



Responsibility to Protect: The Case of Libya

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The Responsibility to Protect (R2P) evolves as a cutting edge humanitarian principle that captures the centre stage in the current global security discourse. The R2P evokes all the more anxieties and concerns on its operational front, when Libya becomes the first conflict theatre, where this humanitarian code has been invoked by the ‘concerned international community’ to militarily respond to the country’s large scale intra-state violence. The disconcerting crisis in Libya has unfolded under the influence of the *Arab Spring* (uprising for political reforms) sweeping across the wider neighbourhood of North Africa and West Asia, a region which is constantly known for its forced interface with the extra-regional powers.

Keeping in perspective the above mentioned critical aspects of the issue, this paper tries to conceptualise the R2P by highlighting its normative as well as juridical evolution in the broader context of global security dynamics. It subsequently focuses its application to the raging conflict in Libya in terms of assessing the cause and effect of such ‘exemplifying’ practice. The paper also looks at India’s concerns on this crucial yet contentious issue through evaluation of New Delhi’s response as a revisionist stake holder in the institutionalised process of global security and governance.

Conceptualising R2P

The International Commission on Intervention and State Sovereignty (ICISS), which was established by the Government of Canada, together with a group of major foundations, at the United Nations General Assembly (UNGA) in September 2000, prepared its Report titled “The Responsibility to Protect” in December 2001. This Report premised the R2P on two basic principles: (a) state sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself; (b) in case of people suffering serious harm, due to internal war, insurgency, repression or state failure, and the concerned state’s lack of will or ability to respond, the principle of non-intervention yields to the international responsibility to protect. The ICISS Report specified in qualifying detail the methods of exercising humanitarian obligations concerning the prevention and containment of conflict and the aftermath reconstruction, by involving all the stake holders with the utmost constraint on the use of intrusive and coercive measures.¹

The ICISS Report was discussed by the then UN Secretary-General Kofi Annan’s High-Level Panel on “Threats, Challenges and Change”. The High-Level Panel accordingly made the recommendations on the issue in its 2004 Report that found place in the World Summit Outcome Document containing R2P’s core elements in its paragraphs 138 and 139, which were adopted by the heads of state and government in the UNGA in October 2005.² In 2009, the UN Secretary-General Ban Ki Moon outlined the three pillars of the R2P doctrine: (a) states enjoin upon themselves the responsibilities to protect their population from genocide, war crimes, ethnic cleansing and crimes against humanity; (b) the international community should assist them in doing so; (c) if the concerned state fails to act appropriately, the responsibility to do so falls on the international community.³

The colossal yet preventable human tragedies caused by two high-intensity conflicts in Rwanda (1994) and Srebrenica (1995), which could not be averted due to sheer indifference of the dominant Western actors in the UNSC, gave compelling reasons to the UN leadership to go for the R2P.⁴ The adoption of such a humanitarian principle was effected under the official supervision of a pacifist of Kofi Annan’s stature, indicating that existential premise of the current world order is undergoing a paradigm shift from the Westphalian notion of ‘non-interference’ to post-Cold War idea of ‘non-indifference’.⁵ This defining shift is unfolding under the volatile

global security dynamics that encapsulates the multiplication of conflict theatres in the Global South, the rise in the intra-state conflicts, and intertwined linkages between intra-state and inter-state conflicts.⁶

The extensive and complicated nature of the global conflicts is cumulatively caused and compounded by, *inter alia*, three consecutive critical realities: (a) arbitrary territorial demarcation ignoring the ethno-tribal fabrics in the colonial societies,⁷ (b) Cold-War encampment containing the functional interface between the political regimes and the citizenry and restricting the demographic cohesion in the post-colonial societies,⁸ and (c) increasingly selective unilateral post-Cold War interventions or threat of such interventions of the supra-state actors, led by the extra-regional powers, into the Global South in the guise of ‘international mandate’. The litmus test of the R2P’s capacity as a legal instrument to address the entrenched global ‘security predicament’⁹, therefore, lies in the *modus operandi* of the extra-regional powers involved in the containment of conflicts in the very theatres put under its application. In this context, Libya merits attention, since it remains the first conflict theatre where military intervention was orchestrated under the ambit of R2P.¹⁰

