incentive to do so may be that there are now intriguing signs that the two BRICS countries that matter most in this context, because of their veto-wielding powers, China and Russia, may be interested in pursuing these ideas further.

At a two-day meeting in Beijing in October 2013, hosted by the foreign ministry’s think tank, the China Institute of International Studies, which brought together specialist scholars and practitioners from China and the other BRICS countries (Brazil, Russia, India, and South Africa), along with a handful of Western specialists, strong support was expressed around the table for the principle of “Responsible Protection” (“RP”), which had been floated by the Chinese scholar Ruan Zongze in a 2012 journal article,<sup>5</sup> which explicitly referred to and built upon the Brazilian RWP proposal, and which evidently had been the subject of much internal discussion since in Chinese policymaking circles. True, some Chinese scholars remained inclined to argue that the entire R2P enterprise—particularly its sanction of military action in exceptional cases—was just “old neo-interventionist wine in a new bottle.” But this did not appear to be a majority sentiment, nor did it stop anyone at this meeting from engaging in lively discussion of how the R2P doctrine could be most effectively implemented in practice.

And then in the same month, the Diplomatic Academy of the Russian Ministry of Foreign Affairs, apparently on the initiative of Foreign Minister Lavrov himself, hosted a one-day meeting on R2P, evidently the first of its kind, attended by senior ministry officials and Russian academics and a handful of Western specialists, including the Global Centre’s Director, Simon Adams, and the new UN Special Adviser on R2P, Professor Jennifer Welsh. While a little less focused than the Beijing event, there was again much attention paid to RWP and the Chinese RP concept, and an emerging sense from the meeting that Russia needed to align itself with those views.

It remains to be seen whether China and Russia—and the other BRICS countries—will now move to champion the idea of RP or RWP in a more formal, officially endorsed, way. If they do, it should not be viewed as a rear-guard action designed to undermine the R2P norm, but rather an effort to assume co-ownership of it. And in terms of getting serious about saying “never again” to mass-atrocity crimes, that is about as positive a development as anyone could hope for.<sup>6</sup>

What is needed now is the initiation of a serious discussion within the Council—using informal processes in the first instance, which I hope my own country, Australia, might play a role in leading over the next year—to put some detailed substance into the two elements highlighted in the original RWP proposal and repeated in the RP formulation.

The first is systematic attention to the relevant prudential criteria for the use of coercive military force, not yet formally adopted in any UN process, but spelt out in the initial Commission report which introduced the Responsibility to Protect concept more than a decade ago<sup>7</sup> and very much part of the currency of international debate ever since, viz. *seriousness of harm involved, right intention, last resort, proportionality* and *balance of consequences*. It would not be necessary, and probably counterproductive to try, to formally adopt these five criteria in a formal Security Council or General Assembly resolution. Nor can it be argued that attention to these benchmarks will produce consensus with push-button consistency: life is never that easy. But there is plenty of reason to believe that if an understanding develops that those arguing a case for military intervention must in practice make a detailed and compelling case that all five criteria would be satisfied, the chances of reaching consensus—one way or the other—will be significantly improved.

In the case of Syria, for example, at least two of these criteria have seemed to most objective observers to have always been difficult to satisfy. “Proportionality” demands that the scale, duration, and intensity of any proposed military action be the minimum necessary to meet the threat in question, but the trouble with most of the proposed “minimalist” intervention solutions—establishing “no-fly zones” or “no kill” buffer zones, for example—is that, in Syrian conditions, full-scale warfare would almost certainly have been required to impose them: the minimum may entail something like the maximum. Similarly with the “balance of consequences,” most analysts agree that any military intervention would have to be massive in scale to secure a peace, and likely to generate many more casualties along the way than it would prevent, given the complications posed (unlike in Libya) by a strong government military, profound internal sectarian differences, the strength of jihadist and anti-democratic elements within the opposition, and the potential for any intervention to ignite the whole region.

The other element of a new process would require some kind of serious ongoing review of coercive mandates once granted. This is likely to be met with some resistance by the P3 on the grounds that there must be some flexibility in the implementation of any military mandate, and that military operations can never be micro-managed. These are not unreasonable concerns, but equally there is no reason, in principle or practice, why broad concepts of operations, as distinct from strategy or tactics, should not be regularly debated and questioned as necessary. Whether civilian protection can be accomplished without full-scale war-fighting and regime-change is exactly such a question that the P3 should be prepared to debate. It is not necessarily a matter of establishing any new institutional mechanism—though sunset clauses, requiring formal renewal if a mission is to continue, are hardly unfamiliar in the Security Council. It is more a matter, again, of there being some real understanding that ongoing debate on mandate implementation is wholly legitimate.

It is probably too late to hope that evolution of a new consensus along these lines will make much difference in Syria itself, where the only hope now appears to be a diplomatic solution, brokered by the US and Russia working cooperatively together and with all options for the composition of a transitional administration left on the table. But it does hold out the hope of getting the R2P project back on track for future hard cases.

It is important to emphasise that the disagreement now evident in the UN Security Council *is* really only about how the R2P norm is to be applied in the hardest, sharp-end cases, those where prevention has manifestly failed and the harm to civilians being experienced or feared is so great that the issue of military force has to be given at least some *prima facie* consideration. But of course these *are* the talismanic cases, and if consensus has broken down at the highest political level on how they should be handled, there is a danger of flow-on risk to the credibility of the whole R2P enterprise. After all, that has been achieved in the last decade that would be profoundly disappointing.

#### Endnotes

- 1 For a full list of UN Security Council resolutions that reference R2P, see the Global Centre for the Responsibility to Protect. Accessed at <http://www.globalr2p.org/resources/335> (Jan. 14, 2014).
- 2 Global Centre for the Responsibility to Protect, "'State Responsibility and Prevention': Summary of the Informal Interactive Dialogue of the UN General Assembly on the Responsibility to Protect held on 11 September 2013," (22 October 2013). Accessed at <http://www.globalr2p.org/media/files/summary-of-the-2013-r2p-dialogue.pdf> (Jan. 14, 2014).
- 3 Global Centre for the Responsibility to Protect, "The Responsibility to Protect at the Opening of the 68th Session of the United Nations General Assembly," (4 October 2013). Accessed at <http://www.globalr2p.org/media/files/2013-ga-quotes-summary-2.pdf> (Jan. 14, 2014).
- 4 For an extended discussion, with full references, of the Brazilian proposal, see James Pattison, "The Ethics of 'Responsibility While Protecting': BRAZIL, The Responsibility To Protect, And Guidelines For Humanitarian Intervention," Human Rights & Human Welfare, working paper no. 71 (1 April 2013). Accessed at <http://www.du.edu/korbel/hrhw/workingpapers/2013/71-pattison-2013.pdf> (Jan. 14, 2014). See also Gareth Evans, "Mass Atrocities and the Use of Force: R2P After Libya and Syria," panel presentation to Conectas International Human Rights Colloquium, Sao Paulo, Brazil (16 October 2012). Accessed at <http://www.gevans.org/speeches/speech492.html> (Jan. 14, 2014).
- 5 Ruan Zongze, "Responsible Protection: Building a Safer World," China Institute of International Studies (Jun 15 2012). Accessed at [http://www.ciis.org.cn/english/2012-06/15/content\\_5090912.htm](http://www.ciis.org.cn/english/2012-06/15/content_5090912.htm) (Jan. 14, 2014).
- 6 This account of the Beijing and Moscow meetings draws on Gareth Evans, "Protecting Civilians Responsibly," Project Syndicate (Oct 25, 2013). Accessed at <http://www.project-syndicate.org/commentary/gareth-evanson-moves-by-china-and-other-brics-countries-to-embrace->

humanitarian-intervention (Jan. 14, 2014).

- 7 International Commission on Intervention and State Sovereignty, Gareth Evans and Mohamed Sahnoun (co-chairs), *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001). Accessed at <http://responsibilitytoprotect.org/ICISS%20Report.pdf> (Jan. 14, 2014).

# The Case for Criteria: Moving R2P Forward after the Arab Spring

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In this paper, I want to revisit the issue of criteria and guidelines for humanitarian intervention, which was frequently discussed in the 1990s and early 2000s. After a brief account of the current state of the debate on the issue of criteria for intervention in the Responsibility to Protect (R2P) doctrine, I will suggest that, contra the prevailing view, there are *already* criteria for intervention in R2P. I will then go on to argue that (i) a more explicit acceptance of the existence of criteria and (ii) an interpretation of them that is most morally judicious should be key elements of moving R2P forward after Libya and Syria.

## The Current State of the Debate

In the 1990s and early 2000s (largely before R2P was developed and gathered apace), there was a lively discussion about whether there should be developed criteria for intervention to govern instances, such as the crisis in Kosovo in 1999, where the Security Council is deadlocked, but humanitarian intervention would seem to be required to tackle mass atrocities.<sup>1</sup> The discussions of such criteria tended to focus on the possibility of developing formal criteria for military intervention that would enable the possibility of intervention without the need for UN Security Council authorisation. Yet, getting states to agree to the development of formal criteria outside of the UN Security Council was always going to be extremely tough, as it so proved, despite various proposals by states and civil society.<sup>2</sup>

By contrast, the 2001 ICISS report on R2P includes criteria for military intervention (its accounts of just cause, legitimate authority, and four “precautionary principles”), primarily to govern UN Security Council-authorized interventions.<sup>3</sup> However, the explicit inclusion of formal criteria within the R2P doctrine was rejected by states in the discussions in the build-up to the 2005 World Summit.<sup>4</sup> As a result, the prevailing view is that there are *not* criteria for humanitarian intervention under R2P.

There are two schools of thought surrounding the case for criteria, both of which largely endorse the prevailing view. On the one hand, there is a more sceptical school of thought (which includes one of the world’s most distinguished R2P scholars, Alex Bellamy) that worries that formal criteria for military intervention are unlikely to be developed and would add little to resolve current issues.<sup>5</sup> It is, therefore, not worth investing political capital in developing criteria; this effort would be better spent elsewhere. On the other hand, there is a more optimistic school of thought (which includes perhaps the most eminent R2P advocate, Gareth Evans) that proposes that guidelines on intervention could do much to take R2P forward.<sup>6</sup> This includes tackling the deadlock surrounding R2P post-Libya and Syria, improving decision-making on the use of force, and ultimately leading to more interventions when required. In a somewhat similar vein, Brazil and China have developed the “responsibility while protecting” (RwP) and “responsible protection” (RP) notions, respectively.<sup>7</sup> Both of these proposals make the case for guidelines for intervention in order to improve the justifiability of interventions, largely in response to the NATO intervention in Libya, which (amongst other things) was alleged to have gone beyond the mandate given to it by UN Security Council Resolution 1973.

