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A CRITICAL THEORETICAL ANALYSIS OF THE RESPONSIBILITY TO PROTECT IN THE CASES OF LIBYA AND SYRIA

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Abstract:

UN Security Council Resolution 1973 authorized intervention in Libya in line with the Responsibility to protect (R2P) norm. However, this norm and the principles it enshrines has caused much controversy among policy and academic circles. This article analyzes the core principles embedded within the norm in view of liberalism and realism and then critically evaluate whether the NATO interventions were justified or not and the implication this has had on the Syrian case. The article concludes by highlighting the lessons we can draw from the norm.

Keywords: UN Security Council Resolution, Libya, NATO, Responsibility to protect, Sovereignty, intervention, human rights

Introduction

The implementation of United Nations (UN) Security Council Resolution 1973, authorizing intervention in Libya, in line with the Responsibility to protect (R2P) which is an international security, and human rights doctrine has caused controversy and disagreement in policy and academic circles. Sovereignty and responsibility underpin much of this fray as the doctrine embeds three core principles that evolved from a UN World Summit in 2005 and became a widely accepted norm in the world community (Webb, 2016, p. 2).

Three Core principles of the Responsibility to Protect

The first requires that the state bear responsibility to protect its people from genocide, war crimes, crimes against humanity and ethnic cleansing, while the seconds implores the international community to assist states with this responsibility. The third implores the international community to take responsibility to protect citizens of a state when their state fails in its responsibilities to protect its own people from these crimes. While the third principle allows the international community to take this responsibility it beseeches it to use a military response that is decisive, timely and proportionate only when all other coercive tools such as diplomacy and economic sanctions) has failed.

The core principles and NATO Interventions

Were these means exhausted? No. Was it timely? Yes. Was it proportionate? No. The facts of the Libyan case indicate so but despite these failings in means and proportionality, Muammar al-Qaddafi's violent suppression in February 2011 against his own people informed the Security Council's R2P.

Adams contends that over the course of the subsequent months, the debate sparked bitterly over the meaning of the resolutions and their implementation (Adams, 2012). While some argued that supporters of "regime change" had hijacked the Libyan intervention, others viewed that they acted within the framework of the resolution, in that, the "all necessary measures" as in the resolution, allowed NATO-led alliance that agreed to enforce the resolution to prevent atrocities and protect civilians (ibid). Questions of proportionality and motivation began to undermine the concord that initially existed among civil society organizations, international organizations and some states over the R2P.

Libya's R2P and its consequences on the Syrian case

While one may reasonably say that Libya's R2P was successful in preventing mass atrocities that would have been committed had there been no international response, the externally-enforced regime change enabled by the R2P however good intentioned, and the consequent violation of legitimate sovereignty of Libya (regime change) and the experiences thereafter leaves much to be desired. Of these experiences are the near failed state of Libya and Syria being experienced presently especially the plight of the latter's civilians owing to the apparently clear lack of agreement among the permanent 5 members of the UNSC to use R2P again but instead deal with humanitarian crises on a case-by-case basis (Webb, 2016).

Sovereignty and R2P Linkages

However, while much of the controversy is related to the legality of regime change camouflaged, as alleged, in the name of protecting civilians from the crimes stipulated by the R2P intervention, sovereignty is central to this controversy because R2P principles link responsibility to it, and consequently, goes against the previously held belief in Westphalian sovereignty (Adams, 2012). The Westphalian sovereignty system assumes that individual states are the best protectors of their citizens. While this system fails to protect their own citizens, as has happened in many countries, Westphalian sovereignty diminished resulting in shifts from national to human security and consequently, the coming into force of R2P as an international norm (ibid).

R2P and Mainstream theories of International relations

While R2P is relatively a novel and new concept that is rooted in human rights(liberalism-own emphasis), it is also rooted in the notion of sovereignty (realism-own emphasis) as Francis M. Deng, Sadikiel Kimaro etal, as cited in (C.Luck, 2010) contends. The author contends that even Thomas Hobbes's Leviathan recognized that sovereign power had an obligation to protect the people under its rule. Peter Berkowitz as cited in (C.Luck, 2010, p. 14) also shows why Hobbesian political theory on sovereignty, though absolute and indivisible, is limited by the power of the natural and inalienable rights of individuals that brings it into being and maintains it. These limits, the author contends, sheds light on the whys and wherefores upon which states pursue respect for claims on national sovereignty as well as surrendering that right to govern their people when the people so demands. The same reason why the sovereign has to recognize these inalienable rights gives the other nations the right to intervene to provide what their sovereign failed to recognize(ibid).

Hence, while R2P is criticized because of the disproportionate and inexcusable manner NATO handled the implementation of Libyan intervention during and after, the principles underpinning it seeks to strengthen the important features of statehood and sovereignty.

Michael Walzer as cited in (Nye, 2007, pp. 165-166) also supports Peter Berkowitz's contention by outlining four justifiable reasons for military intervention in the absence of an obvious aggression. The first is preemptive intervention where there is clear and sufficient threat to a state's territorial integrity and political sovereignty. The second is when intervention is needed to balance a prior intervention whilst a third is when intervention is necessary to rescue people threatened with massacre. The fourth, while problematic, is

assisting secessionist nationalist movements that clearly show they want their own country. While the third justifiable reason is applicable to the Libyan situation, the other three did not.

Notwithstanding their differing views on intervention (Nye, 2007, p. 164) contends that for cynics like realists, cosmopolitans and state moralist, ethical decisions on intervention do not matter. While realist believe that intervention is justified if it necessitates the maintenance of order and the balance of power, cosmopolitans see intervention as justified in the light of individual justice and/or human rights. The state moralists on the other hand, see intervention as justified only in light of a state defending its territorial integrity or sovereignty. Based on these understandings, we can reasonably conclude that the Libyan intervention was indeed necessary although unfortunately blemished by the NATO precedent for regime change resulting to UN inaction to prevent atrocities in Syria..

While we can view the first and the last cynics as realist, the second is akin to liberalism. (Webb, 2016) contends that beginning in the early 1990s towards the end of the Cold War, the factors maintaining the realist approach to foreign interventions began to crumble as they gave way to liberalist ideas on the need to safeguard human rights against the widespread upsurge of these crimes in many newly Westphalian independent sovereign countries. In response to these needs, humanitarian interventions began to occur more often, as displayed in Somalia, Rwanda, Bosnia and Kosovo (ibid).

Conclusion:

Mary Caldor as cited (Webb, 2016) outlined that the fact that conflicts are now more or less intrastate rather than state on state, and varying in their 'goals, methods of warfare, and funding' which can lead to international humanitarian catastrophes, valid justification for interventions increasingly gained acceptance; and this, slowly debunked the traditional Westphalian,(realist) view of sovereignty as power.

The lesson that we can learn from the R2P intervention and its triumph over realist notion of sovereignty is that international institutions have demonstrably played an important role in not only influencing state behavior over how it is supposed to treat its own people contrary to its tradition stance on the absoluteness of state power and sovereignty.

While some may say that this is not the case for Syria, we can reasonably blame NATO's misapplication of R2P in Libya which was largely driven by ulterior motives for this. Hence, while the former's intervention and latter's conflict have significantly altered R2P from its 2005 conception, it should not be discarded, but developed to overcome similar complex

challenges to world peace in the future. arguably it is as much a defining norm as it did in 2005. R2P has evolved rapidly over the past two decades; given that it is such a young norm this is not surprising.

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