

# Syrians Are Paying the Price of NATO Excesses in Libya

Written by Ramesh Thakur

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RAMESH THAKUR, MAR 2 2012

The Sanskrit word and Hindu concept of 'karma' has been gradually mainstreamed in cosmopolitan Western consciousness in its English translation as destiny. Yet in the mass understanding in India as much as in the West, the popular definition inverts the correct meaning. It does not mean that an other-worldly and unknowable 'fate' is going to determine one's destiny irrespective of one's actions. Rather, one cannot escape the consequences of one's actions, cause and effect are immutably linked, and this is why we should practice good and abandon bad behaviour. The code of conduct for good behaviour in every relevant social context – duty – is summed up in the matching concept of 'dharma'.

This has a twofold relevance to recent events and current challenges. First, tyrants, dictators and other would-be perpetrators of mass atrocities are learning that the consequences of their brutal behaviour are increasingly going to be paid in this life; they need not wait for the afterlife. And those who would implement the responsibility to protect (R2P) as an international norm when its domestic analogue has been violated are learning that the manner of implementation in one crisis has consequences for the prospects of implementation in a different crisis.

### **R2P as a Norm**

The human rights norm has grown so powerful that those who would violate it in the privacy of their torture chambers are compelled to swear fealty to it in global public discourse. The resilience of the norm has contributed to changes in the nature of state sovereignty. But there is a dramatic discrepancy between commitments on paper and actual improvements in human rights conditions. The human rights norm and international humanitarian law are ever more firmly established, yet actual protections have come under growing stress in state practice.[1]

The debate over when and how force may be used to defend human rights and protect against humanitarian atrocities lies at the intersection of law, norms and politics. The use and non-use of force alike have empirical consequences, shape the struggle for power and help to determine the outcome of political contests. Under what circumstances, if ever, is the use of force by outsiders without the consent of host governments both lawful and legitimate in order to provide effective international protection to populations at apprehended risk of or being killed en masse?

The forum of choice for debating and deciding on collective action requiring the use of military force across borders and inside sovereign jurisdictions is the United Nations. At the 2005 summit of world leaders, R2P repaired a broken UN paradigm and created a new policy template that repositions the global consensus between institutionalised indifference to mass killings of the 'Other' and unilateral interventions based on the 'Self's' arrogance of power. Pared down to its essence, R2P is the acceptance of a duty of care by those living in zones of safety towards those trapped in zones of danger.

In a speech on 18 January to a conference to honour the International Commission on Intervention and State Sovereignty on the tenth anniversary of the R2P report, Secretary-General Ban Ki-moon noted that historically, the international community's 'chief failing... has been the reluctance to act in the face of serious threats', not too much

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intervention. The price has been the loss of far too many lives and an erosion of UN credibility. In Ban's view, Libya in 2011 'demonstrated that human protection is a defining purpose of the United Nations'. But 'the execution of our collective responsibilities was not always perfect' and some innocent lives were lost in the name of R2P.[2]

During the day-long discussions, there was a striking depth of consensus in support of R2P principles among state representatives, UN officials and other policy and civil society actors. There is a broadly shared understanding of the responsibilities. Yet there was also deep disquiet among many participants and outright distrust in some about how far UN authorisation for the Libyan operation had been stretched.

Albeit qualified and incomplete, therefore, Libya marks an important milestone on the journey to tame atrocities on their own people by tyrants. But, inevitably, the first UN-authorized military intervention under R2P Pillar Three also showed flaws and imperfections in the machinery of implementation that will need to be addressed.

In particular, NATO ignored the restrictions of Security Council Resolution 1973 (17 March 2011) to target Muammar Gaddafi directly in a transparent effort at regime change, spurned hints of any willingness by him to negotiate a ceasefire, intervened in the internal civil war and broke the UN's arms embargo by supplying weaponry to the rebels. Up to 30,000 civilians may have died in the war. A Middle Eastern human rights group concluded that war crimes and human rights violations were committed by all participants, including NATO.[3]

If 1973 restrictions had been respected, the civil war and the international intervention could well have been longer, more protracted, messier and prolonged the misery for everyone concerned. Ignoring them may thus have been justified on the logic of military necessity and efficiency but came at considerable political cost. The insistence by some that NATO fully adhered to UN-authorized 'all necessary measures' to protect civilians and civilian-populated areas is not credible and enrages more than placates critics.

### **Sowing in Libya, Reaping in Syria**

The price of NATO excesses in Libya has been paid by Syrians.[4] Possible course of action in Syria could not be contemplated without acknowledging that the crisis was also about relations with Iran, Russia and China,[5] and that the caution about another Western invasion of yet another Muslim country deepened with the low odds of success and the good odds of unintended-cum-perverse consequences in attacking a more formidable enemy in a more volatile strategic environment.