It should be noted that the two schools of thought are not necessarily inconsistent; there are differences in what is being considered. Whereas the former, more sceptical view tends to focus on the development of *formal* criteria, such as in the form of a new treaty, perhaps outside of auspices of the UN Security Council, the latter, more optimistic view tends to focus on the case for the development of less formal *guidelines* to govern UN Security Council-authorized interventions in R2P cases. One could accept that it may be difficult to develop formal criteria, but still accept the case for the development of informal guidelines.

Notwithstanding, both schools of thought tend to assume that there do not already exist guidelines for military intervention under R2P.<sup>8</sup> As I will argue in the next section, this assumption is mistaken.

### The R2P Already Has Criteria

I will now suggest that there already exist criteria for the R2P. More precisely, I will argue that there already exist some informal guidelines on R2P. These guidelines are very similar (in subject matter) to the standard accounts of the principles that govern the resort of force in Just War Theory (the principles of *jus ad bellum*) and the guidelines in the ICISS report, which, to a certain extent, draw on Just War considerations.<sup>9</sup> To see this, let us consider the main *jus ad bellum* conditions and how they already exist in the R2P. As far as I am aware, the existence of R2P guidelines has not been explicitly acknowledged in the literature on R2P.

1. An account of just cause was clearly endorsed by states at the 2005 UN World Summit.<sup>10</sup> Intervention is permissible only when states are manifestly failing to protect their populations from the four R2P crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity.
2. In terms of legitimate authority, almost all accounts of the R2P require that any military intervention be authorised by the UN Security Council.
3. In terms of last resort, the 2005 World Summit makes it clear that force may be used only “should peaceful means be inadequate” and emphasises the need for the pursuit of non-forcible options, as well as prevention. This is very similar to recent accounts of the principle of last resort in Just War Theory, which tend to move away from a literal understanding of this principle.<sup>11</sup>
4. In a similar manner to right intention, those authorised to undertake humanitarian intervention are already required to be consistent with the intent of the authorisers (i.e. the UN Security Council) by sticking to their mandate and reporting to the UN Security Council when requested.
5. In regard to the likely fidelity to the principles of *jus in bello* (which can be framed as *ad bellum* condition by looking to likely compliance),<sup>12</sup> any intervener is already bound by international humanitarian law (IHL).
6. The principle of proportionality in the resort of force (i.e. as an *ad bellum* matter) is

a central principle of international law and would apply to intervention under R2P. It requires that the policy adopted must be proportionate to the original provocation and/or the intervention must be expected to do more good than harm. (Also note that the latter is very similar to the Just War requirement of a reasonable prospect of success).

It seems, therefore, that there are already conditions governing military intervention under R2P.

These principles have a quasi-legal status. Some are legally binding, most notably the principles of legitimate authority, fidelity to the principles of *jus in bello*, and proportionality *ad bellum*. Others have a more moot legal status, largely dependent on whether one holds that the 2005 World Summit is legally binding. Regardless, all seem to be norms: they dictate generally expected standards of behaviour and are widely endorsed.

It may be objected that such guidelines are legally irrelevant because the UN Security Council is the ultimate authority on matters of international peace and security. As such, its decisions cannot be subject to external legal constraints. This seems mistaken. First, the primary subject of the guidelines is that which they authorise—the intervener—and this is clearly subject to external legal constraints. The Security Council is not the agent that will undertake the intervention, but rather the authority to authorise intervention under R2P. Second, even though the Security Council can determine matters of peace and security, it is still subject to various external constraints, such as those of the UN Charter. Indeed, although the primary subject of the guidelines is the intervener, they may also apply to the Security Council, in that the Security Council *should* authorise interventions that meet these conditions.

As already noted, these principles reflect the broad categories of Just War Theory. As such, we should not be surprised that there are already existing guidelines on humanitarian intervention under R2P. Just War Theory is not best seen as an arcane political theory with little policy relevance. Rather, the broad framework of Just War Theory is widely accepted and often frames political discussions about the resort of force, as well as international law.<sup>13</sup> My point, then, it is that if we accept that the principles of Just War Theory are politically important and widely endorsed, and that they often affect decisions about the resort to force, including military intervention, it seems far less of a jump to accept that there are already principles that are politically important and widely endorsed, and that govern intervention under R2P.

Of course, there is significant disagreement surrounding the exact formulation of the relevant principles of Just War Theory, both in academia and beyond. For instance, in light of the War on Terror and War in Iraq, there has been a vibrant debate about whether preemptive and/or preventative self-defence is a just cause for resort to force. Accordingly, even though there is broad agreement on the *main categories*, there is still substantial disagreement on their *details*. It is a similar story for R2P.

### Moving R2P Forward

Although there is broad agreement on the six conditions for military intervention under R2P, the interpretation of some of them is still contested. This seems to be particularly the case for proportionality and last resort. For instance, in its early accounts of RWP, Brazil proposed an account of last resort (“chronological sequencing”) that was very restrictive and, if implemented, could potentially lead to far fewer humanitarian interventions.<sup>14</sup>

To take R2P forward, there are two steps that can be beneficial in regard to criteria. The first is to have a more *explicit* acceptance of the fact that there are conditions governing military intervention under R2P. This should help to improve the openness of the decision-making on the use of force and the influence of the current guidelines, as well as help to develop more settled guidelines, so that problematic interpretations are more clearly delegitimised. In addition, a more explicit acceptance that there are guidelines for intervention under R2P may be necessary if one wants to hold that there is a legal duty to intervene (which is argued by certain R2P advocates and international lawyers).<sup>15</sup> The difficulty with the case for a legal duty to intervene is that it would seem mistaken to argue that there is a duty to intervene (or to authorise intervention) in cases when intervention would not be morally permissible, such as in Syria in 2012 and 2013, arguably. Accordingly, a more explicit acceptance that there are guidelines for intervention under R2P should help make clearer the specific cases where there is, in fact, a legal duty to intervene, and not acting would be illegal.

The second step is to develop an interpretation of the current guidelines that is most morally desirable, within current political constraints. The accounts of the criteria in the later versions of RWP and in the ICISS are, I think, generally judicious and should be used as the basis for the interpretations of the particular guidelines.<sup>16</sup> The worry is that there will develop an account of the guidelines, in general, or of a particular guideline that is morally problematic, such as by unduly enabling or restricting humanitarian intervention (e.g. chronological sequencing in early accounts of RWP).

There seems to be momentum developing around the first step. Influential R2P advocates, such as Gareth Evans and Ramesh Thakur, and some of the BRICS states, such as China and Brazil, have recently endorsed the case for guidelines for intervention under R2P. But more needs to be done on the second step. If there are to be guidelines on intervention under R2P, we need to ensure that they are appropriate ones. To that end, it may be up to civil society and R2P advocate states to develop morally judicious accounts of the guidelines to help to frame the call for—and perhaps more explicit acceptance of—guidelines for intervention.

### Endnotes

- 1 Earlier versions of this article were presented at “Responsibility to Protect and the Crises in Libya and Syria,” ESRC Seminar Series, University of Westminster, December 2013, and “The Responsibility to Protect and Humanity: A Study on the Idea of Human Interconnectedness,” White Rose Conference, University of Leeds, December 2013. I would like to thank the participants for their helpful feedback and comments. The paper draws on themes discussed at greater length in the context of the Brazil’s responsibility while protecting doctrine in James Pattison, “The Ethics of Responsibility While Protecting: Just War Theory, the Responsibility to Protect, and Guidelines for Humanitarian Intervention,” *Human Rights & Human Welfare*, working paper no. 71 (1 April 2013). Accessed at [www.du.edu/korbel/hrhw/workingpapers/2013/71-pattison-2013.pdf](http://www.du.edu/korbel/hrhw/workingpapers/2013/71-pattison-2013.pdf) (Jan. 14, 2014). See, for instance, the various contributions in J. L. Holzgrefe and Robert O. Keohane (eds.), *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), and the special edition of *International Relations* 19/2 (2005), as well as Danish Institute of International Affairs, *Humanitarian Intervention: Legal and Political Aspects* (Copenhagen: The Danish Institute of International Affairs, 1999).
- 2 See, for instance, the Dutch proposal: Advisory Council on International Affairs and Advisory Committee on Issues of Public International Law, *Advisory Report 13: Humanitarian Intervention*, (2000). Accessed at [http://cms.web-beat.nl/ContentSuite/upload/aiv/doc/AIV\\_13\\_Eng.pdf](http://cms.web-beat.nl/ContentSuite/upload/aiv/doc/AIV_13_Eng.pdf) (Jan. 14, 2014). Perhaps more famous is the “Doctrine of the International Community” speech by Tony Blair to the Chicago Economic Club, which outlines five criteria (April 22, 1999). Accessed at [http://www.pbs.org/newshour/bb/international/jan-june99/blair\\_doctrine4-23.html](http://www.pbs.org/newshour/bb/international/jan-june99/blair_doctrine4-23.html) (Jan. 14, 2014).
- 3 The ICISS does leave room for intervention to be authorised by the General Assembly under the Uniting for Peace procedure; presumably, the criteria would also apply to such interventions. ICISS, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).
- 4 See Alex J. Bellamy, *Global Politics and the Responsibility to Protect* (London: Routledge, 2011), 164-9.
- 5 *Ibid.*
- 6 See, for instance, Gareth Evans, “R2P and RWP after Libya and Syria,” keynote address to GCR2P/FGV/Stanley Foundation Workshop, Responsibility While Protecting: What’s Next? Rio de Janeiro (23 August 2012).
- 7 Brazil, “Responsibility while Protecting: Elements for the Development and Promotion of a Concept,” A/66/551-S/2011/701 (11 November 2011). Ruan Zongze, “Responsible Protection: Building a Safer World,” China Institute of International Studies (Jun 15, 2012). Accessed at [http://www.ciis.org.cn/english/2012-06/15/content\\_5090912.htm](http://www.ciis.org.cn/english/2012-06/15/content_5090912.htm) (Jan. 14, 2014).



