

Behemoth vs. Leviathan: RIP R2P?

Written by Uriel Abulof

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URIEL ABULOF, JAN 6 2016

R2P is dead, or so it would seem. Observers following the “responsibility to protect” can now declare “RIP R2P” to this ten-year old prodigal son of the international community. R2P was killed, perhaps committed suicide, its grave unknown, but likely to be found in the mounting rabble of carnage plaguing the post-spring Arab world, from Syria, to Iraq, to Libya, to Yemen. Whether standing idly by while the regime of Bashar al-Assad butchers its citizens, or actively dethroning Muammar Gaddafi in the vain hope that security will rise in its wake, the champions of R2P have failed to fulfill its promise. Instead of the novel and noble Responsibility to Protect, world politics seems driven more by the age-old Rush to Power. Whether R2P will rise from its ashes – as a mighty Phoenix or a murderous Zombie – remains to be seen. For now, marking this sad anniversary, I come not to praise R2P, nor to bury it, but to perform an autopsy – of its spirit, not body – to probe the “anatomy of antinomies” that have so weakened its body.

This post-mortem employs the imageries of Leviathan and Behemoth, which the Bible features as mighty beasts, evincing both man’s fragility and God’s might (Job 40). Later Jewish eschatology – of Babylonian origin – designates Leviathan as master of the sea, Behemoth as ruler of land. Both are monsters of Chaos, destined to reappear shortly before the end of the days and fight each other incessantly, until they either destroy each other, or be both annihilated by God. The righteous will then eat the monsters’ meat in a feast announcing the advent of God’s realm (Siebert 2010:383).

Thomas Hobbes drew on these powerful images to inaugurate the social contract, the modern attempt to fashion political legitimacy through the will of people. In *Leviathan*, Hobbes proposed a remedy for political chaos in the *body politic* of absolute ruler. To his critics, Hobbes (1839:27) replied: “I desire not that he or they should so misspend their time; but if they needs do it, I can give them a fit title for their book, *Behemoth against Leviathan*.” This, I propose, is also a fitting title to the chronicles of R2P, a principle that promises Locke, prescribes Leviathan, and practices Behemoth.

Liberal Leviathan

R2P’s liberal promise permeates its early 2000s incubation. In 2001, the Canadian Government set up an ad hoc commission to propose guidelines for humanitarian intervention: The International Commission on Intervention and State Sovereignty (ICISS, 2001). The ICISS members seem to have taken seriously the “linguistic turn,” proposing discourse as treatment:

If the international community is to respond to this challenge [human right violations], the whole debate must be turned on its head. The issue must be reframed not as an argument about the ‘right to intervene’ but about the ‘responsibility to protect’... Using this alternative language will help shake up the policy debate, getting governments in particular to think afresh about what the real issues are. Changing the terminology from ‘intervention’ to ‘protection’ gets away from the language of ‘humanitarian intervention’ (Evans and Sahnoun 2002:101).

There is even “*conceptual reason* that military intervention must be very exceptional” (Evans and Sahnoun 2002:103; my emphasis).

The ICISS’s focus on language makes R2P hermeneutics key for grasping the merits and limitations of this norm. At

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heart, the ICISS (2001:7) saw R2P as meeting UN Secretary General Kofi Annan's call to stop "gross and systematic violations of human rights that affect every precept of our common humanity." ICISS co-chairs, Gareth Evans and Mohamed Sahnoun (2002:100), anchored R2P rationale in the international community's "shared ideal that people are all equal in worth and dignity." The ICISS report (2001:Xl) underscores "the universality of human rights" and the resultant imperative to act when "a population is suffering serious harm." R2P rationale thus seems to nicely resonate with John Locke's (2003 [1689]:102) view of the law of nature: "being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions."

R2P, however, is more modest. Of the Lockean rights – to life, liberty, and property – R2P explicitly subscribes only to the protection of human life. Yet even this misleads. For R2P, size matters – a lot. Locke talked about individual lives, R2P of collective lives. The ICISS report (2001:XII) is careful to warrant military intervention on (actual or anticipated) "large scale loss of life" or "large scale 'ethnic cleansing'." Accordingly, the United Nations World Summit (2005) endorsed R2P as restricted to the "responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity" (Paragraph 138). Other gross violations of human rights were off the agenda. Arguably, by focusing only on the most atrocious crimes, R2P could be an effective new norm.