Under-Secretary-General B. Lynn Pascoe informed the Security Council on 28 February that the number killed in Syria's crackdown on protestors was over 7,500. The Arab and Western countries introduced draft Security Council resolutions last October and again in February, calling for an end to the flow of arms into Syria, President Bashar al-Assad to yield key powers to a deputy, a government of national unity and preparations for free presidential and parliamentary elections. In the Security Council debate on 4 October, Russia explicitly said that the situation in Syria had to be considered in the light of the Libyan experience where the UN mandate had been badly abused. China and Russia remained adamantly opposed to Security Council endorsement of any international action without host state consent that could set in train a sequence of events leading to a 1973-type authorisation for outside military operations in Syria and cast double vetoes on the draft resolutions.

The Arabs then introduced a resolution in the General Assembly where it was passed by a 137-12 vote majority, with 17 abstentions, on 16 February 2012. The overwhelming margin of victory was an embarrassing measure of China's and Russia's isolation from world opinion. But this is unlikely to worry either.

The Chinese and Russian positions reflect a mix of principled, commercial and geopolitical calculations. They dislike intrusions into sovereign affairs and fear an intensification-cum-internationalisation of an internal civil war if external troops are injected. They would prefer calming, not inflaming, measures. They also have concerns about the moral hazard of outside interventions and so like to issue calls for an end to violence by all sides.[6] They firmly reject any UN right to impose political settlements on sovereign societies, arguing that the only solution to the Syrian crisis is through an inclusive, Syrian-led process to address the legitimate aspirations of the people in an environment free of

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violence and human rights abuses.[7]

The pragmatic calculations include arms sales to Syria, the reopening of a Russian naval supply base at Tartus, fears of a loss of international credibility if an ally is abandoned under pressure from abroad, and a sense of frustration and humiliation at how Resolution 1973 was abused to effect regime change in Libya.[8] After the death of Gaddafi, the new Libyan government cancelled Russia's existing commercial contracts and failed to give Russia the smallest slice of the Libyan reconstruction pie despite the tangible goodwill in not vetoing Resolution 1973. Instead the West took the inch given them by the UN and grabbed miles of prime political real estate in Libya.

For historical and geographical reasons, Russia's opposition has been the stronger and is worth examining in some detail. The backdrop to this is the end of the Cold War and, in a rare historical moment, Russia's acquiescence to the terms of its defeat. Instead of treating Moscow with generosity and magnanimity, the West engaged in serial provocations, repeatedly rubbed Russian noses in the dirt of their historic defeat, contemptuously ignored Russian interests and dismissed their protests as inconsequential. In the process, they overlooked the fact that a great power does not retreat forever.

Lord Ismay, NATO's first Secretary-General, reportedly said that its goal was to keep the Americans in, the Russians out and the Germans down. After the history of the West's dealings with them since the end of the Cold War, including most recently in Libya, Russians might ruefully wonder if NATO's purpose is not to keep the Americans in, the United Nations out and the Russians down.

The political importance of the Sunni-Shia domestic and regional divide across the Middle East is also important. The Saudi Arabia and Turkey-led Sunni crescent is firmly pro-Western and indifferent to Russia. Syria is a key Russian bulwark against US interests in the Middle East. Therefore Moscow has little to lose in regional relations by backing Syria.

This being a presidential year in Russia, with growing question marks over his candidacy, Vladimir Putin is vulnerable to critics from the right for any sign of weakness in dealing with the West and concerns over the possible north-eastward flow of the Arab Spring. He is not going to lose votes by pointing the finger of blame at Western intelligence and special forces. A Security Council veto is a risk-free assertion of Russian boldness, independence and defiance that does not commit Moscow to a show of force which would expose its military weakness. It is a useful reminder that Russia still matters, even if as a spoiler. If Westerners do intervene and leave behind a broken Syria to match the destroyed fabrics of governance in Iraq, Afghanistan and Libya, Moscow will be free of the taint of having triggered the chaos and bloodbath.

## **Responsibility while Protecting: Bringing Back Legitimacy Criteria**

R2P is not and ought not to be a North-South issue. Many non-Western societies have a historical tradition of reciprocal rights and obligations that bind sovereigns and subjects. India's great Mauryan emperor Ashoka (269-232 BC) proclaimed that 'this is my rule: government by the law, administration according to the law, gratification of my subjects under the law, and protection through the law'.[9] By contrast, the theory and practice of sovereignty is decidedly European in origin and flavour.

The as-yet unsettled debate on how best to operationalise R2P requires a respectful conversation among proponents and sceptics over when, how and by whom to execute the international responsibility to protect. The 2001/2005 consensus on R2P resulted from a genuine dialogue within the Commission, an extensive outreach and consultation exercise in every continent, and successive rounds of intensive consultations across the UN membership in and since 2005. The global South's comfort level with R2P grew steadily as they studied the principle closely and recognised that all legitimate concerns had been incorporated. Had R2P merely repackaged the Western humanitarian warriors' wishes and brushed aside the sensitivities of the formerly colonised, it never would have gained rapid uptake and traction culminating in unanimous endorsement by world leaders in 2005.