- 8 This is not quite true of Bellamy. Most notably, in response to the case for formal criteria, he notes that R2P already informally implies (in effect) just cause in the 2005 World Summit agreement. Alex J. Bellamy, *Global Politics and the Responsibility to Protect*, (London: Routledge, 2011) 166. However, as far as I am aware, he does not note (in his impressive body of work) that a longer list of informal guidelines for intervention under R2P *already* exists.
- 9 ICISS, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).
- 10 United Nations, "2005 World Summit Outcome," A/RES/60/1 (14-16 September 2005). Accessed at [http://www.un.org/ga/59/hl60\\_plenarymeeting.html](http://www.un.org/ga/59/hl60_plenarymeeting.html) (Jan. 14, 2014).
- 11 See, for instance, Simon Caney, *Justice Beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2005), 249-50; and John Lango, "The Just War Principle of Last Resort: The Question of Reasonableness Standards," *Asteriskos: Journal of International and Peace Studies* 1/1-2 (2007), 7-23.
- 12 See James Pattison, "Humanitarian Intervention, the Responsibility to Protect and *jus in bello*," *Global Responsibility to Protect* 1/3 (2009), 364-91; and James Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (Oxford: Oxford University Press, 2010), 99-127.
- 13 The matter is, of course, complicated by the fact that accounts of Just War Theory often draw on international law. On the political import of Just War, see Daniel Brunstetter, "Trends in Just War Thinking during the U.S. Presidential Debates 2000-12: Genocide Prevention and the Renewed Salience of Last Resort," *Review of International Studies* (forthcoming).
- 14 Brazil, "Responsibility while Protecting: Elements for the Development and Promotion of a Concept," A/66/551-S/2011/701 (11 November 2011).
- 15 See, for instance, Luke Glanville's excellent piece, "The Responsibility to Protect Beyond Borders," *Human Rights Law Review* 12/1 (2012), 1-32.
- 16 Brazil, "Statement by H.E. Ambassador Maria Luiza Ribeiro Viotti, Permanent Representative of Brazil to the United Nations," General Assembly Interactive Dialogue on "Responsibility to Protect: Timely and Decisive Response" (5 September 2012). ICISS, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).

# After Syria, Whither R2P?

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There hardly has been too much, but rather too little deployment of military force for human protection purposes. The March 2011 international military action against Libya approved by the UN Security Council was the first such authorization against a functioning *de jure* government, and the first such use of substantial force since the contested 1999 operation in Kosovo by the NATO. In between, an essential norm broke new international public policy ground, namely, the “responsibility to protect” (or R2P), whose development has proceeded apace since the publication of a 2001 report with that title by the International Commission on Intervention and State Sovereignty (ICISS).

Until Libya, the sharp end of the R2P stick had been replaced by skittishness from diplomats, UN staff, scholars, and policy analysts. Libya was a new high-water mark for R2P, but with high tides come high risks. Few doubted that harsh measures were necessary to forestall a massacre in Benghazi, yet a predictable chorus of buyer’s remorse subsequently arose—especially from the Third World, with Brazil taking the lead in calling for “responsibility while protecting” (RwP).

The controversy was reflected in Security Council paralysis over robust action in Syria, where the bloodshed and suffering inflicted by the Bashar al-Assad regime were far worse—we are still counting, but upwards of 120,000 dead and 5 million displaced (inside and outside the country). It was not the R2P norm, but rather geopolitics and collective spinelessness that explain action in Libya and inaction in Syria. What Aidan Hehir calls the “permanence of inconsistency” is an accurate description of the politics of R2P, or indeed the politics of anything.<sup>1</sup>

The responsibility to protect is a principle and not a tactic. Friends and foes point to the commission’s central conceptual contribution and value-added in reframing sovereignty as contingent rather than absolute. And that principle remained intact in Syria, even if international action was considerably less fulsome than in Libya.<sup>2</sup>

In fact, the transformation of international attitudes is remarkable if we contrast the deafening silence that greeted the 1982 massacre by Hafez al-Assad of some 40,000 people in an artillery barrage of Hama with the steady stream of hostile condemnations of his son’s machinations: the UN’s Joint Office on the Prevention of Genocide and R2P called for a halt to crimes against humanity; the Human Rights Council condemned the crimes by a crushing vote and published a report detailing extensive crimes; the United States, the European Union, and other states imposed sanctions; the Arab League condemned the actions, formulated a peace plan, and sent human rights monitors; and the UN General Assembly initially condemned the violence and supported the peace plan with a two-thirds majority and, on two subsequent occasions, even more overwhelmingly (only 12 of 193 states voted against the resolutions) condemned Assad’s unbridled crackdown and mass atrocities and specifically called for his resignation.

Dilemmas remain as Libya—a weak state, if there ever was one, with no history of democracy and plenty of evidence of feuds and bitterness, along with 200,000 armed militia—hurtles headlong into a new era without the kind of post-intervention support that the West provided in Kosovo. Let us be

clear: military force is not a silver bullet, and its use is not a cause for celebration. That said, and despite substantial ongoing transitional problems in Libya, at least concerted international action in 2011 halted Col. Muammar el-Gaddafi's mass murder.

Meanwhile, Syria continued to hemorrhage until the use of chemical weapons in August 2013 led to threats of force and, ultimately, accelerated international diplomacy to dismantle them. It also led to at least promises of negotiations that had been hamstrung, despite much weeping and gnashing of diplomatic teeth and yeoman efforts by mediators Kofi Annan and Lakhdar Brahimi.

The use of chemical weapons in August 2013 may have been a game changer. The threat of US air strikes—despite the lack of support worldwide among populations and parliaments—seems to have catalyzed a frenzy of diplomacy, Russian engagement, and a hasty agreement to dismantle Syria's chemical weapons stock under the auspices of the UN and the Organization for the Prohibition of Chemical Weapons. In terms of crimes against humanity and war crimes, what could be more abhorrent and less discriminating than the use of chemical weapons? While they could have well justified an R2P response, they did not. Again, geopolitics trumped the protection of civilians.

While of little solace to Syria's victims and their families, clarion calls have reaffirmed the R2P principle. In comparison with Libya, the "why not" in Syria was clear: the politics in the country and at the United Nations were totally different—demonstrated by several actual or threatened double vetoes from Russia and China—as well as the geography and the demography; the military challenge was far tougher; and the potential costs by 2013 appeared to outweigh the benefits of coercion.<sup>3</sup>

Does this mean that we have heard the death knell of R2P? Hardly. Syria demonstrates, if there was any doubt, that a robust R2P response is never automatic. Widespread diplomatic and public lamentations were audible, even if government security forces deployed tanks, warships, and heavy weapons against civilians. In addition to the politics in the Security Council, Syria also confounded easy generalizations—with insurgent atrocities gradually replicating the regime's—and was distinctly more complicated, chancy, and confused than Libya.

Political will and military capacity ultimately determine whether, when, where, and why to protect and assist vulnerable populations. However shocking to the conscience a particular emergency, and however hard or soft the applicable public international law, when political will and a military capacity exist, humanitarian space will open and war victims will be assisted and protected. In Libya, the moral, legal, political, and military dimensions dovetailed under the responsibility to protect. Rather than speaking truth to power, R2P's value-added was speaking truth *with* power. In Syria, only the moral dimensions of R2P are apparent, and so unlucky civilians are slaughtered and lucky ones flee.

Hopefully, Libya was not an aberration. Syria currently shames the collective international conscience and appears to dash the hopes for decisive outside military intervention; human abattoirs are not inevitable. We are capable of uttering no more Holocausts, Cambodias, and Rwandas—and

occasionally mean it. "Never again" has been theorized *ad nauseam* in diplomatic gatherings and university seminars from Boston to Benghazi. But Muammar el-Gaddafi's departure, and the immediate protection of Libyans, was an accomplishment. And if Bashar al-Assad eventually leaves Syria, it will, in part, reflect the early traction of the R2P norm, which should have led to robust international action in 2011, and even early 2012, but did not.

In the abstract, R2P clearly indicates that state sovereignty no longer is absolute, but contingent on responsible behavior. If a government violates international law and, in particular, if it permits atrocities or perpetrates abuse, the Security Council may act or may not. Political interests vary, case to case. In terms of applying the emerging norm, Syria is not Libya, and Sri Lanka is not Côte d'Ivoire.

Expecting consistency, alas, is a fool's errand. We cannot make the ideal the enemy of the good. Occasional action is preferable to no action anywhere.

#### Endnotes

- 1 Aidan Hehir, "The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect," *International Security* 38:1 (2013), 137-59. The author's views are Thomas G. Weiss, "RtoP Alive and Well after Libya," *Ethics & International Affairs* 25:3 (2011), 287-92.
- 2 For interpretations by commissioners, see Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, D.C.: Brookings, 2008); and Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2006). See also Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Cambridge: Polity Press, 2009); Anne Orford, *International Authority and the Responsibility to Protect* (Cambridge: Cambridge University Press, 2011); and Aidan Hehir, *The Responsibility to Protect: Rhetoric, Reality and the Future of Humanitarian Intervention* (Houndmills: Palgrave Macmillan, 2012). The author's interpretation is Thomas G. Weiss, *Humanitarian Intervention: Ideas in Action*, 2nd edition (Cambridge: Polity Press, 2012).
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# Syria and the Responsibility to Protect

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The civilian protection agenda has tried to fill critical gaps in the existing normative architecture through the Responsibility to Protect (R2P) and protection of civilians (POC) as sibling norms.<sup>1</sup> Despite these two valuable additions to the repertoire of the international community in dealing with civilian victims of armed conflicts, many gaps remain in the protection agenda, as shown in several cases—from Cyclone Nargis in Myanmar to Darfur and, most prominently this year, Syria.<sup>2</sup>

The failure to protect Syrian civilians stems from five sets of factors: conceptual conundrums in relation to an armed civil war; the difficulty of establishing culpability for atrocities with sufficient clarity; parallel difficulties of satisfying the balance of consequences test; NATO excesses in Libya linked to the West's reluctance to share a rule-writing role with the new emerging powers; and the latter's reticence in accepting the burdens of being joint managers of the world order, which requires a mix of power, norms, and ideas for good global governance.<sup>3</sup>

1. Fighting erupted in Syria in early 2011 as the Arab Spring rapidly spread eastwards from Tunisia and Egypt. President Bashar al Assad launched a fierce crackdown on the initially peaceful pro-democracy protests, and the country swiftly descended into full-fledged civil war that sucked in various foreign jihadists and rival outside backers, raising two problematical questions. Is the recognised state prohibited from employing force to fend off armed challenges to its authority? With the ensuing spread and escalation of humanitarian crises, how can the moral hazard of encouraging other opposition and secessionist groups to take up arms against governments elsewhere be avoided? In addition, what is the appropriate boundary demarcation between POC/R2P, on the one hand, and international humanitarian and human rights laws, on the other, in regulating the conduct of conflict parties in civil wars?

2. In the midst of a highly emotive war, critical question marks need to be substituted for excitable exclamation marks regarding the facts and possible responses. Too often slogans pass for policy: something must be done; this is something; therefore this must be done.

