RESPONSIBILITY TO PROTECT AND HUMAN SECURITY IN UN'S INVOLVEMENT IN LIBYA

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Abstract

The article discusses the responsibility to protect (RtoP) and the shift from a right for humanitarian intervention towards a global responsibility to protect civilians, as exemplified by the wording of Resolutions 1970 and 1973. The main goal of the article is to analyse the response of the United Nations to the crisis in Libya and discuss the ways in which responsibility to protect and human security were incorporated throughout the involvement in Libya. The article is structured in three main parts. The first one provides a brief overview of the essentials of the responsibility to protect while the second one focuses on the UN's incorporation of RtoP. Finally, the last part tackles the degree to which the intervention in Libya reflected an adequate and consistent RtoP framework.

Keywords: United Nations, responsibility to protect, Libya, human security, humanitarian intervention

The responsibility to protect and its impact on humanitarian intervention

Since the 1940s ample and consistent debates about genocide, atrocities against innocent civilians, mass murder have engaged scholars, NGOs, states, political leaders. The phrase humanitarian intervention was

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fraught with controversy, since intervention in states' internal affairs has strongly been linked to violation of states' political independence (hence an assault on sovereignty) and to the prohibitions stemming from article 2 (paragraphs 4 and 7 of the United Nations' Charter). One might even say that the word *intervention* always overpowered the term *humanitarian* and altered the meanings and essentials of *humanitarian intervention* (*id est* undertaking military action in order to save individuals from genocide or ethnic cleansing). Inaction during the genocide in Rwanda or Darfur strengthened the view which underlined that such humanitarian responses depended on political will while the US military intervention in Iraq weakened the efforts of solidarists[1] and corroborated the views which showed that humanitarian intervention could easily become a form of neo-imperialism and might easily be misused and abused.

The international community did not tackle large scale human rights abuses, ethnic cleansing, and genocides adequately. The Cold War period witnessed mass atrocities unfolding while state practice remained entrenched within the confines of sovereignty and absence of humanitarian intervention in order to save civilians. As observed by Gareth Evans, "the state of mind that even massive atrocity crimes like those of the Cambodian killing fields were just not the rest of the world's business was dominant throughout the UN's first half-century of existence […][2]

The 1990s changed attitudes regarding the need to save people from such atrocities, but all humanitarian efforts undertaken during the so-called

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[1] For an extended and in-depth analysis on Solidarism, see Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, Oxford: Oxford University Press, 2003. For a brief overview of main arguments of solidarists, see Laura M. Herța, "The Solidarist Discourse and Humanitarian Intervention. Revisiting Sovereignty, Responsibility and Morality in Global Politics", in *Redefining Community in Intercultural Context RCIC'19. Migration & Intercultural Dialogue, Conference Proceedings*, 'Henri Coanda' Air Force Academy Publishing House, 2019, pp. 205-210.

[2] Gareth Evans, "Interview: The R2P Balance Sheet after Libya", in Thomas G. Weiss *et. al.*, *The Responsibility to Protect: Challenges, Opportunities, in Light of the Libyan Intervention*, e-International Relations, September 2011 <https://www.e-ir.info/publication/the-r2p-challenges-and-opportunities-in-light-of-the-libyan-intervention> accessed on October 2019.

decade of humanitarian intervention were characterized by limited success, good intentions ending in missed opportunities or debacle, lack of political will. However, despite vacillations, limits, and inefficacies, the interventions in Northern Iraq, Bosnia, Somalia or Kosovo did trigger a different perspective on perceived responsibilities to protect people during civil wars or humanitarian emergencies. This shift has been formulated by Chantal De Jonge Oudraat: "unlike in the early 1990's, the debate at the end of the decade focused not on the question of whether humanitarian considerations could be characterized as 'threats to international peace and security' and thus justify intervention in states' domestic affairs, but rather whether such interventions needed the authorization of the UN Security Council."[3] The tragic events in Rwanda and the failure of the United Nations' Security Council to prevent the plight of Tutsis (and moderate Hutus) spurred increased concern for the following conceptual, institutional and operational dilemma: the need or duty to end massacres and genocides while also preserving state sovereignty. Kofi Annan famously echoed disappointment about lack of action by saying "never again" when tackling the tragedy in Rwanda: "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?" Moreover, he showed that "surely no legal principle — not even sovereignty — can ever shield crimes against humanity. Where such crimes occur and peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community."[4]

It is against this background that in 2000, following the initiative of the Canadian government, ICISS (International Commission on

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[3] Chantal De Jonge Oudraat, "Humanitarian Intervention: The Lessons Learned", *Current History*, no. 641, 2000.