Libya under R2P

Libya witnessed a full-scale uprising in the early part of 2011 in protest against late Colonel Muammar Gaddafi, who had wrested the country’s political power by carrying out a military *coup* since 1969. This revolt began in Benghazi of Eastern Libya, after popular movements crystallising under the *Arab Spring* overturned the rulers of Tunisia and Egypt in the North African neighbourhood. Gaddafi’s regime tried to militarily suppress the opposition forces, which established the National Transitional Council (NTC) in Benghazi to administer the areas under their control. The NTC received France’s immediate recognition as the ‘legitimate government’ of Libya.¹¹

The UNSC responded to the crisis by adopting its Resolution 1970 warning Libyan authorities for their crimes against humanity and reminding the responsibility to protect their people.¹² With no positive difference to the crisis situation, the UNSC passed another Resolution 1973 sanctioning the establishment of a no-fly zone and the use of ‘all means necessary’ to protect civilians within Libya, with a 10–0 vote and five abstentions. While the resolution was supported by all the three African non-permanent members of the UNSC namely South Africa,

Nigeria and Gabon, the abstentions included China and Russia with the veto power, as well as non-permanent members such as Brazil, Germany and India.¹³

Notwithstanding the abstaining member countries' concerns on the Resolution's implementation modality, limits to the military intervention, and avoiding human casualty and regional destabilisation, the North Atlantic Treaty Organisations (NATO) led by France went ahead with operations *Odyssey Dawn and Ellamy*. Amidst NATO's military intervention, the African Union (AU) tried to mediate by proposing immediate and monitored cease-fire, and subsequent democratic elections. The AU's peace strategy was unconditionally accepted by the Gaddafi government. The NATO-backed NTC, however, refused to negotiate on its demand for Gaddafi's immediate abdication of power, leading to a protracted armed confrontation in Libya.¹⁴

The Arab League provided the sustained support for the military intervention in Libya due its leadership's antagonistic connection with Gaddafi,¹⁵ who was championing the cause of Pan-Africanism and the AU's empowerment.¹⁶ The NATO flaunted Arab League's consent as the justification to continue its regime-change exercise and deliberately undermined the AU's mediation initiative. Thus, the provision of involving regional organisations in the containment of conflict, as emphasised in both the 2001 ICISS Report and 2005 World Summit Outcome Document, was manipulated by the extra-regional powers while intervening in Libya.

The NTC finally captured capital Tripoli, with the subsequent gruesome killing of Gaddafi after allegedly being caught from his hometown Sirte on 20 October 2011. While Libyan cities were falling into the NTC's fold, the secret detention of thousands of Gaddafi loyalists and the targeted attack on the Sub-Saharan Africans living in the country became a reality, evoking the United Nations High Commissioner for Refugees' call for the protection of rights and lives of the beleaguered community. Amnesty International in August 2011 estimated that between one third and half of those detained were from the Sub-Saharan Africa. Some African women alleged their rape by rebels in the refugee camps, with the reportage of forced labour. Foreign aid workers claimed to be prohibited from officially talking about the allegations.¹⁷

Still worse, post-Gaddafi Libya witnessed the eruption of intermittent clashes among tribal militias and the increase in violent crimes committed by uniformed men. The hundreds of heavily armed militias continue to indulge in clashes and defy orders from the NTC to disband or join the army and security forces.¹⁸ While elections for a General National Congress were held in Libya in July 2012, the euphoria of success for holding the country's 'first free national election' in six decades was blighted with the killing of four American nationals including Ambassador Chris Stevens at the US consulate in Benghazi on 11 September 2012 amidst violent protest against the anti-Islam *Innocence of Muslims* video.¹⁹ Thus, the actual political cost of intervention in Libya became clearer in the period of transition, as per the prognosis of an Africanist like Mahmood Mamdani, who had characterised the anti-Gaddafi coalition comprising secular middle class activists, royalists, tribalists and the radical Islamists.²⁰