Casualty figures are deliberately manipulated and misused through casual elision. Leading US politicians routinely condemned the Assad regime for having massacred more than 100,000 people. That figure represents the total number of people killed. The best available estimate, provided by the Syrian Observatory on Human Rights, breaks it down as follows: civilians, 40,146; rebels, 21,850; government soldiers, 27,645; pro-regime militias, 17,824; others/unknown, 2,897; total, 110,371 (as of mid-September 2013).<sup>4</sup>

With regard to chemical weapons use—a qualitative escalation that crosses the atrocity threshold in that all weapons of mass destruction are inherently indiscriminate and inhumane in their deadly effects—the UN investigation team led by Ake Sellstrom recently confirmed, without attributing responsibility to any party, that chemical weapons had been used in five instances during the Syrian civil war.<sup>5</sup> The West did not help its credibility problem by jumping to conclusions that they were used by the regime. Seymour Hersh argues that, like Bush in Iraq in 2003, Obama had cherry-picked

facts and intelligence, presenting assumptions as facts, implying a sequence that reversed reality, and omitting important intelligence pointing to the jihadist al-Nusra's capability to make and mount a chemical weapon attack with sarin.<sup>6</sup>

3. What could the world do in response without further inflaming an extremely volatile region and badly damaging key major power relations? The fluid and confused internal situation; question marks over the identity, intent, and methods of the rebels; the risk of atrocities against minority groups if the regime collapsed; relations with Iran, China, and Russia; and the deepening Sunni-Shia divide all around the Islamic crescent in the Middle East made it impossible to assess the balance of consequences of outside intervention with confidence. A war-weary US public doubts the West has any dog in the fight in the Syrian civil war where a rebel commander filmed himself eating the heart of a government soldier and almost half the rebel fighters are jihadists.<sup>7</sup> There is the added risk of blowback as radicalised Western Muslims take up arms to go and fight in Syria, and return with an extremist ideology and battle experience.

Retired US Air Force General Michael Hayden, head of the CIA until 2009, argues there are three possible outcomes to the conflict: continuing fighting between ever more extreme rebel and pro-government sectarian factions, disintegration of Syria as a state with flow-on destabilising consequences for the whole region, or the survival of the Assad regime. Given the alternatives, Hayden concluded, reluctantly, that the last was the best.<sup>8</sup>

4. The 2011 Libya crisis showcased the mobilising power of R2P as a new norm that led China and Russia to abstain, rather than veto, Resolution 1973. The initial response to the crisis was a textbook example of R2P Pillar Three military intervention. But the NATO operation soon exposed a critical gap between the proclamation of a no-fly zone, prohibition of regime change, and effective provision of civilian protection. The last required regime change that would break the Security Council consensus. There also developed a significant gap in communications, expectations, and accountability between those who authorised and those who implemented Resolution 1973. The post-Gaddafi turmoil and volatility in Libya further complicated international responses to the ongoing crisis in Syria by raising doubts about the long-term results of R2P-type military action.

5. The refusal to entertain overtures for a negotiated outcome that might have left Muammar Gaddafi in power fatally undercut efforts to build global support for military strikes on Syria. No foreign country has been attacked by Syria. Other than self-defence against armed external attack, only UN authorisation provides legal cover for military strikes. Without UN authorisation, military strikes would be neither lawful nor legitimate, just another instance of vigilante justice by a trigger-happy and seemingly out-of-control West. The international community cannot be collapsed into a mini-NATO coalition of the willing. The rest saw a determination by the NATO P3 to enforce humanitarian norms inside other countries' sovereign jurisdictions by flouting higher-order global norms on restrictions on the threat and use of force internationally. The latter are more critical to most countries' national security and international stability.

China and Russia were adamantly opposed to authorisation of any international action without host-state consent and to any resolution that could set in motion a sequence of events leading to 1973-type outside military operations in Syria.<sup>9</sup> After the allegations of chemical warfare on 21 August, President Barack Obama and Secretary of State John Kerry clamoured for Syria to submit to US authority and surrender to American might. What Russia did, instead, was subject Syria to international law and UN authority to get rid of its chemical weapons, at the price of no regime change. President Vladimir Putin's op-ed in the *New York Times* laid out a narrative of the US as an international rogue state, addicted to bullying weaklings in the global backyard, who refuses to kowtow to its dictates.<sup>10</sup> The morally dubious provenance of the author could not take away the sharp sting of his analysis.

In conclusion, Syria has thrown up challenges, but not thrown out R2P. There is interest in clarifying the norm further and tightening operational safeguards to prevent misuse—for example, through the Brazilian concept of “Responsibility while Protecting” or a Chinese version of “Responsible Protection”—but no demand to rescind the norm, *per se*. Protecting civilians is a “wicked problem” with no solutions, only better or worse outcomes. Our common humanity demands an acceptance of a duty of care by all of us who live in zones of safety towards all of those trapped in zones of danger. To be meaningful, the R2P spectrum of action must include military force as the option of last resort (conceptually, not sequentially). Because of the difficulty in satisfying the balance of consequences test in Syria, the failure to unite behind non-coercive military intervention measures to rein in the brutal excesses of the Assad regime is the truer indictment of the UN's ineffectualness.

#### Endnotes

- 1 See Hugh Breakey, Angus Francis, Vesselin Popovski, Charles Sampford, Michael G. Smith, and Ramesh Thakur, *Enhancing Protection Capacity: Policy Guide to the Responsibility to Protect and the Protection of Civilians* (Brisbane: Institute for Ethics, Governance and Law; 2012). Accessed at <http://www.griffith.edu.au/criminology-law/institute-ethics-governance-law/research/responsibility-to-protect-protection-of-civilians-policy-guide> (Jan. 14, 2014).
- 2 See Ramesh Thakur, “Protection Gaps for Civilian Victims of Political Violence,” *South African Journal of International Affairs* 20:3 (December 2013), 321-38.
- 3 See Ramesh Thakur, “R2P after Libya and Syria: Engaging Emerging Powers,” *The Washington Quarterly* 36:2 (Spring 2013), 61-76.
- 4 Figures cited in Micah Zenko, “Responsibility to Protect?” *Foreign Policy* (September 17, 2013). Accessed at [http://www.foreignpolicy.com/articles/2013/09/17/responsibility\\_to\\_protect](http://www.foreignpolicy.com/articles/2013/09/17/responsibility_to_protect) (Jan. 14, 2014).
- 5 “Those guilty of chemical weapons attacks in Syria must be held accountable – Ban,” UN News Centre (13 December 2013). Accessed at <http://www.un.org/apps/news/story.asp?NewsID=46739> (Jan. 14, 2014). For the interim report in September 2013, see “Report of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the

Syrian Arab Republic on the alleged use of chemical weapons in the Ghouta area of Damascus on 21 August 2013," United Nations, A/67/997–S/2013/553 (16 September 2013). Accessed at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/67/997](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/67/997) (Jan. 14, 2014).

- 6 Seymour M. Hersh, "Whose sarin?" *London Review of Books* 35:24 (19 December 2013), 9-12. Accessed at <http://www.lrb.co.uk/2013/12/08/seymour-m-hersh/whose-sarin> (Jan. 14, 2014).
- 7 Ben Farmer, "Syria: nearly half rebel fighters are jihadists or hardline Islamists, says IHS Jane's report," *The Telegraph*, London (15 September 2013).
- 8 AFP, *The Times*, "Assad victory 'the best outcome,'" *Weekend Australian* (14-15 December 2013).
- 9 Fyodor Lukyanov, "Why Does Russia's Stance on Syria Baffle Everyone?" *Russia in Global Affairs* (23 February 2012). Accessed at <http://eng.globalaffairs.ru/redcol/Why-Does-Russias-Stance-on-Syria-Baffle-Everyone-15478> (Jan. 14, 2014). Liu Xiaoming (China's ambassador to the UK), "China believes Syria needs a peaceful solution," *The Guardian* (10 February 2012).
- 10 Vladimir V. Putin, "A plea for caution from Russia," *The New York Times* (11 September 2013).

# Syria Teaches Us Little about Questions of Military Intervention

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The lack of military intervention in response to the ongoing crisis in Syria has been taken by some commentators as evidence that the supposed norm of intervention for the protection of populations has no meaningful impact on the actual behavior of states. These commentators insist that the absence of intervention in Syria demonstrates that the intervention in Libya in 2011 was an aberration and that the notion that a norm has emerged that permits and perhaps even requires military intervention in response to mass atrocities is incorrect.<sup>1</sup> This reasoning is fundamentally flawed. The lack of intervention in Syria teaches us little about the intervention norm for two reasons. First, few observers have argued that military intervention would be a just and prudent means of protecting the Syrian population. If military intervention is not considered the appropriate response to a crisis, it makes little sense to cast the absence of intervention as a failure and to suggest that it demonstrates the weakness of the norm. Second, even if military intervention was warranted in Syria, the fact that Russia would have likely prevented the passage of any Security Council resolution authorizing the intervention would not have spelled the death of the intervention norm. Norms matter, but so do the material and strategic interests of great powers, and a norm is not rendered meaningless by the fact that it is sometimes trumped by interests.

Before turning to the crisis in Syria, it is instructive to briefly revisit the Libyan intervention. The willingness of the fifteen members of the Security Council in March 2011 to vote for or at least allow the passage of Resolution 1973, authorizing “all necessary measures” to protect civilians in Libya, constituted a landmark moment in the development of the intervention norm. It seems clear that this resolution was adopted by states primarily because of the power of the idea that the international community should not stand by while a tyrant kills civilians as though they are cockroaches, as Gaddafi claimed he intended to do. It is true that, as many commentators have noted, states tended not to explicitly invoke the idea that the international community has a “responsibility to protect” (R2P) when justifying the decision to intervene.<sup>2</sup> Nevertheless, states were surely moved to intervene, or not to block intervention, in large part because of the power of ideas and norms of human protection related to R2P, and it is odd that so many scholars have been unwilling to acknowledge this even though they have suggested no plausible alternative motivation for intervening states. To be sure, there were numerous factors that made the Libyan intervention permissible and feasible. Gaddafi’s clear threat of mass atrocities, the explicit request of the League of Arab States for action, and NATO’s belief that it could achieve its aims relatively quickly and easily were each crucial in making the intervention a viable option.<sup>3</sup> But these reasons do not explain why states chose to act rather than not act. States did not choose to intervene in Libya merely because such intervention was permissible and feasible. Rather, they chose to intervene in large part because they were moved by felt moral, social, and political imperatives to act to protect populations.

Does the failure of the international community to undertake a similar military intervention in Syria, then, suggest a weakening of the intervention norm? Does it demonstrate a weakening of these felt moral, social, and political imperatives to intervene in response to mass atrocities? No, it does not. To be sure, the response of the international community to the Syrian crisis has been lamentable. The failure of the permanent members of the Security Council to work together to adopt strong

resolutions on the crisis in its first two years was shameful.<sup>4</sup> And the unwillingness of France and the United States, who have long called for a firmer response to the crisis, to meanwhile offer their “fair share” to humanitarian efforts to relieve the suffering of civilians is appalling.<sup>5</sup> But the international community’s response to the Syrian crisis tells us little about the weakening or otherwise of the norm of military intervention for the protection of populations.

