CRISIS IN LIBYA: TRANSITION FROM HUMANITARIAN INTERVENTION TO THE RESPONSIBILITY TO PROTECT

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ABSTRACT

The Responsibility to Protect (R2P) is a principle aimed at the protection of the world’s most vulnerable populations from the most heinous international crimes: genocide, war crimes, ethnic cleansing and crimes against humanity and in this principle, military intervention was intended as the last tool. Responsibility to Protect (R2P) redefines collective security by emphasizing the importance of shared responsibility. Highlight the differences between Humanitarian Intervention and Responsibility to protect can be one of the most important topics in the international studies. This article also studies Responsibility to Protect in theory (in terms of moral, legal and political) and in practice (case studies, including Libya). The authorization of the use of force to protect Libyan people against human rights violations by their own government has been welcomed by some states as evidence of the acceptance of the R2P. Libya has been counted as the first instance of humanitarian intervention since the formulation of R2P in 2001. Focusing on the humanitarian intervention in Libya in 2011, uses this experience to address three basic questions: (1) What factors influence the decision of America to intervene in the Libyan crisis? (2) What is the difference between Humanitarian Intervention and Responsibility to protect? (3) What has been effective in implementing the responsibility to protect in the Libyan crisis?

KEYWORDS: Human rights, Humanitarian Intervention, ICISS, Responsibility to Protect Doctrine, the Libyan crisis

Support of human rights in the international system, after the adoption of the Universal Declaration of Human Rights for several decades, has had a high priority, so that it is said that human rights has improved in international politics from the low position to the high position. One of the main causes of this situation is conversion of human rights rules to international custom and eventually Jus Cogens norms. About the root of international human rights obligations, somebody believes that human rights based on customary international law.

In the post World War II period, there is tension between two fundamental principles of international law: on the one hand, the prohibition of the use of force, and, the obligation to respect and protect human rights, on the other. The concept of the responsibility to protect (R2P) has been developed with a view to bridging this tension. Human rights is one of the most important issues in international law and these rights in practice require to respected by states in a society. The topic of military humanitarian intervention has always been debated in both the academic world and by supranational institutions. Despite the emphasis on international and human rights institutions, today we see that protection of human rights has been neglected in some countries. Humanitarian Intervention is the hardest trial for the international community has been established based on the principles of sovereignty, non-intervention and non-use of force. Humanitarian Intervention can be defined as: “military intervention in a state, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants.”

Hadley Bull, English school theorist, with regard to the formation of evolution in international system, discussed about the evolution of Western intervention in the Third World. He attends to place of development of the legal and ethical rules in international system and shows how the medium and small powers affect the old rules as lost their legitimacy.

As the international community has witnessed the replacement of the humanitarian intervention with responsibility to protect doctrine; The result is that older forms of Intervention replaced by modern methods and forms. Theoretically, various differences exist between the responsibility to protect and humanitarian intervention: Emphasis on building capacity, reconstruction, prevent issue and also international aids.

In March 2011, the “international community”, acting under the terms of United Nations Security Council (UNSC) Resolution 1973, began a military intervention in Libya to “protect” of civilians. Intervention in Libya was the first United Nations-mandated operation explicitly to invoke the principle of Responsibility to Protect (R2P)- a Canadian inspired emerging norm (ICISS 2001), which

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had been unanimously endorsed by the UN at its world summit in 2005, the principle that was replacement of Humanitarian Intervention. Odyssey dawn Operation which was done with the aim of tackling human rights abuses, there is doubt about the intentions of its founders and has been published reports of human rights violations during the operation.

INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY (ICISS)

One characteristic of the 90 decade, the continuous failures of the international community in deal with mass killings and ethnic cleansing. After repeated failures to implement the principles of humanitarian interventions in practice, to prevent the genocide in Rwanda in 1994 and in Srebrenica in 1995 as well as the 1999 NATO-intervention in Kosovo without United Nations Security Council (UNSC) authorization triggered a debate on humanitarian intervention and state sovereignty. Kofi Annan's efforts to create an intellectual revolution in the field of humanitarian interventions, In a speech at the 1999 in General Assembly and in his Millennium Report to the General Assembly in 2000 caused the big challenge in the minds of the heads of State that a new plan should be established to protect human rights. The United Nations collectively called for “recognition of the right, and for some an obligation, to intervene to stop the worst international crimes.” Therefore, Humanitarian intervention has always been more popular in theory than in practice. And the concept for the Responsibility to Protect emerged, which expands the pre-existing notion of humanitarian intervention.

General Annan posed the following question:

... 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 affect every precept of our common humanity?

"International Commission on Intervention and State Sovereignty” as the inventor of the doctrine of "responsibility to protect" in September 2000, began its work in Canada and one year later, in December 2001, published its ninety-page report, with a Supplementary four hundred version entitled "responsibility to protect". It called for a necessary “reconceptualization” of the meaning of sovereignty. Friends and foes have pointed to the commission’s conceptual contribution to reframing sovereignty as contingent rather than absolute.

The ICISS aimed to reframe the debate by focusing on the responsibility a state has to protect its own population and, if the state is unable or unwilling to do so, the responsibility for the international community to provide protection to the population.

Under the new idea, responsibility to protect was included series of preventive, diplomatic, economic, educational, and rehabilitation measurements and military intervention was intended as the last tool. The Commission also rejected arguments when discussing the issue of humanitarian intervention in support or against, called it unnecessary and unhelpful debate and stressed on the responsibility of governments to protect their citizens. Unlike humanitarian intervention, R2P aspires to ground national and international action in law and institutions. Rather than compromising sovereignty, it harnesses the notion of sovereignty as responsibility.

Sovereignty as responsibility is based on two foundations:

- Human rights of individuals are Undeniable,
- Government has the primary responsibility for protection of people rights and is responsible for their care.
- R2P should be seen as ‘an ally of sovereignty, not an adversary’ and that by seeking to fulfill a responsibility to protect States should recognize that they are strengthening their own sovereignty.

The ICISS also advocated that any form of military intervention initiated under the R2P premise must fulfill the following six criteria in order to be justified as an extraordinary measure of intervention:

1. Just Cause (expressed as a large-scale loss of life or large-scale ethnic cleansing);
2. Right Intention (the primary purpose being to halt or avert human suffering);
3. Last Resort (only when every non-military option for the prevention or peaceful resolution of the crisis has been explored);
4. Proportional Means (the minimum necessary means should be used to achieve the objective of human protection);
5. Reasonable Prospects (reasonable chance of halting or averting the suffering, with the consequences of inaction likely to be worse than those of action);


But significant steps toward formal acceptance of the responsibility to protect was taken in World Summit Outcome document, in September 2005 (Word Summit Outcome, 2005), in paragraphs 138 and 139 of this document, the participating heads of the sixthtieth General Assembly agreed to take charge "responsibility to protect" of people against Genocide, War Crimes, Ethnic Cleansing and Crimes against Humanity. Indeed, Blair declared at the end of the summit that it was the first time states agreed they "do not have the right to do what they will within their own borders".

The most important Critics argue that actually responsibility to protect is another name for humanitarian intervention. Supporters of responsibility to protect have made extensive theoretical efforts to distinctions between these two concepts more. Despite the theoretical issues raised by the Nordic countries and supporters of responsibility to protect, the actual interventions mainly occur in developing countries, least developed countries and countries with transitional situation and thus this idea was enforced that intervention in the name of the humanitarian intervention or responsibility to protect is a kind of imperialism.

**HUMANITARIAN INTERVENTION AND RESPONSIBILITY TO PROTECT**

The concept of humanitarian intervention is slowly evolving into the 'responsibility to protect'. When the term of humanitarian intervention is discussed, initially and foremost, the two words stamp in our mind: One "intervention" and other "humanitarian" and immediately the easiest concept of combining two words are formed and that is forcing intervention in the internal affairs of other countries with humanitarian motives. Humanitarian Intervention was defined as “a forcible military action by an external agent in the relevant political community, with predominant purpose of preventing, reducing or halting an ongoing or impending grievous suffering or less of life”.