The tweaking from 2001 commission formulation to 2005 unanimous endorsement brought greater clarity, rigor and

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specificity, limiting the triggering events to war crimes, genocide, ethnic cleansing and crimes against humanity. The 2005 formulation realigned the emerging human protection political norm to existing categories of international legal crimes. Three follow-up reports from Ban Ki-moon in 2009–11 and sustained advocacy by civil society organisations have consolidated the global consensus on R2P. However, support remains broad but not deep.

The leading NATO powers, instead of being disdainful and disrespectful of the critics – including Germany as well as Brazil, China, India, South Africa and many others – of how R2P was implemented in Libya, should listen, acknowledge and accommodate legitimate concerns. This is desirable in principle. It is also required as a matter of pragmatism as the world order is rebalanced militarily, economically, geopolitically and morally, with power and influence shifting from the North to the South.

The R2P consensus underpinning Resolution 1973 was damaged by gaps in expectation, communication and accountability between those who mandated the operation and those who executed it. Brazil offered a paper on ‘Responsibility while Protecting’ with the potential to bring in some agreed parameters on the conditions that will govern the use of UN-authorized R2P operations.[10] Its two key elements are to formulate an agreed set of criteria or guidelines to help the Security Council in the debate before an R2P military intervention is authorised, and a monitoring or review mechanism to ensure that the Council has an oversight role over the operation during implementation.

As exemplified in the Brazilian initiative, the critics should engage with R2P and seek to improve the means and manner of implementing the norm. This way, the Southern players will become joint and responsible stakeholders in the emerging new world order. As long as the rising new powers remain more concerned with consolidating their national power aspirations than with developing the norms and institutions of global governance,[11] they will remain incomplete powers, limited by their own narrow ambitions, with their material grasp being longer than their normative reach.

## Conclusion

The China–Russia veto does not prove the irrelevance of the UN Security Council. Rather, what it proves is that the politics of the Security Council must be got right before an R2P military intervention; and the political equilibrium should be maintained during the operation. The veto is a constitutional device to compel the powerful countries to accommodate one another’s policy priorities and forge a common interest different from the national interest of any dominant power. Besides, the overwhelming number of vetoes are now cast by Washington.

A second broader, non-R2P conclusion is also warranted. Gaddafi abandoned his nuclear weapons program in 2003. His subsequent fate will not be remembered as a victory for the diplomacy of denuclearisation. Rather, it may increase interest in nuclear weapons as an insurance policy against capricious Western intervention.

Regardless, R2P is now the normative but not self-guaranteeing instrument of choice for galvanising a shocked international conscience into decisive collective action to prevent and halt atrocities. In shaping its future development and evolution, the UN General Assembly will have the lead role in sharpening and refining the norm, while the Security Council will take the lead in implementing it by authorising interventions in appropriate circumstances and with consensus-sustaining collective oversight mechanisms.

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- [1] See David P. Forsythe, *Human Rights in International Relations*, 3<sup>rd</sup> ed. (Cambridge: Cambridge University Press, 2012).
- [2] Ban Ki-moon, 'Address to Stanley Foundation Conference on the Responsibility to Protect', New York, 18 January 2012 (New York: UN News Centre, 18 January 2012).
- [3] Rachel Shabi, 'Nato accused of war crimes in Libya', *Independent*, 19 January 2012.
- [4] See Joshua Foust, 'Syria and the pernicious consequences of our Libya intervention', *Atlantic*, 6 February 2012.
- [5] See M.K. Bhadrakumar, 'Run-up to proxy war over Syria', *Asia Times*, 7 February 2012.
- [6] This ignored the report of the UN Human Rights Council-appointed independent commission of the significant asymmetry of responsibility for the violence in Syria; *Report of the Independent International Commission on the Syrian Arab Republic*, UN Doc A/HRC/S-17/2/Add.1, 23 November 2011.
- [7] Liu Xiaoming (China's ambassador to the UK), 'China believes Syria needs a peaceful solution', *Guardian*, 10 February 2012.
- [8] See Vladimir Isachenkov, 'Moscow support for Assad well-calculated', *San Francisco Chronicle*, 5 February 2012; Walter Russell Mead, 'Russia's Syrian bet explained', *The American Interest*, 5 February 2012, <http://blogs.the-american-interest.com/wrm/2012/02/05/russias-syrian-bet-explained/>; and Fyodor Lukyanov, 'Why does Russia's stance on Syria baffle everyone?', *Russia in Global Affairs*, 23 February 2012.
- [9] Quoted in Stanley Wolpert, *A New History of India* (New York: Oxford University Press, 1977), pp. 66–67.
- [10] 'Responsibility while Protecting: Elements for the Development and Promotion of a Concept', (New York: United Nations, General Assembly and Security Council, document A/66/551–S/2011/701, 11 November 2011).
- [11] See Amitav Acharya, 'Can Asia lead? Power Ambitions and Global Governance in the Twenty-first Century', *International Affairs* 87:4 (2011), pp. 851–69.

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