The failure to undertake military intervention in Syria would surely be significant only if military intervention was understood to be the appropriate response to the crisis. This has not been the case. Prior to the chemical weapons attack that killed over 1,400 people in a suburb of Damascus on August 21, 2013, no states and almost no advocates of R2P had argued in favor of military intervention to protect Syrian civilians.<sup>6</sup> They had refrained from doing so because military intervention at no stage appeared to be the right option. Syria was a very different crisis from Libya and it was very difficult to see how an external military intervention in Syria could do more good than harm. Moreover, when some states and commentators briefly argued in favor of a military intervention in the aftermath of the August 2013 chemical weapons attack, all of these states and many of these commentators claimed that such intervention ought to be limited to deterring future use of chemical weapons and degrading the Assad regime’s capacity to use them. The Obama administration was particularly insistent that military strikes, if they were to occur, ought to be “a very limited, very targeted, very short-term effort” targeted at the use of chemical weapons, rather than one that sought more broadly to secure the protection of the Syrian population.<sup>7</sup> If few observers have ever thought military intervention was the right way to protect civilians in Syria, it makes little sense to cast the lack of intervention as a failure and to claim that it demonstrates the weakness of the intervention norm.

It might be replied that the anti-interventionist statements of Russia, in particular, in Security Council debates on Syria indicate that, even if military intervention was the right option in Syria and there was sufficient political will among Western states to undertake the intervention, such intervention would not have been authorized by the Security Council and this shows the weakness of the intervention norm. However, such an example of great power opposition to the application of a norm does not demonstrate that the norm has no impact on the behavior of states. After all, no one has suggested that the norm of non-intervention in the affairs of sovereign states is dead or meaningless simply because Russia invaded Georgia in 2008. Sometimes norms are trumped by the interests of powerful states. This does not mean that the norm may not have a powerful impact in other cases.

To be sure, there has been a strong backlash against the manner in which NATO conducted its intervention in Libya and this has played out in the international debate on how to respond to the crisis in Syria. It would seem clear that this backlash has hampered agreement within the Security Council even on whether or not to condemn the violence in Syria, let alone whether to apply sanctions against the Assad regime for its atrocities.<sup>8</sup> However, Syria is simply not a good test case for measuring the impact of this backlash on the norm of military intervention for the protection of populations. Certainly, states such as China have repeatedly declared in Council debates on Syria that they oppose the use of force in international relations, but they said the same thing in 2011

even while allowing the passage of Resolution 1973 on Libya.<sup>9</sup> In the absence of a plausible case for military intervention in Syria, the absence of intervention teaches us little. Moreover, despite this backlash over Libya, skeptical states have continued to engage with ideas of military intervention, seeking not to prohibit military intervention, but to ensure that when it occurs it is done the right way. Brazil’s “Responsibility While Protecting” concept is a well-known example. Another that is beginning to gain attention is the idea of “Responsible Protection” being debated within China.<sup>10</sup>

All of this is, of course, rather irrelevant to the terrible suffering that continues in Syria. The international community has failed in its response to Syria. That much seems clear. Nevertheless, it is not helpful to claim that the international community is to be faulted for not undertaking military intervention in response to the crisis or that the failure to intervene reveals anything substantial about the strength of the intervention norm. Indeed, when considering the strength of the norm, it may be worth considering the following: Since the unanimous endorsement of R2P by states at the UN World Summit in 2005, there has been only one clear case, Libya, in which it was widely agreed that military intervention would be a just and prudent response to the occurrence of mass atrocities, and in that case the international community did not fail to intervene. Perhaps the norm is not so weak after all.

#### Endnotes

- 1 Such a notion is most commonly found in online opinion pieces, but it can also be found in scholarly literature. For a recent article that advances this notion at various points, see Andrew Garwood-Gowers, “The Responsibility to Protect and the Arab Spring: Libya as the Exception, Syria as the Norm,” *UNSW Law Journal* 36:2 (2013), 594-618.
- 2 See, for example, Aidan Hehir, “The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect,” *International Security* 38:1 (2013), 137-159.
- 3 Such factors are detailed in Alex J. Bellamy and Paul D. Williams, “The New Politics of Protection? Cote d’Ivoire, Libya and the Responsibility to Protect,” *International Affairs* 87:4 (2011): 825-850.
- 4 Prior to the adoption of Resolution 2118 in September 2013, the Council did adopt Resolutions 2043 and 2059 in 2012, that established, and then renewed, the mandate of the United Nations Supervision Mission in Syria (UNSMIS), as well as condemned violations of human rights by both sides. Nevertheless, three stronger draft resolutions were vetoed by Russia and China in 2011-12.
- 5 On September 18, 2013, Oxfam reported that France had contributed 47% and the United States had contributed 63% of their fair share. See Oxfam International, “Top donor countries failing ordinary Syrians affected by the conflict with Syria appeals falling short by US\$2.7bn,” (18 September 2013). Accessed at <http://www.oxfam.org/en/pressroom/pressrelease/2013-09-19/top-donor-countries-failing-syrians-conflict-un-syria-appeals-falling->



short (Jan. 14, 2014). I thank Sara Davies for this information.

- 6 One notable exception during this period was Anne-Marie Slaughter. See, for example, Anne-Marie Slaughter, "Going to School on Syria's Suffering," *The Globe and Mail* (29 May 2013). I thank Tim Dunne for this point.
- 7 See, for example, Jonathan Karl, "John Kerry Promises 'Unbelievably Small' U.S. Strike against Syria," *ABC News* (Sep 9, 2013). Accessed at <http://abcnews.go.com/blogs/politics/2013/09/john-kerry-promises-unbelievably-small-u-s-strike-against-syria/> (Jan. 14, 2014). That being said, the reckless claim made by the United Kingdom that the resort to military action to punish the Assad regime would be not only moral, but even legal, without the authorization of the Security Council, could well have the effect of hardening the resistance of some states to future proposals for military intervention.
- 8 However, it should be recalled that the 133 states voted in favour of Resolution 66/253 in the UN General Assembly, "deploring the failure of the Security Council" to agree on measures that would more effectively respond to the crisis. I thank Alex Bellamy for this point.
- 9 UN Document S/PV.6498 (March 17, 2011), 10.
- 10 See the discussion in Gareth Evans, "Mass Atrocity Crimes after Syria: The Future of the Responsibility to Protect," public lecture at University of Queensland (6 November 2013). Accessed at <http://www.gevans.org/speeches/speech537.html> (Jan. 14, 2014).

# R2P in Syria: Regional Dimensions

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The idea that Responsibility to Protect (R2P) has had or still has a place in the management of the Syrian conflict emanates largely from the experiences of Western countries in Libya where the core principles of R2P were evoked in order to justify a NATO-led mission to ostensibly protect the citizenry of that country. In his address to the people of the United States in advance of the bombing campaign that was to take place a few weeks later, President Obama was quite clear and specific in the intent and purpose of that intervention. The goal was only, in his words, to protect those citizens caught up in the conflict and being targeted by government forces.

Further, Obama went on to add that the mission was not intended to produce “regime change,” nor would harm come to those citizens who were unarmed and only seeking to escape the violence.<sup>1</sup> The fact that the outcome was decidedly different in several respects has drawn into question the sincerity of President Obama’s words and the real intent of the intervention. Ordinary citizens were indeed killed, though perhaps unintentionally, by allied bombing; regime change did, of course, occur; and, more importantly, the norm was compromised by the very actions taken by the allies themselves.

More specifically, a great deal of effort was taken by the interveners and other countries—several weeks of effort at a cost of millions—to carefully and safely remove expats and foreign workers from the conflict mostly through safe passage provided by shipping vessels and free exit out of the country into neighbouring states. This was not, however, a level of protection afforded the people of Libya. No effort was made to give these people free passage out of the country and, as a result, many were indeed caught up in the conflict there and died.

Further, even well before the onset of the bombing campaign, the ICC was unequivocal in its belief that crimes against humanity had been committed by Libya’s leader against his people—this without a full and proper investigation on the ground as to the acts of perpetrators on both sides.<sup>2</sup> In effect, this put Libya’s leader in a corner whose unsurprising reaction was to lash out and escalate the conflict. Little effort was made to properly mediate the conflict before it rapidly escalated out of control and had there been any openings available to the West to deescalate and avoid bloodshed, those were lost once threats to intervene were clearly made by President Obama and the leaders of allied nations.<sup>3</sup>

Clearly, then, this was not R2P’s shining moment—the principle itself was violated along the way and while many ordinary citizens may have been saved from the conflict, we can only guess as to whether, indeed, that is true, since such a conclusion requires a counterfactual analysis using information that is not easily evaluated and accessed.<sup>4</sup> In brief, R2P as practiced in Libya showed how easily the principle is open to political manipulation and—more importantly, perhaps—how much more investment is needed in the areas of prevention that would essentially impose on interveners costs for using a principle to advance their agendas far removed from protecting ordinary people.<sup>5</sup>

The bitterness that some supporters of R2P have felt about its use in the Libya conflict has manifested itself in the form of ambivalence toward the Syria conflict. Keep in mind that at the time when the Libya conflict was ramping up, there were those who clearly argued that both Yemen and Syria were in dire need of international attention and equally “deserving.”<sup>6</sup> What they observed was hypocrisy on the part of the international community to act swiftly in Libya while aiding and abetting the rebels in Syria, but not intervening forcefully. Of course, the two situations are vastly different in scope and complexity, and that explains, in part, the reluctance of outside players to get involved. Repeated efforts to mediate the dispute have failed and now the opportunity to do any form of responsibility-related action has been reduced to protecting those fleeing from the conflict. The UN has essentially given up counting the number of dead in the conflict, though it may well surpass 100,000.

The failure of major regional players in the Middle East and North Africa (MENA) region to apply and enforce the R2P doctrine in the case of the Syrian civil war represents a significant challenge to the international community, generally, and the norms of the doctrine itself, specifically. While the Libya conflict and the subsequent UN resolution to allow for the use of force enjoyed broad-based support from key regional organizations—such as the Gulf Cooperation Council (GCC), the Organization of the Islamic Conference (OIC), and the League of Arab States (LAS)—the case has not been quite the same in Syria. Without such strong support, the no-fly zone and subsequent NATO intervention in Libya would most likely not have been possible; the support of neighbouring countries was a key driver of the action that was taken to protect civilians in that case.<sup>7</sup> On the other hand, due to both wariness of the Western powers’ intentions in Syria and the complex regional dynamics the MENA countries and their associated regional organizations currently face, the Syria case has proven itself to be much more difficult to tackle. The League of Arab States was initially hesitant to become involved in the conflict, however, after several months of violence, it did issue a peace plan and suspended Syria’s membership. The National Coalition of the Syrian Opposition was officially recognized in November 2012 by both the League and the GCC as the legitimate representative body of the Syrian people. In March 2013, the Coalition took the official seat in the LAS. Furthermore, the LAS has been supportive of the UNSC efforts to broker a solution to the civil war; even so, with the stalemate in the UNSC, these efforts have been essentially for naught.

