<h1 style="text-align:center">Understanding the International "Responsibility to Protect"</h1>

The Responsibility to Protect doctrine, perhaps better known by its acronym, <u>R2P</u> is the most recent UN-mechanism for responding to conflicts that involve massive loss of human life. <u>The problem is that it has been blamed for the current disasters in both Libya and Syria</u>. In Libya, the problem stems from its <u>application</u>, while in Syria, from its <u>failure to be applied</u>. How can this be? To make sense of this apparent paradox, we first must understand what R2P is, and, importantly -- what it is not.

To do this we need first to go back in time and remember that at the end of the Second World War, the UN was designed to deal with <u>international disputes</u> – not those arising from within nation states; these latter conflicts were deemed to fall under what was termed, "domestic jurisdiction." Chapter VI of the Charter deals with methods of "peaceful settlement," while Chapter VII addresses "use of force" actions to be taken in response to "threats and breaches of the peace." As mentioned, both of these Chapters were envisioned to apply to conflicts <u>between nation-states</u>. After all, the UN was constructed by states with an aim to respect their sovereignty.

Second, we need to understand "peace-keeping." This concept developed in the mid-1950s (with a large Canadian contribution), has been referred to as "Chapter VI and a half" of the UN Charter, and involves the use of military troops to facilitate the withdrawal of conventional armies in a process leading to a return to peace. Importantly, <u>no combat role</u> was envisioned for peacekeeping forces, and, just as importantly, the <u>states at war</u> had to agree to the presence of peacekeeping forces on their soil – thus, peacekeeping continued to respect <u>state sovereignty.</u>

As always, a new problem arose. Increasingly, serious conflicts around the world had their origins in <u>domestic disputes</u>, rather than international ones; meaning these ground rules for peacekeeping were no longer adequate. Nations within which conflicts were occurring could block international intervention by invoking the <u>doctrine of state sovereignty,</u> as, for example, did the government of Sudan with respect to the genocide in Darfur.

The idea of a "Responsibility to Protect" was first proposed in a Canadian-sponsored 2001 Report that was subsequently adopted by the UN General Assembly in 2005 and by the Security Council in 2006. It is in effect a 21st century replacement for what used to be known as "Humanitarian Intervention," or, as it was termed in the 1990s, "muscular peacekeeping."

What, specifically, does it entail?

R2P lays a 3-fold responsibly on the international community to deal with serious breaches of human rights <u>within states</u> that are either <u>unable</u> or <u>unwilling</u> to protect their citizens. As a concession to state sovereignty, states still have the primary responsibility for dealing with these conflicts. Nevertheless, R2P has resulted in an important erosion of the concept of <u>state sovereignty</u>: If states fail to act or are incapable of action, the international community is tasked with the following three responsibilities:

> 1. To <u>prevent</u> abuses from happening in the first place;
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> 2. To <u>react</u> to them if prevention fails (this includes military intervention); and
> 3. To <u>rebuild</u> societies following any military intervention.

While the 2001 R2P Report identified "prevention" as the most important of the three responsibilities, it has been international "reaction" (most often equated with <u>"sending in the marines"</u>) that most think of in the context of R2P – and, significantly, beginning in 2011, this is the way it was interpreted in both Libya and Syria.

<u>Unfortunately, this view of R2P is incorrect</u>. While an international <u>reaction under R2P can be military</u>, it can also take non-military forms, such as diplomacy in both its non-coercive and coercive forms. In fact, <u>military intervention</u> is clearly presented as a <u>last resort</u>, to be invoked only if all other options to protect at-risk populations have failed, and even then subject to the following set of comprehensive restrictions:

Specifically,

1. **R2P must respond to a <u>Just Cause</u> – (genocide or large scale loss of life);**
2. **have the <u>Right Intention</u> – (to avert human suffering);**
3. **used as a <u>Last Resort</u> – (when all else has failed); and**
4. **should employ <u>Proportional Means</u> – (operations should use the minimum force necessary to achieve protection). In addition**
5. **there should be a <u>Reasonable Prospect of Success</u> – (specifically, military intervention should not make the situation worse) and**
6. **must be <u>Approved by the Right Authority</u> – (the UN Security Council).**

How then, you ask, does R2P differ from what came before? The answer is not very much -- but that "not very much" is an important one.

What R2P boils down to is this. What were previously known as UN-Chapter VII (that is, "use of force") missions, now have a <u>"border-penetrating legitimacy"</u> that they previously lacked. No longer can "state sovereignty" be invoked as grounds for claiming that under international law, humanitarian protection missions lack legitimacy.

Importantly R2P was never intended to be applied to all cases of humanitarian disaster. Just as before it came on the scene, <u>each case has to be decided on whether, when all other means have failed, a military response is in order.</u> And, importantly as well, just as the international community (and that means states with the military capacity to intervene) were under no obligation to support or join Chapter VII <u>use of force</u> missions in the pre-R2P era, so too must they make similar judgments regarding whether to join and how much to contribute to R2P missions. On all of this, nothing has changed.

Now let's go back to Libya and Syria and try to make sense of our apparent paradox.

In the case of Libya, in March 2011 the Arab League made a decision that Col. Muammar Gaddafi posed a serious threat to the Libyan population. The UN Security Council agreed and an international military force in the form of a "No-fly zone" was approved for <u>civilian protection</u>. The problem is that it was used instead to remove Gaddafi, and within 6 months he was gone. If there was a failure of R2P in Libya (and clearly there was), there were two problems.

First, R2P's failure was due as much to not pursuing the <u>Responsibility to Rebuild</u> following the overthrow of Gaddafi, as to what now appears to have been a <u>mistaken decision</u> to transform a <u>civilian protection</u> mission to one that had as its real goal, <u>regime change</u>. On this double failure it is wise to recall General Colin Powell's prescient advice to George Bush prior to the 2003 invasion of Iraq – "If you break it, you own it."

In the case of Syria, obviously some lessons were learned from the Libyan experience. Specifically, Russia had agreed to the R2P mission in Libya, but felt betrayed by its unanticipated outcome. Of course, Russia was also a long-time ally of Syria and provided arms to the Assad regime and, as a result of either of these factors, Russia would veto any application of R2P to Syria. As well, the international community (led by now an even more cautious U.S. president) decided that a non-Security Council authorized intervention in Syria <u>would lead to greater perils</u> than would staying out. As a result, following Assad's use of chemical weapons against civilians in August 2013 (clearly grounds for invoking R2P), Mr. Obama settled for the removal and destruction of Syria's chemical weapons. As with Libya, this <u>was a calculation that might have been wrong</u>, but was one that is wisely built into any application of R2P.

Where then is R2P now?
Some say it is dead, some say it is on its death bed, while others claim, that given the right circumstances, it can still be applied to deal with serious human rights abuses such as occurred in Rwanda in 1994 and are currently occurring in neighbouring Burundi, where old Hutu-Tutsi hatreds rage anew.

I tend to see merit in the last of these. Clearly <u>R2P was over-hyped and tended to be</u> <u>wrongly equated with knee-jerk military responses to conflicts</u>. Libya put a definitive end to these over-expectations and Syria confirmed it. While R2P is not applicable to all conflicts (and never was so intended), my guess is that the world will continue to see instances of egregious human rights abuse that might be mitigated by the dispatch of a robust protective force over the objections of complicit or powerless governments -- which is, after all, what R2P was intended to do.

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