[4] Kofi A. Annan, *We the Peoples: The Role of the United Nations in the Twenty-First Century*, Report of the Secretary-General, The Millennium Assembly of the United Nations, 2000, p. 34.

Intervention and State Sovereignty) was established at the UN Millennium Assembly. In 2001, ICISS issued the Report entitled *The Responsibility to Protect*. The responsibility to protect framework emerged and, as Evans rightly shows, it indicated "the solution" and the transition from the *right to intervene* to interventions dictated by, and aiming at, the *responsibility to protect*. The RtoP was inherently related to new security issues (like intra-state warfare)[5], to new threats in a globalized world, such as non-state actors, the salient issue of refugees or internally displaced people/IDP's (as emphasized by scholar and former Sudanese diplomat Francis Deng[6]), human security (at length discussed by Mary Kaldor[7] and Ramesh Thakur[8]), failed states (or, in William Zartman's analysis, collapsed states[9]). As stated in the ICISS Report, the *responsibility to protect* is based on certain core principles:

> *A. State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself.*
> *B. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.*[10]

Moreover, according to the ICISS Report, the tenets of the responsibility to protect, as a "guiding principle for the international community of states", rest upon:

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[5] International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, Ottawa: International Development Research Centre, 2001, pp. 4-6.

[6] Francis M. Deng; Sadikiel Kimaro; Terrence Lyons; Donald Rothchild; William Zartman, *Sovereignty as Responsibility: Conflict Management in Africa*, Washington: The Brookings Institution, 1996.

[7] Mary Kaldor, *Human Security*, Cambridge: Polity Press, 2007.

[8] Ramesh Thakur, *The United Nations, Peace and Security. From Collective Security to the Responsibility to Protect*, Cambridge: Cambridge University Press, 2006, pp. 71-157.

[9] William Zartman (ed.), *Collapsed States: The Humanitarian Challenge to the United Nations*, Boulder, 1995.

[10] ICISS, *op. cit.*, p. XI.

A. obligations inherent in the concept of sovereignty;

B. the responsibility of the Security Council, under Article 2(4) of the UN Charter, for the maintenance of international peace and security;

C. specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law;

D. the developing practice of states, regional organizations and the Security Council itself.[11]

The emerging norm states that, as a last resort, the international community or states within it can legitimately employ military force against another state with the purpose of saving endangered civilians. This right, it is argued, derives from a shift in conceptualizing sovereignty in world politics, namely from "sovereignty as authority" to "sovereignty as responsibility."[12] The huge difference is that while the former refers to states' control over their territories and population, the latter "suggests that sovereignty is conditional on a state demonstrating respect for a minimum standard of human rights."[13] This assertion is also taken by others in order to pinpoint to the limits of sovereignty, as inherent in the UN Charter:

According to Chapter VII, sovereignty is not a barrier to action taken by the Security Council as part of measures in response to "a threat to the peace, a breach of the peace or an act of aggression." In other words, the sovereignty of states, as recognized in the UN Charter, yields to the demands of international peace and security. And the status of sovereign equality only holds effectively for each state when there is stability, peace, and order among states.[14]

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[11] *Ibidem*.

[12] See initial attempts in this respect in Deng *et. al.*, *op. cit.*

[13] Jennifer Welsh, "From Right to Responsibility: Humanitarian Intervention and International Society", *Global Governance*, no. 8(4), 2002, pp. 510-511.

[14] Thomas G. Weiss; Don Hubert, *The Responsibility to Protect: Supplementary Volume to the Report of ICISS*, Ottawa: International Development Research Center, 2001, p. 7.