But R2P was born aimed to resolve important contradictions of humanitarian need on the one hand, and state sovereignty and the principle of non-interference on the other. It briefly refers to the idea that each sovereign state has a primary responsibility to protect of its people from suffering grave harm and if it unable or unwilling to do so, this responsibility is transferred to the international society. R2P is entirely different of humanitarian intervention. R2P only allows for the use of force as a last resort when a State is obviously failing to protect its own population.

There are important differences between R2P and the ‘right of humanitarian intervention’, and it is a fundamental mistake to maintain, as some still do, that R2P is no more than old humanitarian intervention wine in a new bottle:

1- R2P is primarily about prevention, whereas humanitarian intervention is only about reaction. International Commission on Intervention and State Sovereignty has attended to Responsibility to rebuild and responsibility to prevention. And this responsibility includes three elements: the responsibility to prevent, the responsibility to react and the responsibility to rebuild.

2- R2P is about a whole continuum of reactive responses, whereas humanitarian intervention is only about military reaction. Shift of emphasis from intervention to prevention aspect of R2P has an important implication on the whole humanitarian intervention and this prevention focus was even reduced to good governance.

3- R2P is about a wide range of actors.

**CRISIS IN LIBYA**

Libya gained its independence as a kingdom in 1951, and from 1969 to 2011 was led by "Muammar Gaddafi" Which had been won by a military coup.

Libya has the largest oil reserves in Africa with more than 43 billion barrels. The cost of oil extraction in this country is cheap; about one dollar per barrel. With the acquisition of oil revenues during Gaddafi, Libya was one of the wealthiest African countries with a per capita income close to 10 thousand dollars for a day and One and a half million barrels of light and heavy exported oil to the world. Libyan oil reserves are important for Europe, which imports nearly 85% of the oil produced in Libya. Libyan oil accounts for the following percentages of European oil imports: Italy 22%, Austria 21%, France 16%, Greece 15%, Spain 12%, Portugal 11%, United Kingdom 9%, and Germany 8%.
The roots of Libya’s crisis lie in the political upheavals associated with the ‘Arab Spring’ protests that spread from Tunisia to Egypt and beyond in the early months of 2011. Major anti-government protests broke out in Libya on February 15 and have since intensified, eliciting violent government responses. The demonstrations are in opposition to the 42-year regime of Libya’s leader, Muammar al Qadhafi.

But the harsh crackdown on largely peaceful protestors in Libya by the Qadhafi regime, the inflammatory threats by Colonel Qadhafi himself, and longstanding resentment of the eccentric Libyan leader by many states triggered an extraordinary series of UN actions, including a unanimous decision by the Council to refer the situation in Libya to the ICC. Qadhafi made a speech referring to protesters as ‘cockroaches’ and vowing to ‘cleanse Libya house by house’.

In response to Gaddafi’s cruel oppression of his own people, for the first time since the inception of the R2P framework in 2005, the UN passed a number of resolutions that accelerated the military involvement of NATO. The perception was that Qaddafi failed to fulfill his responsibility to protect the lives and welfare of his citizens; the international community subsequently intervened according to generally accepted principles.

Aside from the internal causes of political, economic and social protests, and ultimately, the collapse of the Gaddafi regime, the approach of international community, especially the UN and regional organizations, including NATO, Arab League, African Union and Organization of the Islamic cooperation, has aspects that its differences could stimulate to criticize them.

Libya's importance to the West, and especially for some countries in Europe Union, led military action of NATO countries aimed at changing the Gaddafi regime. Extensive consultations of France, Britain and USA with Arab League and African Union caused enactment of two resolutions by Security Council against Gaddafi.

Because of Interests of USA, Britain and France to further use of capacities of the United Nations and avoid unilateral actions, the UN Security Council has exposed an extended interpretation of the concept of “international peace and security”. The Security Council, recognized the Libyan government approach in dealing with his opponents as threat to peace and against the human rights and affirmed urgent intervention.