Beyond Libya, the change in Gaddafi regime has triggered ethno-political frictions spreading across the North Africa. Persecution of the alleged pro-Gaddafi Tuareg, a distinct nomadic community settling in several countries of the region, resulted in their flight from Libya to Mali where the political integration of their co-ethnic population was fragile under the colonial and post-colonial dispensations. Mali, in consequence, encountered with the intra-state battle, *de facto* territorial bifurcation, military *coup* and the increase in Islamist mobilisation. According to an UN estimate, more than 206,000 people were displaced in the country in the first half of 2012. While the Mali crisis has already elicited external intervention, Niger due to its sizable under-integrated Tuareg population remains the next theatre to fall into the regional chain of ethno-political destabilisation.²¹

The NATO's unilateral military intervention in Libya under the garb of R2P has, hence, caused enormous domestic and regional destabilisation. The brutal overthrow of the Gaddafi regime is, however, interpreted by an American Institutional Liberalist like Robert Keohane as one of the major indicators of the 'revival of moralism' in the post Cold-War world politics.²² Nevertheless, the purported *moralpolitik* motivations of the regime change in Libya are squarely exposed, when the US State Department raises its concerns for the sensitive oil contract documents lost during the attack on the American consulate in Benghazi.²³ This reinforces Mahmood Mamdani's apprehension of more Libya like interventions in Africa, due to the

contention between dominant global powers and new challengers over the continent's natural resources.²⁴

What further strengthens the belief about offensive *realpolitik* objectives of the Western intervention in Libya is the startling revelation of a French secret agent killing Gaddafi by infiltrating the violent mob encircling him. The apparent purpose was to hush up the then French President Nicolas Sarkozy's suspicious links with the Libyan leader on the transfer of millions of dollar election campaign funds in 2007.²⁵ Libya's case, therefore, best explains the perception of the R2P as "ugly reality of geostrategic and commercial calculations camouflaged in the lofty rhetoric" in the Global South.²⁶

India's Response

As a leading voice in the Global South, India's official position on Libyan crisis was to support the peaceful and consensual resolution of the conflict through AU's mediation. New Delhi rightfully wanted the dialogue based conflict resolution process to be guided by the respect for the sovereignty, integrity and unity of the country along with the sensitivity towards the legitimate aspirations of its people.²⁷ To this end, India registered its abstention on the passage of the UNSC Resolution 1973 for sanctioning a no-fly zone in Libya. New Delhi's position on the military intervention in Libya did not deter it from diplomatically engaging with NTC-led Tripoli and rendering humanitarian support to the Libyan people in their ongoing reconstruction exercises.²⁸

India's participation in the 'Friends of Libya' Conference organised in Paris on 1 September 2011, however, raises concerns regarding its humanitarian approach to the people in Libya through Western mediators, which might dilute its respect for 'African Solutions to African Problems'.²⁹ Nevertheless, New Delhi consistently remains critical of the selective application of the R2P principle by the Western powers for a regime change, as in the case of Libya, which did not allow a political solution to take place under the AU mediation. During an informal meeting at the UN on 22 February 2012, India's Permanent Representative (PR) Hardeep Singh Puri aptly noted, "The only aspect of the resolution [1973] of interest to them [the international community] was the use of all necessary means to bomb the hell out of Libya..... Indeed, the Libyan case has already given R2P a bad name."³⁰ At an earlier UNGA discussion on R2P held on 24 July 2009, Puri then stated:

Sovereignty as a responsibility has, however, always been a defining attribute for nation states, where safeguards for protection of fundamental rights of citizens are constitutionally provided.Responsibility to protect should in no way provide a pretext for humanitarian intervention or unilateral action.³¹

India's concern on the R2P's misuse in Libya finds its resonance in the strong condemnation of China and Russia, the member countries which along with New Delhi abstained in the UNSC voting on the Resolution 1973.³² Similarly, Brazil has come up with the Responsibility while Protecting (RWP) initiative,³³ which provides a policy alternative for the Informal General Assembly Dialogue on R2P to focus on third pillar measures (international community's protection responsibility) of this principle.