One of the key contributions of ICISS is that it tries to reconcile the legal-moral tension of humanitarian intervention, by reconsidering the meaning of sovereignty:

The defence of state sovereignty, by even its strongest supporters, does not include any claim of the unlimited power of a state to do what it wants to its own people. The Commission heard no such claim at any stage during our worldwide consultations. It is acknowledged that sovereignty implies a dual responsibility: externally – to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state. In international human rights covenants, in UN practice, and in state practice itself, sovereignty is now understood as embracing this dual responsibility. Sovereignty as responsibility has become the minimum content of good international citizenship.[15]

According to the ICISS report, the responsibility to protect is intertwined with certain principles for military operation: first of all, the just cause threshold, which includes situations of "large scale loss of life [...] with genocidal intent or not, and large scale 'ethnic cleansing', actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape." Secondly, the Report mentions four precautionary principles (right intention, last resort, proportional means, and reasonable prospects); thirdly, right authority (which is not intended to bypass the UN by strengthening other types of authority, since "the task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has") is explained; finally, comprehensive operational principles are tackled ("clear objectives" [...] and "resources to match"; "acceptance of limitations, incrementalism and gradualism in the application of force, the objective being protection of a

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[15] ICISS, *op. cit.*, p. 8.

population, not defeat of a state", "rules of engagement" that imply "total adherence to international humanitarian law").[16]

There are certain ground-breaking aspects that the ICISS *Responsibility to Protect Report* sets. First of all, it revisits the concept of sovereignty (as previously shown) by clarifying state responsibility (apart from political independence and rights over sovereign territories) with respect to protections of its citizens.

Secondly, the Commission indicated that previous debates revolving around humanitarian intervention were in fact views for or against a "right to intervene" by one state on the territory of another state. ICISS argued that human protection or human security cannot be achieved by looking at the "right to intervene", but by "responsibility to protect".[17]

Thirdly, the Commission emphasized three responsibilities corresponding to specific phases: the responsibility to prevent[18], the responsibility to react[19], and the responsibility to rebuild.[20]

The United Nations' incorporation of the responsibility to protect

The UN's High-Level Panel on Threats, Challenges and Change issued *A More Secure World: Our Shared Responsibility* in 2004, which supported "the emerging norm that there is a collective international responsibility to protect."[21] Kofi Annan also endorsed it in his 2005 report.[22]

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[16] *Ibidem*, pp. XII-XIII.

[17] *Ibidem*, pp. 11, 17.

[18] *Ibidem*, pp. 19-27.

[19] *Ibidem*, pp. 29-37.

[20] *Ibidem*, pp. 39-45.

[21] High-level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, New York: United Nations, 2004, p. 57. Para. 203 specified: "We endorse the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent."

The framework of RtoP was officially incorporated by the United Nations in 2005 during the UN World Summit. The UN General Assembly issued the World Summit Outcome Document which was a unanimously supported resolution that endorsed the scope of the responsibility to protect. Article 138 of the document specifies the "responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity" and emphasizes the responsibility of each state which "entails the prevention of such crimes, including their incitement, through appropriate and necessary means." Moreover, the document made clear pledges in this respect: "We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability."[23]Article 139 of the document invokes provisions from Chapter VI and Chapter VII of the UN Charter and adds:

> "In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."[24]

According to Gareth Evans (co-chair of ICISS, together with Mohamed Sahnoun), the World Summit Outcome Document expressed the will of both Western countries and those from the developing South

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[22] Kofi A. Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, New York: United Nations, 2005. See also Thomas G. Weiss, "Whither R2P?", in Thomas Weiss *et al.*, 2011, *op. cit.*.

[23] A/RES/60/1 2005, United Nations' General Assembly Resolution, World Summit Outcome, adopted on 16 September 2005, p. 30, <https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf>, accessed on November 2019.