First reaction of UN toward Libyan government’s measurement against the opponents and protests took place by the UN Human Rights Council. Human Rights Council, in its first reaction, convened a special session on the situation of human rights in the Libyan Arab Jamahiriya on 25 February, 2011 and then passed a resolution requesting the General Assembly according to paragraph 8 of the resolution dated March 15, 2006, to be suspended Libya’s membership from the council.

Regional organizations became even more vocal as the violence escalated. In line with the provisions of Chapter VIII, Security Council in the case of Libya has focused on the role of regional institutions; Persian Gulf Cooperation Council (PGCC), Organization of Islamic Cooperation (OIC) and the League of Arab States (LAS) requests of Security Council for imposition of a no-fly zone over Libya was not ineffective in obtaining necessary number for the adoption of Resolution 1973. The Gulf Cooperation Council released a statement on 7 March, which called upon the Security Council to ‘take all necessary measures to protect civilians, including enforcing a no-fly zone over Libya’ and further condemned the state-sponsored violence. The combined power of these regional bodies was decisive, according to R2P experts Alex Bellamy and Paul Williams; in their words, regional organizations are the new ‘gatekeepers’ of international humanitarian action.

With intensifying Killings in Libya, UN Security Council passed the Resolution 1970 on February 26 and through that, expressed grave concern about the Libyan conflict. The resolution has rejected systematic and gross violations of human rights, including the repression of peaceful protests, the death of civilians, inciting violence and hostility against people by highest Libyan officials.

After Resolution 1970, on 17 March, Resolution 1973 was passed with ten votes in favour and five abstentions (Brazil, China, Germany, India and Russia). Resolution 1973 strengthened and extended the arms embargo, asset freeze and travel restrictions imposed in Resolution 1970. It condemned the flow of armed mercenaries into the country to assist government forces in suppressing the rebellion. Most importantly, resolution 1973 passed in early 2011 authorized the use of force in Libya and was implemented despite the lack of consent from the government of Libya. Therefore, the Security Council “authorized Member States to take all
necessary measures to protect civilians under threat of attack in the country, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory."

**U.S. - LIBYA RELATIONS**

Libya was not always considered hostile and unpredictable. After independence from Italy in 1951, the Libyan government allowed both the United States and the United Kingdom to maintain their military bases at Wheelus Field and Cyrenaica. But the relationship between the United States and Libya has been tense for much of the last 35 years but has normalized gradually since late 2003. In other words, their relationship was ‘wary but distant’.

During the bipolar system, the system’s requirements have shaped this logic that because the marginal areas directly were effective on the global balance of power must be considered; even though alone and outside of the higher powers competition were worthless. In order to enhance prestige in the third world, United States in this period tried to increase and maintain the friendly relations with despotic regimes in the North Africa and Middle East. In North Africa, the United States allies include Egypt, Tunisia and Morocco was like a bulwark against Soviet communism and Libya that played role of the Soviet anchor point in this area. Libyan-U.S. rapprochement has unfolded gradually since 2003, when the Libyan government accepted responsibility for the actions of its personnel in regard to the 1988 bombing of Pan Am Flight 103 and announced its decision to eliminate its weapons of mass destruction and long-range missile programs.

Following the 9/11 attacks, Libya’s relationship with the US also warmed for a time. Gaddafi spoke out against the attacks and encouraged Libyans to donate blood to help the victims and he further provided the CIA with information on Libyans with ties to international terrorism. Intelligence ties continued to grow between the two countries.

In 2011, France and Britain as traditional imperialistic states in Africa and the Arab world to protect their interests, particularly the continued exploitation of energy resources, were willing to intervene in Libya. Despite the realization that Libya isn’t threat for America, Barack Obama considered that the military intervention would be the least effort to increase the credibility of America; the power of America is declining.

The main reason for intervention-oriented of United States of America in various regions and areas of the international system must be considered as derived from the Ambition for hegemony and domineering of state in deal with international politics issues and its actors. Hegemony is formed when a central actor in the international system has the necessary ability and will to lead the international system, establish and enforce international order and influence international events. In current circumstances, USA Hegemony-oriented is performed incompletely. Although intervention-oriented is the endless feature of foreign and security policy of USA, but the nature and the means of achieving to this goal has always been changed.

