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Responsibility to Protect or Reform?

The doctrine of Responsibility to Protect is not going to disappear soon — and neither is the question of UN Security Council Reform. As time passes, they are becoming more and more intertwined. But which should take precedent?

By Casey L. Coombs for ISN

UN Security Council (UNSC) resolution 1973 -- the legal basis for NATO's six month bombing campaign to enforce a no-fly zone in Libya -- was the first unambiguous use of the Responsibility to Protect (R2P) doctrine. R2P is an emerging international humanitarian and security norm which grants the Council power to intervene if a sovereign state is unable, or unwilling, to protect its population from war crimes, genocide, ethnic cleansing or other crimes against humanity.

In 2005, all 191 member states in the UN General Assembly (GA) endorsed the doctrine in principle. After the experiences of the Libyan intervention however, UN members are now torn over how or even if R2P can be fairly implemented in practice. The debate has crippled the UNSC on Syria and according to former UN Assistant Secretary-General Ramesh Thakur, rekindled serious concerns about the need to reform the 15-nation body to bring it into the twenty-first century.

The Controversy

The NATO air campaign over Libya was a *qualified* success. Successful in that it fulfilled its R2P obligations of averting what appeared at the time to be the almost certain slaughter of hundreds of thousands of Benghazians at the hand of Colonel Muammar Qaddafi's army; qualified, however, because NATO went beyond just protecting anti-Qaddafi rebels by supplying them with arms (in contravention of the arms embargo imposed on Libya in resolution 1973) and then actively facilitating the rebels' eventual takeover of Tripoli.

The orchestrated regime change infuriated non-Western Council members, leaving a deep divide between the five permanent veto-wielding powers (P5): China, France, Russia, the United Kingdom and the United States. On one side, Paris, London and Washington were claiming that regime change was an inevitable outcome of the rapidly evolving situational dynamics and their humanitarian intentions were pure. Russia and China countered that their NATO colleagues cloaked regime change under a humanitarian veil; on two separate occasions they double vetoed Western-drafted UNSC resolutions aimed at coercing an end to the Syrian crackdown.

Responsibility to reform

In 2005, the same year the General Assembly [unanimously endorsed R2P](#), a glacial UNSC reform debate appeared to be on the verge of a breakthrough. That May, a group of four rising and risen global powers (G4) -- Japan, Germany, Brazil, and India -- consolidated their political capital, carried the favor of the 54-state African Group and launched a bid to expand and restructure what they considered an anachronistic Council.

The [proposal](#) envisioned adding four permanent seats without vetoes for the G4 states, two non-veto permanent seats for African countries and four non-permanent seats, bringing the total membership to 25. Despite lobbying from Uniting for Consensus (UfC) -- another dominant UNSC reform player, which strives to block the G4's permanent aspirations by promoting ten non-permanent seats (mostly from the developing world) -- the G4-African alliance seemed on the verge of breaking the two-thirds majority threshold in the GA.

"The big momentum was there," a Japanese diplomat close to reform negotiations told ISN in an interview, "but in the end [the African Group] would not stray from the [Ezulwini Consensus](#) and drop its demand for two permanent seats with vetoes. That was something the P5 would not accept, and neither could we. Without the Africans, we could not secure a two-thirds majority in the General Assembly."

Seven years on, the G4, UfC and African blocs hold virtually the same positions and remain the dominant players in the reform process. But if the blocs are steering negotiations, the UN Charter amendment process is steering the blocs. A UNSC reform proposal first requires an initial two-thirds vote from the GA; then two-thirds of the parliaments of member states need to ratify the resolution; finally, nine out of the UNSC's 15 members must vote in favor of the measure, with no veto from the P5.

Will R2P hasten or hobble UNSC reform?

The R2P row presents a dilemma for the beleaguered UNSC reform debate. With the R2P precedent having been set in Libya, P5 members have become, and will likely continue to be, exceedingly sensitive to how states seeking greater privilege and power on the Council - specifically the G4 and some African countries - approach the new doctrine.

South Africa and Germany are cases in point. Pretoria voted "yes" on the March 2011 Libyan resolution, supporting France, the UK and the US, along with six other non-permanent members. Following NATO's alleged transgressions, however, South Africa then sided with its fellow BRICS members -- China, Russia, India and Brazil -- in opposing R2P sanctions in Syria, before reversing its stance again 11 months later by voting in favor of sanctions against Assad. Berlin, in contrast, initially abstained from the Libyan resolution - but has since become a staunch supporter of the Western push for sanctions against Syria based on R2P considerations. The P5 will likely recall these unreliable policy stances should Pretoria or Berlin one day make it to the third and final stage of the reform process outlined above. After all, none of the P5 wants to grant undue power to a state that will vote contrary to P5 interests - especially on an issue (i.e. R2P) with such far-reaching humanitarian, security and geopolitical consequences.

There is also a heightened sense of urgency regarding the reform of the Council in an R2P era. "If the Security Council is going to continue taking meaningful action, particularly on controversial and contentious issues such as R2P, then the question of its legitimacy and authority becomes that much more urgent," Dr Thakur told ISN.

"In particular, if the UNSC is going to lodge coercive measures under R2P, from economic and political sanctions to military force -- and the closer you are to military force the more contested and

contentious Security Council actions will be -- then it becomes much more important to make sure that the Security Council does indeed have maximum international legitimacy and maximum international authority. Otherwise its resolutions will begin to lose force.”

But legitimacy could well come at the expense of effectiveness. The UNSC cannot even compromise in its current 15-member form, as a UfC source involved in reform negotiations told ISN, so what makes people think it would be any better in an enlarged Council? “There is a case to be made against the reform of the Council,” he said, “because once you reform it and allow in other big players, then the possibilities of advancing decisions of the Council (like R2P) would be reduced because of irreconcilable differences.”

Even so, Dr Thakur seems to believe that an enlarged Council could balance effectiveness and legitimacy. “If you take the two Syria resolutions that China and Russia vetoed,” he said, “and use them as a template for this discussion -- supposing we had a 25-member Security Council like the G4-African proposal of 2005, including ten permanent members -- then two negative votes out of 25, two vetoes out of ten, is a lot less impressive than two negative votes out of fifteen and two vetoes out of five.”

In other words, “if the Syrian double vetoes had played out in an enlarged Council, as they did in the present one,” he stated, “then the wave of opposition by Russia and China would be substantially less. And if we had only one country vetoing, I think we could say, ‘they blocked it but we do have legitimacy to do what we want to do.’ That’s much more difficult now.”

How Dr Thakur’s hypothetical proposition would hold up in reality is uncertain though intriguing. What is certain is that the Council’s first unambiguous application of R2P has split the P5 into two polarized camps, neither of which show signs of ceding major ground anytime soon. That does not bode well for aspiring permanent members whose attitudes toward R2P will come under increasing scrutiny from the veto-wielding P5.

At the same time, as Dr Thakur argues, the fact that we may have entered an R2P era has made Security Council reform more urgent than ever. “A historical incident very well worth remembering,” he said, “is that when the Second World War broke out no one bothered to even inform the League of Nations. I think the United Nations either has to get real and get relevant for today’s world or it will suffer the same fate -- of simply becoming a historical fossil.”

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