[24] *Ibidem.*

(especially Sub-Saharan Africa) and it was linked to the African Union's "insistence that the real issue was not non-intervention, but non-indifference."[25] Also, the document clearly stipulated the extraordinary conditions under which action should be immediately undertaken, by distinguishing between promotion of human rights in general, on the one hand, and genocides and crimes against humanity, on the other hand. This marked a step forward, moving the debate beyond the previous discursive amalgamations of human security, human rights, atrocities, which led to confusions and diffuse responsibility. For Gareth Evans

> *"It now seems generally understood that mass atrocity crimes should not be confused with human rights violations more generally, conflict situations more generally, or human security situations more generally: they are more confined, defined essentially as genocide, ethnic cleansing and other large scale crimes against humanity."*[26]

The ensuing responsibilities are in fact consistent with legal obligations enshrined in the United Nations' Charter and in the Convention on the Prevention and Punishment of the Crime of Genocide; the latter has been ratified or acceded to by 152 States (as of July 2019).[27] Alex Bellamy argued that, precisely because all crimes mentioned in the World Summit Outcome Document were already prohibited, the principle attached to responsibility to protect was not "a new legal principle but rather a political commitment to implement already existing law."[28]

UN Secretary-General Ban Ki-moon released the report *Implementing the Responsibility to Protect* in 2009, outlining three pillars of RtoP. The first one (called *The protection responsibilities of the State*) refers to

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[25] Gareth Evans, *op.cit.*, p. 36.

[26] *Ibidem*, p. 37.

[27] See <https://www.un.org/en/genocideprevention/genocide-convention.shtml> accessed on November 2019.

[28] Alex Bellamy, "The Responsibility to Protect and the Problem of Regime Change", in Weiss *et al.*, *op. cit.*

the "enduring responsibility of the State to protect its populations, whether nationals or not, from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement" while pillar two (titled *International assistance and capacity-building*) pledges "the commitment of the international community to assist States in meeting those obligations."[29] Pillar three (*Timely and decisive response*) refers to "the responsibility of Member States to respond collectively in a timely and decisive manner when a State is manifestly failing to provide such protection."[30] According to many voices, the report of the Secretary-General "diluted the central defining feature of RtoP"[31] or "sought to sidestep considering the third pillar, the sharp end of the R2P stick of using or threatening to use military force to stop mass atrocities."[32] Some questions still lingered: was the responsibility to protect an emerging norm? Or was it an attempt to make states commit to legal obligations to stop genocides and crimes against humanity and hence step up to this political responsibility? Was it still reduced to political will of UN Security Council permanent members and thus contingent on veto privilege? Could the responsibility to protect reshape states' attitudes and actions regarding civilians' plight caught in civil war, ethnic cleansing and other atrocities, but trapped within state boundaries?

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[29] *Implementing the Responsibility to Protect*, Report of the Secretary-General, A/63/677, 12 January 2009, pp. 10-21, <http://responsibilitytoprotect.org/implementing%20the%20 rtop.pdf> accessed on November 2019. See also, Alex Stark, "Introduction", in Weiss *et. al.*, *op. cit.*, p. 4; Abiodun Williams, "The Responsibility to Protect and Peacemaking", in Thomas G. Weiss *et. al.*, *op. cit.*, p. 32; Ramesh Thakur, "R2P, Libya and International Politics as the Struggle for Competing Normative Architectures", in Thomas G. Weiss *et. al.*, *op. cit.*, p. 12; Rachel Gerber, "Prevention: Core to the Responsibility to Protect", in Weiss *et. al.*, *op. cit.*, pp. 28-29.
[30] *Implementing the responsibility to protect*, pp. 22-28.
[31] Ramesh Thakur, *The Responsibility To Protect: Norms, Laws and the Use of Force in International Politics*, quoted in Thomas G. Weiss, "Whither R2P?", p. 7.
[32] Weiss, "Whither R2P?", p. 7.

Applying the RtoP framework: the UN's involvement in Libya

The violent turmoil in Libya emerged as one piece of what later became known as The Arab Spring, namely stark contestation of regimes, civil unrest, and revolutionary movement that ranged across the Middle East and North Africa at the beginning of 2011. Demonstrations began in February 2011 in Libya and the protesters mounted against Colonel Gaddafi. The latter, buoyed by inner circle individuals and using military force against the rebels, brutally counter-reacted in trying to repress the insurgency; consequently the situation dramatically deteriorated. The international community was worryingly following the events in Libya and empathy for the suffering of innocent Libyans was considerable. In just a few weeks, the international response to the crisis focused on the role to protect the Libyan population and to prevent the forces under Gaddafi's orders to commit atrocities in Benghazi. One might say that it was high time to "test" the applicability of the responsibility to protect.