Indeed, for action to be taken in such a crisis, multilateral institutions, such as the United Nations, require both the support of regional organizations and, particularly, the P5 players in order to garner legitimacy and issue strong resolutions.<sup>8</sup> While the LAS has issued numerous statements regarding the crisis and attempted to broker peace agreements, generally speaking, the language of the R2P doctrine has not played a major role. Instead, the political stalemate in the region—with Iran and Russia promoting the norm of non-intervention and, on the opposition side, countries including Saudi Arabia and Qatar providing training and arms to the rebels—illustrates the inherent difficulty of promoting and enforcing the R2P doctrine. In this sense, the conflict can be thought of as a microcosm of a broader international dispute. All of this means that regional efforts to provide any meaningful intervention are nearly impossible without a major change in the current status quo, something that is not currently on the horizon. Furthermore, the overall stability of the MENA region

has been negatively affected by the Syrian civil war. Lebanon, for example, has seen infighting between supporters of Assad and supporters of the rebels, with Hezbollah playing an active role in assisting the Assad government with its campaign. Israel has bombed targets inside of Syria, and the relationship between Syria and Turkey has been severely strained, with several incidents occurring along the border region.

Complex and volatile regional dynamics have hence played a critical role in the response—or, more accurately, the lack thereof—to the civil war in Syria. It is difficult to see a viable compromise that will lead the country, and subsequently the region, out of the current state of affairs. Without total victory on the side of either Assad or the rebels, it does not appear that both sides and their allies are willing to back down from this long and drawn-out conflict. Chemical weapons inspections have proven to be merely a lull in the larger conflict. The push-and-pull relationship between the regional supporters of Assad, such as Iran and Lebanon, and the regional supporters of the rebels (most of the LAS members) will continue to dominate these attempts to move forward with a political solution. Open dialogue at the UNSC must be continued, and both sides must be willing to compromise on some of the key demands of the combatants if a cease fire or comprehensive peace agreement is ever to be created and adopted in practice. Syria has become a state in name only, with territorial divisions delineating positions of strength. The rise of al Qaida may force the hand of the western countries to cease their flow of arms to the rebel forces until they can provide a more discriminating means to separate the two elements. More broadly, we ask what effect the situation in Syria will have on the R2P doctrine. Its lack of teeth in Libya demonstrated its weaknesses; R2P as a doctrine of intervention will only be implemented in very specific situations wherein the strategic benefits to the interveners outweigh the costs of intervention. On the other hand, when the political fallout caused by intervention is too much for the great powers to handle, R2P’s coercive elements are much less likely to play a significant and viable role in determining their strategic actions. This is to suggest that greater emphasis must be placed on the preventive components of the doctrine where costs and risk can be anticipated in advance of large scale conflict.<sup>9</sup>

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# Syria and the Crisis of Humanitarian Intervention

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The human suffering in the Syrian crisis since February 2011 is, above all, a tragedy for the Syrian people, but also demonstrably a crisis of international intervention. The international community has failed to protect and assist civilians who in large numbers are being killed, injured, brutalised, bereaved, displaced, or impoverished by the conflict. Given the prevailing approach to international intervention since the end of the Cold War, this failure is, sadly, unsurprising. Specifically, the conflation over time of political and humanitarian objectives has damaged the concept of impartial humanitarian action, without which—as Syria shows—innocent civilians are without protection. This essay will argue that respect for humanitarian principles provides a better defence than so-called “humanitarian intervention.”

According to the UN Under-Secretary General for Humanitarian Affairs, “the appalling suffering inflicted on ordinary women, children, and men by this conflict is completely unacceptable... words, despite their ability to shock, cannot really paint a picture of the grim and gruesome reality of Syria today.”<sup>1</sup> As of December 2013, 9.3 million people inside Syria needed humanitarian assistance, including 6.5 million who had been forced to flee their homes and faced one of the harshest winters ever in Syria; the number of Syrian refugees in neighbouring countries was approaching 2.3 million; 3 million people were unemployed; 3 million children had been forced to leave their education.<sup>2</sup>

There is also confirmed evidence of the deliberate targeting of civilians and humanitarian workers. These constitute war crimes and crimes against humanity and are justiciable at the International Criminal Court (ICC). One of the most shocking reports, produced by the Oxford Research Group, showed that by the end of August 2013, 10% of all recorded civilian deaths in the conflict were of children under 18 (11,420 out of an overall total of 113,735). Of these, seven out of ten were caused by explosive weapons and one in four by small arms fire “including children summarily executed and targeted by snipers.” Of the 764 children recorded as summarily executed, “112 were reported to have been tortured, including some of infant age.”<sup>3</sup>

Since September 2011, the Independent International Commission of Inquiry on the Syrian Arab Republic has charted the many violations of human rights in the conflict.<sup>4</sup> In September 2013, it described “the deliberate targeting of hospitals, medical personnel and transport, the denial of access to medical care, and ill-treatment of sick and wounded,” mainly—but not exclusively—by government forces.<sup>5</sup> The International Committee of the Red Cross (ICRC), while maintaining its tradition of neutrality, has called “on all parties to comply with the rules of international humanitarian law” and to allow humanitarian agencies “to deliver aid, including much-needed medical supplies, to all people in need whoever they may be.”<sup>6</sup> This is against the background of the deaths, as of November 2013, of no less than 32 Syrian Arab Red Crescent aid workers.<sup>7</sup> This lack of respect for humanitarian impartiality—while not unique to Syria—is nevertheless one of the most concerning dimensions of the crisis.

The failure by the Permanent Members of the UN Security Council, the P5, to help the government of Syria and its opponents find a political solution has been catastrophic. From the early days of the crisis in 2011, P5 members locked horns over regime change, with the West's call for President Assad to go blocked by the newly-assertive Russians and Chinese. Thus, Kofi Annan's role as mediator was doomed from the start.<sup>8</sup> By allowing themselves to disagree so publicly and outspokenly (for example, Susan Rice, the US Ambassador to the UN, called the Russian and Chinese decision to block a Security Council Resolution "disgusting and shameful"<sup>9</sup>) the P5 forfeited the chance to place the weight of their collective moral authority behind the independent humanitarian action of the ICRC and the other humanitarian agencies. When neutrality went out of the window in New York, impartiality became impossible in Syria.<sup>10</sup>

Syria thus represents the low point of the liberal interventionism that was born in 1991 in response to the humanitarian crisis in the mountains of northern Iraq, reached its apogee in 1999/2000 with Tony Blair's Chicago speech and the military interventions in Kosovo and Sierra Leone, was discredited by the 2003 invasion of Iraq, and has arguably been in steady decline ever since.<sup>11</sup> It was labelled "humanitarian intervention," not a new term, but, in this context, used somewhat uncritically by politicians and scholars alike. Not only does this usage fail to acknowledge the essentially political nature of such interventions, it also degrades the notion of humanitarianism.

As Beate Jahn has put it, the debate around "humanitarian intervention" centres on whether we believe the world is becoming more moral and, therefore, a new kind of "humanitarian" intervention is possible, or whether we think morality is essentially unchanging, but that we need a term to justify intervention in support of a particular political project, in which case labelling it "humanitarian" is inappropriate.<sup>12</sup> She argues that history reveals morality and politics to be mutually constitutive and that "the concept of humanitarian intervention therefore does not describe new policies; instead it serves to hide the political nature of these policies today."<sup>13</sup>

One might also claim that "humanitarian intervention" is merely a way of going to war without having to declare it. In 1945, the UN was created to "save succeeding generations from the scourge of war";<sup>14</sup> there is no mention in the UN Charter of war as a legitimate arm of policy. The only circumstances justifying the use of force are self-defence (Art. 51) or where the Security Council identifies a threat to international peace and security (Art. 42). Neither of these applies to situations of human rights or humanitarian crisis, although in the era of "humanitarian intervention," the Security Council has stretched Article 42 to provide a justification for intervention, e.g. in Somalia in 1993 and Libya in 2011. However, without a consensus in the Security Council, this cannot happen.

Thus, in Darfur from 2003-6, without a negotiated political solution to the crisis, only a full-scale war—which was politically impossible—would have delivered human protection; in this sense, as Alex de Waal has argued, "chasing the chimera of humanitarian intervention distracts us and impedes the search for real solutions."<sup>15</sup> The bottom line in the Syrian crisis is that, whereas in Libya in 2011, the US superpower, encouraged by its French and British allies, was prepared to go to war to topple the

regime of Muammar Gaddafi (who had no friends), in Syria it was not prepared to do the same to get rid of Bashar El Assad (who has many, including the Russians), despite the fact that violations of human rights were incomparably worse. Thus, the West's wishful thinking about "humanitarian intervention" has been a cruelly false friend to the Syrian people.

In 2005, the UN adopted "The Responsibility to Protect" (R2P),<sup>16</sup> which responded not only to failures to intervene in Rwanda and Srebrenica, for example, but also to G77 anxieties about "humanitarian intervention" itself.<sup>17</sup> However, while R2P is an impeccable statement of the obligations of states towards their own citizens and those of the wider international community in the face of mass atrocity crimes, it does not fundamentally change anything when states attack their own people. No new enforcement powers or mechanisms have been agreed (it is hard to see how they could be without a fundamental revision of the UN Charter reinstating the notion of a "Just War"), and any decision to apply the principles of R2P in a given situation depends on the existence of political will to do so.

However, what R2P does entail is that even where a political consensus for coercive intervention is lacking, everything should be done to protect and assist civilians, as a succession of Security Council Resolutions affirms.<sup>18</sup> Nothing illustrates the failure of the P5 better than the fact that only in October 2013—by which time it was far too late—was there an unequivocal statement to this effect from the Security Council (and even then in the form of a non-binding Presidential Statement rather than a Resolution).<sup>19</sup> If the P5 cannot agree to go to war to protect human life, they can at least insist on compliance with international humanitarian and human rights law, and articulate practical measures to make them a reality, e.g. freedom of access for humanitarian workers and the evacuation of civilians from war zones. It would be useful to understand why this did not happen in the Syria case; the P5 were never going to agree on Assad, so why did they call each other names, rather than focus on human protection? Was it a failure of diplomacy, did it reflect a different view of the world, or was it just an old-fashioned question of power and interests? Whatever the reasons, the humanitarian dimension has been marginalised in Syria, and the Syrian people have paid a terrible price.