To sum up, the evolution of R2P as a humanitarian doctrine in the international society presupposes a paradigm shift from the Westphalian notion of 'non-interference' towards post-Cold War idea of 'non-indifference'. This qualitative shift in the existential premise of the current world order is unfolding under the volatile security dynamics that encapsulates extensive and complicated global conflicts. Libya under the ambit of R2P demonstrates the flip side of such an international legal instrument that can be selectively used by the interventionist dominant powers to orchestrate regime change that would invariably cause domestic and regional destabilisations in societies already ridden with conflicts. The misuse of R2P principle evokes valid concerns from India and other revisionist powers in the Global South, which insist on the peaceful and consensual resolution of global conflicts and reiterate the need for urgent reforms in the existing institutionalised process of global security and governance.

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Notes

¹ Report of the International Commission on Intervention and State Sovereignty (ICISS), "The Responsibility to Protect", December 2001, <http://www.iciss.ca/pdf/Commission-Report.pdf>, Accessed on 11 August 2012

²United Nations, G.A. Res. 60/1, U.N. Doc. A/RES/60/1, "World Summit Outcome," 24 October 2005,<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan021752.pdf>, Accessed on 14 August 2012; Satish Nambiar, "The Emerging Principle of the Responsibility to Protect: An Asian Perspective", *Strategic Analysis*, 35 (6), November 2011, pp. 955-956

- ³ Deepak Bhojwani, “Responsibility to Protect: Issues of Legality and Legitimacy”, *Economic and Political Weekly*, 47(46), 17 November 2012, p.29
- ⁴ International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events, “Rwanda: The Preventable Genocide”, 2000, www.africa-union.org/official_documents/reports/Report_Rowanda_Genocide.pdf, Accessed on 20 September 2012; U.N. Gen. Ass., Report of the Secretary-General Pursuant to General Assembly res. 53/35 -- The Fall of Srebrenica, U.N. Doc. A/54/549, 15 November 1999
- ⁵ Ankomah & Baffour Bazid, “African Union: From Non-Interference to Non-Indifference”, *New African*, 460, 1 March 2007, <http://www.questia.com/library/1G1-160922404/african-union-from-non-interference-to-non-indifference>, Accessed on 16 August 2012
- ⁶ Mohammed Ayoob, “Inequalities and Theorizing in International Relations: The Case for Subaltern Realism”, *International Studies Review*, 4(3), Autumn 2002, pp.37-46
- ⁷ Ibid.
- ⁸ Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World*, Cambridge: Cambridge University Press, 1993, p.23
- ⁹ Mohammed Ayoob, *The Third World Security Predicament: State Making, Regional Conflict, and the International System*, Boulder: Lynne Rienner Publishers, Inc., 1995
- ¹⁰ Ved P. Nanda, “From Paralysis in Rwanda to Bold Moves in Libya: Emergence of the ‘Responsibility to Protect’ Norm under International Law -- Is the International Community Ready for it?”, www.law.du.edu/.../Ved-Nanda-Hous-J-Intl-L-forthcoming.pdf, Accessed on 21 August 2012
- ¹¹ “Libya: France recognises rebels as government”, *BBC News*, 10 March 2011, <http://www.bbc.co.uk/news/world-africa-12699183>, Accessed on 14 August 2011
- ¹² United Nations, S/RES/1970, “Peace and Security in Africa”, 2011, [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1970\(2011\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1970(2011)), Accessed on 15 September 2011
- ¹³ United Nations, S/RES/1973, 2011, “Libya”, [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1973\(2011\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1973(2011)), Accessed on 15 September 2012; Yash Tandon, “Whose Dictator is Qaddafi? The Empire and its Neo-Colonies”, *Insight on Africa*, 3 (1), 2011, pp.1-21
- ¹⁴ “Libya: Benghazi rebels reject African Union truce plan”, *BBC News*, 11 April 2011, <http://www.bbc.co.uk/news/world-africa-13035501>, Accessed on 16 June 2011
- ¹⁵ Michael Slackman, “Dislike for Qaddafi Gives Arabs a Point of Unity”, *New York Times*, 21 March 2011, <http://www.nytimes.com/2011/03/22/world/africa/22arab.html>, Accessed on 20 September 2012
- ¹⁶ Ademola Abass, “African Peace and Security Architecture and the Protection of Human Security”, in Ademola Abass (Ed.), *Protecting Human Security in Africa*, New York: Oxford University Press, 2010, pp.261-262
- ¹⁷ Amnesty International, “Detention Abuses Staining The New Libya”, October 2011, www.amnesty.org/sites/impact.amnesty.org/.../mde190362011en.pdf, Accessed on 11 December 2011
- ¹⁸ Donatella Rovera, “Time to Crack Down on Libya’s New Torturers”, *World Today*, April 2012, <http://www.chathamhouse.org/sites/default/files/public/The%20World%20Today/2012/april/0412rovera.pdf>, Accessed on 14 September 2012
- ¹⁹ “Libya Profile”, *BBC News*, 12 September 2012, <http://www.bbc.com/news/world-africa-13754897>, Accessed on 18 September 2012; Suhasini Haidar, “Facing an Inconvenient Truth”, *The Hindu*, 26 September 2012, <http://www.thehindu.com/opinion/op-ed/facing-an-inconvenient-truth/article3935884.ece>, Accessed on 27 September 2012