The response was swift: on February 15, the United Nations' Security Council issued a statement in which it requested the Libyan government "to meet its responsibility to protect its population."[33] On February 26, the UN Security Council issued Resolution 1970, in which the Council "deplored the gross and systematic violation of human rights, including the repression of peaceful demonstrators, expressing deep concern at the deaths of civilians, and rejecting unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government", referred "the situation in the Libyan Arab Jamahiriya to […] the International Criminal Court" and imposed sanctions (arms embargo, travel bans and asset freeze).[34] A few weeks later, a no-fly zone was imposed under the normative umbrella of the responsibility to protect: on March 17, the Security Council issued

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[33] Sarah Brockmeier; Oliver Stuenkel; Marcos Tourinho, "The Impact of the Libya Intervention Debates on Norms of Protection", *Global Society*, 2015, p. 3.

[34] S/RES/1970 (2011), UN Security Council, 26 February 2011 <https://www.undocs.org/S/RES/1970%20(2011)> accessed on December 2019.

Resolution 1973, in which military force was authorized to protect civilians and civilian populated areas. Resolution 1973

> Expressing *grave concern at the deteriorating situation, the escalation of violence, and the heavy civilian casualties, [...]*
> Condemning *the gross and systematic violation of human rights, including arbitrary detentions, enforced disappearances, torture and summary executions, [...]*
> Expressing its determination *to ensure the protection of civilians and civilian populated areas and the rapid and unimpeded passage of humanitarian assistance and the safety of humanitarian personnel [...]*
> *Acting under Chapter VII of the Charter of the United Nations,*
> 1. Demands *the immediate establishment of a cease-fire and a complete end to violence and all attacks against, and abuses of, civilians;*
> 2. Stresses *the need to intensify efforts to find a solution to the crisis which responds to the legitimate demands of the Libyan people [...]*
> 3. Demands *that the Libyan authorities comply with their obligations under international law, including international humanitarian law, human rights and refugee law and take all measures to protect civilians and meet their basic needs, and to ensure the rapid and unimpeded passage of humanitarian assistance;*[35]

The need to protect civilians was expressed in paragraph 4 of Resolution 1973, in which the Council authorized "Member States […] to take all necessary measures […] to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory […]."[36]

Enthusiasm regarding the global impact of the responsibility to protect norm was voiced. Thomas G. Weiss said, back in September 2011, that "with the exception of Raphael Lemkin's efforts and the 1948

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[35] S/RES/1973 (2011), UN Security Council, 17 March 2011 < https://www.undocs.org/ S/RES/1973%20(2011)> accessed on December 2019.
[36] *Ibidem*.

Convention on the Prevention and Punishment of the Crime of Genocide, no idea has moved faster in the international normative arena than 'the responsibility to protect' [...]"[37] Gareth Evans stated that "the Libyan case was, at least at the outset, a textbook case of the RtoP norm working exactly as it was supposed to, with nothing else in issue but stopping continuing and imminent mass atrocity crimes."[38] The milestone showing that "the world has become more committed to the protection of civilians" was reflected in the fact that two UNSC Resolutions on Libya "passed with unprecedented speed and without a single dissenting vote."[39] Resolution 1970 had "expressed its readiness to consider taking additional appropriate measures, as necessary, to facilitate and support the return of humanitarian agencies"[40], whereas in the case of Resolution 1973 "ten countries voted in favour, including permanent members France, the United Kingdom, and the United States. None opposed. Brazil, China, Germany, India, and Russia abstained."[41] UN Secretary General (UNSG) Ban Ki-Moon underlined: "Resolution 1973 (2011) affirms, clearly and unequivocally, the international community's determination to fulfil its responsibility to protect civilians from violence perpetrated upon them by their own government."[42]

Consequently, under the coordination of the United States, UN member states initiated military action on March 19 and the initial key element of the intervention was centred on the following humanitarian

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[37] Thomas G. Weiss, "Whither R2P?", p. 7.

[38] Evans, *op.cit.*, p. 40.

[39] Jon Western; Joshua S. Goldstein, "Humanitarian Intervention Comes of Age. Lessons from Somalia to Libya", *Foreign Affairs*, no. 6(90), 2011, p. 55.