**RESPONSIBILITY TO PROTECT AND U.S. INTERVENTION IN LIBYA**

The case of Libya reflects the new international order that is taking shape. This international order in the making is less dominated by Washington as it becomes more multipolar.

It was evident during the immediate aftermath of Libya’s ‘Day of Rage’ that the United States did not want to incur the risks and costs associated with another foreign entanglement. The US president switched his position from firm opposition to enthusiastic support over a 48 hour period in mid-March 2011. Susan Rice then drafted the UN Resolution 1973.

President Barack Obama had found the formula for success: broad regional and international support, genuine burden sharing with allies, and a capable local fighting force to wage the war on the ground. Some even heralded the intervention as a sign of an emerging Obama doctrine.

In March 2011, Obama in defense of intervention in the Libyan crisis, said, “There will be times . . . when our safety is not directly threatened, but our interests and values are. . . In such cases, we should not be afraid to act.” it is clear that the humanitarian considerations made by Obama’s Human Rights Advisor, Samantha Power, Secretary of State Hillary Clinton and the U.S.’ U.N. Ambassador Susan Rice helped motivate key officials in the administration in support of the intervention. All three women pushed for military intervention in Libya.
Thomas G. Weiss believes that: “The international action against Libya was not about bombing for democracy, sending messages to Iran, implementing regime change, keeping oil prices low, or pursuing narrow interests. These may result from such action, but the dominant motivation for using military force was to protect civilians.” However, if the action against Libya was to protect civilians, so why it failed in similar cases, such as in Syria, Bahrain and Yemen. So that some human lives end up carrying more weight than others. Double standards became apparent, as certain revolutions were endorsed and legitimized while others were ignored and left to suffer at the hands of their governments.

Intervention in Libyan crisis by the United States can be theorized based on Neo-Gramscian perspective because of its emphasis on transnational alliances, international financial and legal institutions. Accordingly, in this intervention, America's relations with the major countries of Europe Union, the political and financial support League of Arab States (LAS), the resolutions of the UN Security Council and Human Rights Council are considered as “tools of U.S hegemony”.

Hegemonic power is based on the financial capabilities and also satisfaction of the other actors and followers. Considering both sides of hegemonic power, converts the "dominant hegemonic position" to "leader hegemony position". Because US has the necessary financial capability, to provide the satisfaction as a prerequisite of hegemony, has done its intervention under the pretext of protecting human rights and the “Responsibility to protect” doctrine.

CONCLUSION

New developments, such as R2P, which provide clarity and extra focus upon existing obligations of states to ensure the protection of their civilian populations, are necessary. R2P is an expression of change in the norms of state sovereignty.

This responsibility includes three elements: the responsibility to prevent, the responsibility to react and the responsibility to rebuild. When the intervention in Libya started, it seemed that the importance of R2P would grow and exert increasing influence on international relations. But we are not so sure, however, that the NATO-led operation in Libya remained a textbook R2P case for its duration.

Approach of superpowers that seeking to acquire hegemony toward international law is so that international law is important as far as it is coincident with their hegemony. Therefore, the birth of these new legal principles didn’t cause any significant changes in practice; because the west countries especially USA continue acting on their double standards in the human emergencies. This selective approach can be seen in the current Arabic revolutions.

Different behavior of USA in dealing with Arabic countries, for example in Libya, Syria, Yemen and Bahrain, show properly conflict between declared principles and interests in USA foreign policy. Today, the emphasis on human rights is strong reliance for the continuing hegemony of USA, and the escape from human rights standards as well as is a challenge to the its hegemony.

In the era of neo-conservatives, USA hegemony was base on the military power as a material element of hegemony, and the moral and immaterial element as a prerequisite for the continuing, stability and legitimacy of power was neglected. For this reason, Obama attempted to restore the USA hegemony with attention to Human Rights in Libya.

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