- ²⁰Mahmood Mamdani, “Libya: Politics of Humanitarian Intervention” 31 Mar 2011, *Al Jazeera*, <http://www.aljazeera.com/indepth/opinion/2011/03/201133111277476962.html>, Accessed on 15 September 2012
- ²¹John Cherian, “Libyan Blowback”, *Front Line*, 29 (9), 05-18 May 2012, <http://www.frontlineonnet.com/fl2909/stories/20120518290906100.htm>, Accessed on 15 September 2012
- ²²Robert O. Keohane, “Twenty Years of Institutional Liberalism”, *International Relations*, 26(2), 29012, pp. 130–131
- ²³“U.S. denounces film’s content”, *The Hindu*, 15 September 2012, <http://www.thehindu.com/todays-paper/tp-international/article3899266.ece>, Accessed on 16 September 2012
- ²⁴Mahmood Mamdani, “What does Gaddafi's fall mean for Africa?”, *Al Jazeera*, 26 October 2011, <http://www.aljazeera.com/indepth/opinion/2011/08/201182812377546414.html>, Accessed on 15 September 2012
- ²⁵“French agent shot Gaddafi on Sarkozy’s orders”, *Indian Express*, 02 October 2012, <http://www.indianexpress.com/news/-french-agent-shot-gaddafi-on-sarkozy-s-orders-/1010552/2>, Accessed on 03 October 2012
- ²⁶ Ramesh Thakur, one of the 12 authors of ICISS Report, quoted in W. Andy Knight & Frazer Egerton (Ed.) (2012), *The Routledge Handbook on The Responsibility to Protect*, Oxon: Routledge p.259
- ²⁷Government of India, Ministry of External Affairs, “Libyan FM visits Delhi to brief about latest developments”, 22 July 2011, <http://mea.gov.in/press-releases.htm?dtl/487/Libyan+FM+visits+Delhi+to+brief+about+latest+developments>, Accessed on 21 September 2012
- ²⁸Government of India, Ministry of External Affairs, “India’s humanitarian assistance to Libya”, 31 January 2012, <http://mea.gov.in/press-releases.htm?dtl/18260/Indias+humanitarian+assistance+to+Libya>, Accessed on 21 September 2012
- ²⁹M. K. Bhadrakumar, “The Secret Mission: India's Volte-Face on Libya”, *Deccan Herald*, 06 September 2012, <http://www.deccanherald.com/content/188738/secret-mission.html>, Accessed on 16 September 2012
- ³⁰“R2P being selectively used to bring about regime change: India”, *India Post*, 22 February 2012, <http://www.indiapost.com/r2p-being-selectively-used-to-bring-about-regime-change-india/>, Accessed on 16 September 2012
- ³¹“Indian Ambassador: UN's ‘R2P’ Used Selectively for Regime Change”, 25 February 2012, <http://larouchepac.com/node/21740>, Accessed on 30 November 2012
- ³² “Libya attacks criticised by Arab League, China, Russia and India”, *The Telegraph*, 21 March 2011, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8393950/Libya-attacks-criticised-by-Arab-League-China-Russia-and-India.html>, Accessed on 30 November 2012
- ³³United Nations, A/66/551–S/2011/701, 11 November 2011, www.un.int/brazil/speech/Concept-Paper-%20RwP.pdf, Accessed on 01 October 2012