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# The Responsibility to Protect and the New Liberal Dystopianism

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At first sight, the Western reluctance to openly intervene in the Syrian civil war in defence of human rights seems to be yet another instance in which humanitarian ethics have had to give way before power politics, where idealism has had to concede to realism, and where hypocrisy and inconsistency have once again triumphed over universal values.

But it would be a mistake to cast the debate in such terms. To do so would be to miss how far the tenets of liberal idealism have been debased by the doctrine of the “Responsibility to Protect” (R2P), and how far liberal idealism has accommodated itself to the interests of power. Designed to help protect vulnerable people from extreme violence whenever possible and prudent, the doctrine of R2P has never aimed at consistency, let alone at transforming the international order or abolishing war. In this, the doctrine of R2P falls far short of the classical liberal idealism of the last century. While liberal idealists were charged with utopianism for propagating their vision of a world without war, the most that can be hoped for from the sub-idealism of R2P is a shabby dystopia of erratic global policing and intermittent global law enforcement.

## The Retreat from Universalism

The 2011 NATO intervention in the Libyan civil war proceeded as if scripted by R2P theorists. A limited military intervention was justified by the need to protect civilians from a vengeful regime repressing a popular uprising. The intervention was authorised by the United Nations, with the two permanent members of the Security Council not involved in the military campaign—China and Russia—refraining from casting their vetoes, as they had no vital national interests at stake to discount the urgency of protecting Libyan civilians.

Although any number of reasons could be adduced to account for the failure to mount a similar intervention in Syria, any one of them could be rendered consistent with R2P doctrine. Although the Assad regime in Syria is more brutal than Qaddafi’s, it is also better-armed, with strong allies keen to preserve it, while the potential targets of an air campaign are more widely dispersed and the country as a whole straddles a confluence of regional geopolitical rivalries and ethnic conflicts: reasons that would justify non-intervention under the terms of R2P. Inconsistency is woven into the fabric of the doctrine. The earliest formulation of R2P, published by the International Commission on Intervention and State Sovereignty (ICISS) in 2001, suggests that if intervention is likely to provoke a greater conflagration, it should be avoided.<sup>1</sup> This renunciation of universalism is telling: the doctrine comprises no claims sufficiently clear or principled that its proponents could be accused of hypocrisy.

Not satisfied with this vague general principle of inconsistency, the report’s authors solidified it by making clear that the doctrine could never be reasonably invoked against the permanent five members of the UN Security Council.<sup>2</sup> From the start, then, it was made clear that enforcing R2P would never involve challenging the power relations underpinning the international order, thus legitimising and thereby reinforcing the inequality of the UN system. This has only been reaffirmed in subsequent iterations of the doctrine.<sup>3</sup>



### The Retreat from Cosmopolitanism

The unashamed defence of inconsistency is not the only, or even the most important, concession made to the principle of power in the theory of R2P. Often cast as a means of protecting the rights of the vulnerable, what is overlooked is that this principle also reframes the justification of state power in a way that diverges from the classical liberal ideal of self-determination. Under the terms of R2P, legitimacy derives not from correspondence with and responsiveness to the political will of a particular national group, but from the effectiveness of protection offered by the state. In classical liberal internationalism, the sovereign rights and integrity of the state emanate from the rights of the people that it claims to represent. Under the terms of R2P, the legitimacy of the state flows from the effectiveness of that state's security structures. In short, the responsibility to protect substitutes security for freedom, elevating the principle of state power over that of representation and accountability.

In its original formulation by ICISS, the doctrine of R2P was explicitly cast as the rejection of cosmopolitan ideals of transcending the sovereign state and the repudiation of any rights that could be claimed over and above state sovereignty.<sup>4</sup> As a hypertrophied form of liberal idealism, cosmopolitanism at least had the benefit of looking beyond the state as the ultimate form of political order. R2P, by contrast, reaffirms the state as the best means for organising political life, while at the same time stripping it of the right to non-intervention. The effectiveness of a state's security structures is what counts for R2P doctrine, with the result that a state's inhabitants are treated not as citizens, but as wards that may be shuffled from the protection of one agency to another without prejudice to their rights.

### The Retreat from Peace

Perhaps the most striking departure from the tenets of classical liberal idealism is how the doctrine of R2P responds to the problem of war. Liberal idealism aimed at the utopian goal of abolishing war as such, R2P is focused, as the subtitle of Gareth Evans' book puts it, on "ending mass atrocity crimes once and for all."<sup>5</sup> Although a more modest goal than that of abolishing war, it would nonetheless be wrong to see the goal of ending mass atrocities as being more appealing by virtue of being more practicable. For what can it mean to abolish mass atrocities without attempting to abolish the conditions and opportunity to commit such atrocities?

If the primary goal of the doctrine is to end mass atrocities, this must presuppose that war is not seen as problematic in and of itself, but rather it is the conduct of war that is problematic. This is to implicitly accept and normalise warfare as a permanent condition of international order. In other words, R2P accepts one of the founding premises of political realism. What is more, the doctrine expands the right to wage war beyond the scope of anything as parochial as the national interest, legitimating war on behalf of humanity as a whole.

Liberal idealists were at least clear that war itself was the terrible evil to be avoided. By its very

nature, war will always result in atrocities, whether they be from machetes or from laser-guided bombs. To believe otherwise is to regress to a level of naivety far beneath that of the most ardent liberal utopian. Today's humanitarian liberals feel no compunction about expanding the normative resources available for waging war, while also holding that its worst excesses can be meliorated. To aim to "end mass atrocity crimes once and for all" without seeking to "end war once and for all" is not only absurd, it is also cynical and dishonest. As a political goal, it has all the limitations of utopianism without any of the redeeming nobility or consistency of purpose. If liberal idealists dreamt of a world without war, humanitarian liberals dream of a world where all wars are fought with the latest precision-guided munitions and technology. While liberal idealists hoped to use law to restrict and abolish war, humanitarian liberals would prefer that lawyers wage war to ensure that it meets the guidelines of international humanitarian law.

Realists and strategists have frequently been frustrated with the ascendancy of humanitarian liberalism in determining the use of force since the end of the Cold War. However, it would be wrong to see this as a reprise of the perennial debate between idealism and realism, for we have regressed behind the intellectual achievements of our classical forebears. The liberal defenders of R2P fall far short of the goals and values of the classical liberalism of the eighteenth and nineteenth centuries and the liberal idealists of the inter-war period. The responsibility to protect offers no vision for superior forms of political organisation that might transcend the limits of the current world order, or a world that might transcend warfare. Debased and compromised by its accommodation to the interests of power and states, whatever criticisms may be levelled against R2P, it would be to give its defenders too much credit to criticise the doctrine for being either idealistic or utopian.

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# Rationality and R2P: Unfriendly Bedfellows

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The structure of the international system remains the most important variable in explaining how and why states act the way they do. The fact that anarchy pervades the relations of states means that distrust, tension, and (mis)perception remain at the forefront of dictating state behaviour and influencing international outcomes. When looking at the history of the Responsibility to Protect (R2P) doctrine and assessing its successes and failures, the enduring nature of the international system is inextricably linked to determining whether states will or will not intervene in a given humanitarian emergency. As such, this chapter argues that the largest obstacle to consistent implementation and enforcement of R2P remains its flawed epistemological foundations.

Before delving into specific arguments pertaining to R2P and its recent application, it is first important to note what is meant by the influence of the international system. The lack of overarching authority in a world of over 200 states means that states are left to their own devices when calculating actions of any kind. The decisions states make are impacted by an array of variables, most importantly the perceptions of other states' capabilities, intentions, and interests. These matters are further complicated by the polarity of the international system at any given time. The system can have three distinct structures, being bipolarity, multipolarity, or unipolarity, dependent upon the number of great powers dominating in a historical period.<sup>1</sup>

At their core, states are utility-maximizing, self-interested, security-obsessed like-units, all navigating an incredibly complex international environment simultaneously. States are differentiated by their capabilities, various internal factors that, when calculated, indicate a state's respective power position. "Their rank depends on how they score on all of the following items: size of population and territory, resource endowment, economic capability, military strength, political stability and competence."<sup>2</sup> The most important states, when evaluating influence and power in the international system, are great powers. Kenneth Waltz notes that "The stability of the system, so long as it remains anarchic, is then closely linked with the fate of its principal members."<sup>3</sup> Regardless of the situation or problem, great powers ultimately have the largest impact over international outcomes due to their relative size, power, and ability to extend their spheres of influence.

Without an overarching authority to guide or deter their actions, states rely on alliances and rational decision-making to safeguard their independence and survival. As such, every decision is reduced to a cost-benefit analysis as to whether an action will increase a state's power position, reduce its power, threaten its security, or bring it into conflict with other states or blocs of power.<sup>4</sup> Since 1648, states have seen it in their interests to maintain an anarchic system and not sacrifice their independence to a body capable of compelling action. "The logic of anarchy requires that the agents of these units pursue actions that will ensure not only that the political units can survive and reproduce themselves in the anarchic system but also that the anarchic structure of the international system is simultaneously albeit unintentionally reproduced."<sup>5</sup> A consistent feature for states and their perceptions of survival has been the maxim of national sovereignty.

Sovereignty is sometimes understood to mean that states have historically enjoyed the right of non-

intervention and non-interference. This is wholly inaccurate. Rather, since Westphalia, sovereignty has had three distinct characteristics:

1. *Rex est imperator in regno suo* (the king is emperor in his own realm);
2. *Cujus region ejus religio* (the right to non-intervention or non-interference in a foreign jurisdiction on the grounds of religion); and
3. Affirmation of the balance of power to prevent one state from pursuing hegemony.<sup>6</sup>

Intervention has traditionally been a feature of the international system, ranging from instances of war to invited interventions on humanitarian grounds, to the evolution of peacekeeping throughout the Cold War years. As such, no guaranteed right to external non-interference has existed in the post-Westphalian era.

Sovereignty, war, and intervention are all impacted, like all other characteristics of international politics, by the structure of the system. Whether or not to wage war is a rational calculation premised upon one's own capabilities, the perceived capabilities of the opposing state, and the alliances involved on both sides in an effort to determine the likelihood of success. If a state or a bloc does not perceive that it is able to win, and that potential victory is in the national interest of the state or states contemplating war, it will not initiate a conflict. For some reason, however, the basic assumption of rationality is not equally applied to the R2P doctrine.<sup>7</sup>

Emerging in 2001 and having evolved since that time, R2P remains at the forefront of debate regarding whether states bear an intrinsic responsibility to protect the lives of civilians either within their own state or in other states that are unable or unwilling to protect their people. R2P has been called many things—a legal basis for intervention,<sup>8</sup> a framework for prevention,<sup>9</sup> and a normative revolution in state perceptions of national interest.<sup>10</sup> The problem, however, has been that, regardless of the interpretation of R2P's purpose or underlying meaning, it has yet to be implemented and/or enforced in any consistent manner.