ICISS members toiled to discredit any allegation of being naïve liberals, acknowledging "the risks of well-intentioned efforts in fact making the situation worse." Beyond appeal to morality and finance, they argued, leaders should explain to their reluctant constituencies that "these days good international citizenship is a matter of national self-interest." They also soberly recognized that

the international community in the last decade repeatedly made a mess of handling the many demands that were made for 'humanitarian intervention': coercive action against a state to protect people within its borders from suffering grave harm (Evans and Sahnoun 2002).

Importantly, the ICISS report makes no mention of specific liberties, nor even the very concept of liberty; sovereignty, however, reigns supreme. Sovereignty, not liberty, is the locus of R2P. ICISS members stressed the reframing of "sovereignty as responsibility" (instead of "sovereignty as control"), and celebrated this move as a conceptual breakthrough to herald a better world. This hopeful conviction encouraged Evans (2008) to eagerly subtitle his book, "Ending Mass Atrocity Crimes Once and For All," seeing R2P as fulfilling the post-WWII imperative of "Never Again!"

All this suggests a subtle slide from Locke to Hobbes, from a vision of human rights and liberties to a vigilant Leviathan. By "changing the terminology from 'intervention' to 'protection'" and, we might add, from rights to responsibilities, R2P seems to prescribe a refined version of the statist *Leviathan*, protective of its own people against all dangers. After all, as Hobbes (1996 [1651]:147) elucidates, the sovereign's key goal, indeed his *raison d'être*, is the safety of his population, without which the social contract breaks down: "the obligation of subjects to the sovereign is understood to last as long, and no longer, than the power lasteth by which he is able to protect them," for "[t]he end of Obedience is Protection."

Behemoth

The section above suggested that while R2P promised Locke, it prescribed Hobbes. However, as I argue below, this imagery too is deceptive, since R2P in fact dodges Hobbes's prescription. While for Hobbes the state *Leviathan* was a mere means to an end, in the hands of R2P, *Leviathan* effectively becomes an end in itself – not a device for protecting people, but the topmost object of protection – paving paths for *Behemoth*.

The ICISS dwelled much on "sovereignty as responsibility," but did not expound its notion of sovereignty. For example, the report invokes "the conceptual language of two notions of sovereignty, one vesting in the state, the second in the people and in individuals," then curiously dismisses this tension: "the more traditional notion of state sovereignty should be able comfortably to embrace the goal of greater self-empowerment and freedom for people, both individually and collectively." How to gain this "comfortable embrace" remains opaque.

This language is instructive. Weber distinguished between power (the capacity to compel others, often forcefully) and

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authority (legitimate power). Sovereignty is arguably a form of authority (read “legitimate power”), not merely a power. In *Behemoth*, Hobbes (1990 [1681]:16, 59) stresses that “the power of the mighty hath no foundation but in the opinion and belief of the people,” since “if men know not their duty, what is there that can force them to obey the laws? An army, you will say. But what shall force the army?” Importantly, God was essential part of the Hobbes’s (1996 [1651]:361-62) answer to this secular question: the sovereign’s civil power depends not only on its coercive force but “on the opinion men have of their duty to him, and the fear they have of punishment in another world.” God seems essential for legitimating power. Furthermore, fearing authoritative opinions that are bound to foster strife, Hobbes opted for authoritative leadership.

The ICISS discusses legitimacy at length in relation to intervention, much less regarding sovereignty itself, which is largely taken as a given. It remains unclear what justifies sovereignty to begin with, and what, if anything, can delegitimize it. De jure, sovereignty should entail R2P, but de facto, sovereignty is not predicated on protecting the people. The implications are profound. The domestic legitimacy of power should be a *sine qua non* of authority, hence of sovereignty, but R2P ignores this requirement. Accordingly, R2P efforts should “completely recognize and respect the sovereignty and territorial integrity of the countries concerned, and confine their efforts to finding solutions within those parameters” (International Commission on Intervention and State Sovereignty (ICISS) 2001:25). After all, and this might be the ICISS’s most remarkable statement, “the objective overall is not to change constitutional arrangements or undermine sovereignty, but to protect them” (Ibid). This pledge exposes the poverty of R2P’s conceptual revolution: sovereignty ought to protect the people, but even if it does not, sovereignty itself must still be protected. A means to an end (sovereignty as responsibility to protect people) becomes an end in itself.