[40] United Nations, S/RES/1973 <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Libya%20S%20RES%201973.pdf> retrieved in October 2012.

[41] Human Rights Watch, *Unacknowledged Deaths. Civilian Casualties in NATO's Air Campaign in Libya*, USA: Human Rights Watch, May 2012, p. 19.

[42] "Secretary General says Security Council action on Libya affirms international community's determination to protect civilians from own government's violence," March 18, 2011, quoted in Nathalie Tocci, *On Power and Norms. Libya, Syria, and the Responsibility to Protect*, Transatlantic Academy Paper Series, April 2014, p. 1.

rationale: creation of *no fly zone* and *protection of civilians*, authorizing UN member states to use "all necessary measures" for that aim. French, British and American forces began the operations with the goals of imposing the no-fly area and targeting Gaddafi's military targets. After a few weeks, NATO took over the military operation.

There are several corollaries of the UN response to events in Libya. First of all, the intervention, with the aim of protecting civilians, was authorized based on the belief that military force is necessary in order to stop a government from committing atrocities against its citizens. This represents a turning point in humanitarian intervention debate and indicates a major development towards incorporation of responsibility to protect. Given the consensus within the Security Council (with no veto expressed and all BRICS countries tacitly supporting the humanitarian response), the intervention in Libya was a validation of solidarism and of RtoP proponents. Given the urgency in tackling the imminent human tragedy and in issuing Resolutions 1970 and 1973, but also the readiness to take immediate military action, the response signalled the explicit and genuine commitment to responsibility to protect civilians and provide basic human security.

A second corollary, and a different level of discussion, points to the fracture occurring between members of the United Nations Security Council, as well as within the international community regarding the implementation of the military intervention in Libya. Initial agreement over the Council's responsibility to protect civilians and prevent a massacre was replaced with diverging views over the carrying out of the intervention. The core issue is: does it imply regime change? Going back to the international response to the Libyan crisis, two stages are identified: the first one centred on the sanctioning of resolutions meant to halt imminent atrocities and the second one centred on two opposing views regarding regime change in Libya. According to Simon Adams, director of the Global Centre for the Responsibility to Protect, Libya represents "a key turning point in the history of R2P" and debates moved from a "battle around ideas

to a battle around implementation."[43] The military intervention achieved its stated purpose after just a few weeks and civilians in Benghazi were safe from Gaddafi forces' attacks. Yet the intervening forces continued military operations, even when the African Union was ready to focus on negotiations and ceasefire. Moreover, they provided military support to the rebel forces. On April 15, a letter jointly signed by British Prime Minister David Cameron, French President Nicolas Sarkozy, and U.S. President Barack Obama stated that "our duty and our mandate under UN Security Council Resolution 1973 is to protect civilians, and we are doing that. It is not to remove Qaddafi by force. But it is impossible to imagine a future for Libya with Qaddafi in power."[44] In what follows, we shall discuss three consequences of these developments.

The first impact was on the RtoP doctrine itself. The broad interpretation of responsibility to protect and the actions against the Libyan government prompted strong criticism. On the one hand, BRICS countries strongly reacted to NATO's decision to exceed its mandate and to go beyond the wording and the spirit of Resolution 1973. Russia criticized the "disproportionate use of force" while China opposed "any arbitrary interpretation of the Council's resolutions or of any actions going beyond those mandated by the Council".[45] South Africa questioned "whether the actions of the implementing States have been consistent with the letter and the spirit"[46] of the resolutions and Brazil argued against "excessive broad interpretations of the protection of civilians, which could link it to the exacerbation of conflict, compromise the impartiality of the United Nations or create the perception that it is being used as a smokescreen for intervention or regime change."[47] On the other hand, proponents of RtoP

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[43] Quoted in Brockmeier, Stuenkel and Tourinho, *op. cit.*, p. 1.

[44] Barack Obama, David Cameron and Nicolas Sarkozy, "Libya's Pathway to Peace", *The International Herald Tribune*, 15 April 2011, quoted in *ibidem*, p. 12. See also Tocci, *op. cit.*, p. 19.