The Syrian Civil War poses a particularly difficult challenge to R2P and its advocates because of the egregiousness and open disregard for the rules of war displayed by the Assad regime. Civilians have been intentionally targeted, chemical weapons are known to have been used, and the humanitarian crisis that has emerged over the course of two-plus years is horrendous. According to International Rescue Committee President David Miliband, the Syrian crisis is “the defining humanitarian crisis of this century so far... In a situation where civilians are targeted by snipers or bombs, where doctors are targeted because they've treated the ‘wrong’ side, and where aid workers are unable to cross conflict lines because the norms of war are not being followed and international humanitarian law is being broken, then obviously nothing is ever enough.”<sup>11</sup>

On the heels of the 2011 intervention in Libya, it was plausible to believe that at least some sense of

humanitarian imperative had emerged at the UN Security Council and that action would be taken in Syria. UN Resolution 1973 clearly outlined civilian protection as a justification for action in Libya and some argued this was proof of R2P's normative development.<sup>12</sup> Unfortunately, not only were such interpretations of the Libya mission incorrect, there was no normative osmosis effect that transferred to Syria.

Libya was not R2P in action, but, rather, a carefully calculated strategic decision on the part of the UN Security Council P5 members and NATO.<sup>13</sup> Gaddafi had been a nuisance for decades, the Libyan military was incredibly weak, regional organizations invited the intervention, and the regional dynamics of northern Africa were distinctly different than those of the Middle East. The *Rationality to Protect* doctrine emerged, evidently, in the context of the Libya mission and those same rational constraints continue to plague the situation in Syria.<sup>14</sup> The Syrian military is much stronger than Libya's was and would have presented a credible threat; the stockpile of chemical weapons, though now being destroyed, certainly affected intervention calculations; the Middle East is far less stable than northern Africa and disrupting regional balances could prove catastrophic; there was no political will on the part of western powers to intervene; Russia's role in supporting the Assad regime hindered any efforts to successfully deter Assad or pass a UN Security Council resolution; and there was little regional support for an intervention.

Also important to note is that Libya did not fulfill the true spirit of R2P. The mission strictly prohibited “boots on the ground” intervention and instead employed a strategic bombing and no-fly zone strategy. By the time intervention was approved by the Security Council, strategic analyses demonstrated that the rebel forces would be capable of defeating Libya's porous military forces with NATO assistance from the air, thus reducing the risk calculations involved. The situation in Libya since 2011 has also deteriorated and the country now faces political unrest and violence precisely because no post-conflict rebuilding efforts on the part of the intervening forces took place. The cut-and-run humanitarianism from 35,000 feet has done little to improve the lives of Libyans.<sup>15</sup>

What hinders R2P is not its intentions, which are noble. R2P is premised upon a flawed epistemological framework that assumes states will rationally calculate humanitarian protection and human security as being part of their national interests. Section 2.15 of the 2001 R2P document states:

Thinking of sovereignty as responsibility, in a way that is being increasingly recognized in state practice, has a threefold significance. First, it implies that the state authorities are responsible for the functions of protecting the safety and lives of citizens and promotion of their welfare. Secondly, it suggests that the national political authorities are responsible to the citizens internally and to the international community through the UN. And thirdly, it means that the agents of state are responsible for their actions; that is to say, they are accountable for their acts of commission and omission. The case for thinking of sovereignty in these terms is strengthened by the ever-increasing impact of international human rights norms, and the increasing impact in international discourse of the concept of human security.

Aspiring to sovereignty as responsibility is good in theory, but, in practice, states cannot sacrifice their relative power position in the international system and risk others taking advantage of humanitarianism. Intervention missions are enormously costly in political, economic, and military terms. Missions that involve a rebuilding or nation-building process are not proven to be successful and deplete the resources of those intervening states. Where is the benefit of these missions for states that have no choice but to be concerned about relative gains and power dynamics in an anarchic and inherently competitive international system?

Presently, states' national interests continue to be defined according to motives such as survival, power, and self-help—not humanitarianism or responsibility. If there is ever a genuine hope of progressing the debate about how to best meet the needs of innocent civilians, it may be time for a paradigm change away from the flawed foundations of R2P and toward a more pragmatic notion of protection grounded in what states are actually capable of in the current structure of the international system. It is unfair to civilians in need, and also to states, to expect a miracle when centuries of evidence prove responsibility is not a component of state character.

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# Syria and the Dawn of a New Era

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As reflected in this volume, the crisis in Syria has led to a plethora of enquires and analyses into a diverse range of issues. In this contribution, I focus on what the crisis suggests about the evolution of the international system and specifically the current redistribution of power. I focus on the fate of five actors—the US, Russia, China, Saudi Arabia, and the UN—and argue that the evidence suggests an irresistible shift towards multipolarity has begun. While the use of analogies is perilous,<sup>1</sup> the argument presented here suggests that Syria may well come to be seen as akin to the Suez Crisis in 1956; a moment when a new, profound redistribution of power was manifest.

While the 2011 intervention in Libya contrasts with the response to Syria, certain features of the former continued to be factors in shaping the response to the latter, albeit with different results. In particular, the US appeared from the outset to be reluctant to intervene in 2011. The caution exercised—evident both in the secondary role the US played in pushing for intervention and its modest military involvement—was perhaps most obvious in the claim made by an Obama administration official that the US was “leading from behind.”<sup>2</sup> The final decision to intervene in Libya was, additionally, a result of the position adopted by the Arab League; indeed, Hillary Clinton described the League’s call for military action as having precipitated a “sea change” within Obama’s administration.<sup>3</sup> The matter was also put to the Security Council and, thus, had Moscow or Beijing been disinclined, the intervention would not have occurred. The contrast with the manner in which the US behaved in supporting military action against Yugoslavia, Afghanistan, and Iraq could hardly be greater.

In the wake of the intervention in Libya, effusive appraisals abounded which today look embarrassingly premature.<sup>4</sup> The response to Syria has been, by any estimation, a damning indictment of the existing mechanisms for responding to intra-state crises. The situation, as graphically described by the UN High Commissioner for Human Rights,<sup>5</sup> is characterised by massive state-sponsored oppression, systematic human rights abuses, the emergence of a range of anti-government factions (including extremist elements), regional instability, and UN paralysis. This tragic confluence should not, however, be seen as a desperate aberration from the trajectory forged in 2011 in Libya. At its most fundamental, the response to Libya was a function of regional geopolitics and framed by an era where the US’s capacity and willingness to project power overseas is greatly diminished, and the power of Russia and China is greatly increased. While in Libya the US’s reluctance and diminished inability to use force was mitigated by France and the UK’s determination, the position of both the Arab League and the African Union, and the Russian and Chinese (at least initial) acquiescence, this perfect storm was absent in the case of Syria and, thus, the result was markedly different. But it would be a mistake to allow the differing outcomes to obscure the common determinants.

The US’s policy towards Syria has been far from robust, but rather marked by a series of warnings and threats which have ultimately failed to be realised. Russia and China, by contrast, have articulated and adhered to a consistent policy which, though of dubious ethical quality, has demonstrated their willingness to flex their growing international muscle. Russia and China have, of course, been consistently reluctant to support intervention in the post-Cold War era, but Syria suggests that today their recalcitrance carries more weight. Russia’s opposition to the intervention in Kosovo in 1999

was loud, but ultimately futile; with respects to Syria, however, Russia's opposition has had far more traction. It is almost inconceivable that NATO would today launch a military intervention against one of Russia's East European allies as they did in Kosovo in 1999, which is a testament to the new systemic configuration.

The Arab League has also emerged as an actor which clearly has ambitions beyond financial security; its position on both Libya and Bahrain determined the outcome in both cases and demonstrated a flagrant preference for geopolitics over human rights. Saudi Arabia, in particular, has led this new aggressive disposition, leading the calls for intervention in Libya, sending troops into Bahrain to crush the protestors, and financing the opposition in Syria. The Saudi Monarchy's unprecedented decision to reject a seat at the Security Council also points to a more assertive foreign policy, as well, of course, as constituting a sobering dismissal of the UN's international standing. Indeed, the UN has much to worry about; throughout the crisis in Syria, the UN Secretary General has appeared as little more than a desperate spectator who has, at times, degraded the UN itself by virtue of his being routinely ignored when pleading with states to take action to stop the atrocities. In August 2012, the General Assembly formally condemned the Security Council for its response to the crises, graphically highlighting the UN's inability to forge consensus, while the inability of Kofi Annan and, later, Lakhdar Brahimi to lead the peace process demonstrated the perennial spectre of Great Power influence outweighing the UN's power.

The crisis in Syria has also, of course, been shaped by a number of other emerging powers, including Turkey, Iran, and South Africa, while Brazil's "Responsibility While Protecting," published in the wake of the Libyan intervention, evidenced a new assertiveness on the part of this emerging power and the end of the West's monopoly on human rights-orientated initiatives.

These machinations have profound implications for the future of human security and, specifically, the Responsibility to Protect (R2P); though vaunted in some circles as a "revolutionary principle"<sup>6</sup> and destined to "End Mass Atrocity Crimes Once and For All" in our lifetime,<sup>7</sup> R2P has proved impotent throughout the crisis in Syria and, indeed, of negligible influence in the decision to intervene in Libya.<sup>8</sup> If, as seems clearly to be the case, power is moving away from the West with states like Russia, China, and Saudi Arabia becoming more powerful and assertive, then, naturally, the fate of R2P is in some doubt.<sup>9</sup> The most important lesson to be gleamed from the tragedy of Syria is, thus, that a new era of multi-polarity has begun; one which will be characterised by the spectacle of divisive and competitive power politics which has contributed to the suffering of millions of innocents in Syria.

## Endnotes

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The ongoing humanitarian crisis in Syria poses major challenges to doctrines, legal frameworks, and institutional norms about the moral imperative to intervene on behalf of afflicted populations. At the heart of this challenge presented by Syria is the debate surrounding the Responsibility to Protect, or R2P, doctrine. Since its initial publication in 2001, R2P has been heralded by some as a triumph of human security over outdated conceptions of state or national security, and has significantly contributed to humanitarian protection by altering core components of the international political system, most notably state sovereignty. On the other hand, R2P's successes have been intensely scrutinized by observers based on instances of selective enforcement, contested meanings of R2P's core values, and questions surrounding whether there is, in fact, a responsibility to protect at all. This e-volume brings together some of the most important voices on R2P and humanitarian intervention to examine the doctrine's validity in the context of Syria's civil war and humanitarian emergency.