The results are more disturbing when we consider the proprietors of that sacred sovereignty. The ICISS (2001:35) stresses that “there should be a clear commitment from the outset to returning the territory to its sovereign owner at the conclusion of hostilities.” If the “sovereign owner” were the people, squaring the circle might still have been possible – the protection of sovereignty. The foremost consideration would have been the safety (though, unfortunately, not the will) of the people. Nevertheless, for the ICISS, as both its very name and subsequent report indicate, “state sovereignty,” not popular sovereignty, is the cornerstone. Unfortunately, the “comfortable embrace” that state sovereignty should give popular sovereignty often becomes a suffocating bear hug. The Peace of Westphalia set the stage: it did not turn states, let alone peoples, into sovereign, but turned the sovereigns, read monarchs, into the absolute owners of states, which they could then equate with their regimes.

This confusing conflation between state and people is pervasive, afflicting even the most astute observers of modern societies. In *Politics as Vocation* (1919), Max Weber (2004:33) depicts the state as a “human community,” but in *Economy and Society* as “a compulsory political organization with continuous operations” (Weber 1978 [1922]:54). In the former, he attributes the famous benchmark of “successfully upholding the claim to the monopoly of the legitimate use of physical force” to the “human community,” in the latter to the “administrative staff” of the said organization. I subscribe to Weber’s last word on the matter. States are not people, nor peoples. Nietzsche’s (2006 [1883]:34) *Zarathustra* spoke of state as “The New Idol”:

A state? What is that? Well! Open now your ears unto me, for now will I say unto you my word concerning the death of peoples. A state is called the coldest of all cold monsters. Coldly lieth it also; and this lie creepeth from its mouth: ‘I, the state, am the people’.

It is not, and the “domestic analogy,” equating states with men, either in or out the state of nature, is a deleterious metaphor (Lomas 2005; Wendt 2004). Though bigger than the sum of its parts, the state is a vehicle, not an organism. Both empirically and normatively, states do not possess “life force” and survival instincts; people do, and they raise and raze states to achieve their ends. Yielding to the domestic analogy is R2P’s original sin.

But the difficulty runs deeper yet. Even if sovereignty is predominantly that of the state, and the latter, disguised as the people, is effectively the regime, what is the nature of its “responsibility”? I suggest two readings: One, responsibility as obligation, suggests, à la Spiderman, that “with great power (read sovereignty) comes great responsibility,” and pertains mainly to the future. Another, responsibility as owning-up, emanates not from one’s power, but from the fundamental human freedom (as choice), and pertains to the past as well. Such existential

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responsibility goes beyond accountability (to others) or liability (to law); we are the choices we have made, which we must shoulder, and for which we must pay a price.

R2P underscores “Spiderman responsibility,” asking states (read regimes) to live up to their obligation and not hurt – too much – their own populations. R2P thus shirks individual responsibility and social solidarity. By predicating responsibility on power, R2P relies on the very thing (state sovereignty) it seeks to guide. By turning responsibility into a law, R2P eclipses one’s responsibility for being free. By overlooking their past, R2P absolves regimes of their previous wrongdoings. Ultimately, as long as regimes do not try (or plan to) massacre or expel *en masse*, they meet their “responsibility,” and must be protected; even if they fail, the international community must still keep their state intact.

Conclusions

In this piece I criticized R2P for failing to live up to its promise. Human rights guided the good intentions of its authors. Still, aware of the many challenges ahead, they drafted R2P cautiously and conservatively. They restricted R2P to mass atrocities and saw state sovereignty as the remedy. Like the Rabbi of Prague, they pleaded with the *Golem*, that anthropomorphic entity, to protect the people, forgetting it may get out of hand, and backfire.

And yet, it could have been worse. While I focused on the principles guiding R2P, its practical results are not as bleak as many believe. To date, the UN has officially invoked R2P concerning the crises in Darfur (2006), Kenya (2007/2008), Libya (2011), Côte d’Ivoire (2011), South Sudan (2011), Yemen (2011), Syria (2012), and the Central African Republic (2013). With mixed results, certainly, but it is impossible to tell if, sans R2P, things would have been better. In March 2011, the UN Security Council unanimously adopted two resolutions stipulating coercive implementation of R2P in Libya (Resolution 1970) and Côte d’Ivoire (Resolution 1975). R2P did not prevent the former’s descent into civil war, but has arguably aided the latter in containing one.

R2P is one milestone in an ongoing learning process. The international society is learning about its own capacity and willingness to put people above states. Most acutely, it will have to decide whether to subordinate the statist R2P to the people’s right of self-determination (Abulof 2016). This would mean, for example, that the political will of people, and peoples, in the Middle East matters more than borders charted by others a century ago. The state integrity of Iraq, Libya, Syria, and Yemen, among others, would then be called into question, to be answered by their respective populations, who may prefer to found new states, better capable of protecting their citizens.

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