[45] Tocci, *op. cit.*, p. 19.

[46] *Ibidem.*

[47] Bellamy, *op. cit.*, pp. 20-21

also reacted. Gareth Evans stated that NATO "was unequivocally committed to the rebel side, and to securing regime change" and said that "many of us would have been much more comfortable if NATO had confined its role, after neutralising the Libyan air force and halting the ground forces moving on Benghazi."[48] Ramesh Thakur argued that "Resolution 1973 authorised military action to prevent civilian slaughter but not intervene in the civil war […], effect regime change, or target Gaddafi. To the extent that he was so targeted, NATO exceeded UN authority in breach of the Charter law."[49] All these reactions point to the fact that the responsibility to protect does not include regime change (as designed by its proponents) and that while states do agree on the need to protect civilians, they do not however agree on the necessity to change governments.

The second impact was on civilians in Libya. The initial stage of the intervention did manage, as previously mentioned, to prevent a slaughter in Benghazi. Given the fact that Gaddafi declared that "security forces would show no mercy" to the rebels and would come "door to door", but also employing the word "cockroaches" when referring to protesters (which reminded everyone in the Security Council of the hate propaganda used during the Rwandan genocide), the swift UN response was a clear determination to save civilians by use of "all necessary means". The second stage of the intervention entailed NATO airstrikes (and collateral civilian casualties) and military support for the rebel forces in Libya. According to NATO, "its efforts went beyond the requirements of international humanitarian law", as quoted in a Human Rights Report published in 2012, and "no target was approved or struck if we had any reason to believe that civilians would be at risk."[50] Several critical voiced warned that NATO's

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[48] Evans, *op. cit.*, p. 41.

[49] Ramesh Thakur, "R2P, Libya and International Politics as the Struggle for Competing Normative Architectures", 2011, p. 13.

[50] Human Rights Watch, *Unacknowledged Deaths. Civilian Casualties in NATO's Air Campaign in Libya*, USA: Human Rights Watch, May 2012, p. 23.

continued strikes and the decision to support the rebels posed threats to the lives of civilians and risked to perpetuate the armed conflict between the government forces and the rebels.[51] Later in 2014, a commission of inquiry was set by the UN Human Rights Council and its report included the following findings: NATO had conducted a "highly precise campaign with a demonstrable determination to avoid civilian casualties" and the Gaddafi regime committed crimes against humanity and war crimes, but also the rebel forces supported by NATO had committed war crimes and "breaches of international human rights law."[52] Consequently, it became clear that military operations intended to protect civilians can be successfully carried out, but supporting one party to the armed conflict can easily lead to other types of assaults on civilians.

The third impact was on the ensuing humanitarian crisis in Syria. Given the similarities between protests in Libya and Syria[53], the deteriorating situation in both countries, the brutal reaction of government forces against protesters, on the one hand, and the different responses from the UN Security Council, on the other hand, many voices argued that NATO's decision to overstretch its mandate in Libya and the toppling of Gaddafi had a direct impact on the reaction to atrocities that unfolded in Syria in 2011 (alongside with other significant differences between the two cases).

Since 2011 Libya was plunged into another civil war (in 2014), the country is divided into two main groups and Libyan civilians have been exposed to various risks. Consequently, the Libyan case currently represents another stage in "testing" the implementation of another level of responsibility, namely the international responsibility to rebuild.

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[51] As quoted in Brockmeier, Stuenkel and Tourinho, *op. cit.*, p. 10.

[52] Human Rights Council, "Report of the International Commission of Inquiry on Libya, UN doc. A/HRC/19/68", quoted in *ibidem.*

[53] See many arguments on this comparison in Tocci, *op. cit.*, and Spencer Zifcak, "The Responsibility to Protect after Libya and Syria", *Melbourne Journal of International Law*, vol. 13, 2012, pp. 1-35.

The intervention in Libya entailed two distinct phases. One represented a response to a mounting humanitarian emergency and was illustrated by a swift involvement of the United Nations, an immediate authorization of use of force for the purpose of protecting civilians, and consensus within the Security Council on the need to use military force to halt atrocities. The other one prompted diverging views on the implementation of such humanitarian imperatives and provided a setback to RtoP as a norm.

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