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Inconsistency, Hegemony, Colonialism and Genocide: How R2P Failed Libya

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CONNER PETA, FEB 21 2017

The doctrine of Responsibility to Protect (R2P) was adopted in response to the horrific genocides and violations of human rights that occurred in the 20th century. More specifically, it was a response to the horrific events that took place in Rwanda and in the former Yugoslavia. R2P is inherently problematic, due to the fact that it allows states to pick and choose where and when to intervene based on their own self-interest. As a result of this, states do not intervene for the primary purpose of preventing or halting human suffering, but rather use it as an excuse to intervene in order to achieve a strategic objective, while hiding it under the veil of R2P, a true exemplification of realpolitik within the international system. Therefore, once a state intervenes and achieves their strategic objective within a country, they have no obligation to stay and help rebuild, and thus can leave the country in even worse shape than prior to intervention. An example of this is when the North Atlantic Treaty Organization (NATO) intervened in Libya, in order to remove Muammar Gaddafi from power and to prevent a potential genocide. However, in achieving their strategic objective, NATO dismantled Libya's state apparatus and left the country in a more vulnerable position than it was under Gaddafi. As a result of NATO intervention, Libya is now on the verge of a potential genocide. Therefore, it is imperative for the survival and future success of R2P to remove all aspects of realpolitik out of the conversation of human rights and genocide prevention. States strategic interests should play no rule in deciding where to intervene and who to save.

The twentieth century was a period in human history that witnessed the most horrific and lethal genocides including the Holocaust, the killing fields in Cambodia, East Timor, East Bengal, Rwanda, and the former Yugoslavia, to name a few. In response to the Holocaust, the world came together and said never again. However, since the Holocaust, and more specifically, following the end of the Cold War, conflicts have become more complex; the United Nations (UN) lacks the legitimacy to deal with them, and the member states lack the will. The international community's lack of will, coupled with the lack of legitimacy and capacity of the UN, was what allowed the genocides in Rwanda and in the former Yugoslavia to happen. Therefore, in response to this dilemma, the Canadian government under Jean Chrétien established the International Commission on Intervention and State Sovereignty (ICISS).[1] Specifically, the ICISS sought to address the lack of will in dealing with human rights violations and genocides; the ICISS mandate was to ensure that there would be "no more Rwanda's." [2] Furthermore, there was a need for the adoption of specific rules and norms in regard to humanitarian intervention in order to legitimize preventative action. It was the job of the ICISS to adopt rules and norms in order to legitimize preventative action in order to prevent another Rwanda.

In its report, the ICISS defined the three specific elements of the doctrine of R2P. First, is the responsibility to prevent, which means that states have an obligation to tackle the primary causes of conflicts that put people at risk.[3] The primary cause of conflict could be economic instability, sectarianism, or political instability. Whatever it is, the international community has a responsibility to address these issues. The second element of R2P is the responsibility to react, which means that states are obligated to react to situations of dire human need with appropriate measures; these measures may include sanctions and military intervention in extreme cases.[4] This is perhaps the most practical element of R2P, as states often react to genocides and violations of human rights after the initial atrocity (or atrocities) that triggered the event. This makes the second element of R2P more practical than the first, as states do not purposely try to prevent genocides; rather, states react to them. The third element of R2P is the responsibility to rebuild, which implies that after the international community intervenes in a particular country to stop

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genocide, it has an obligation to assist in the reconciliation and recovery of that country.[5] This is perhaps the most important element of R2P, as a strong process of reconciliation and recovery is essential in preventing future atrocities.

Due to the fact that R2P is not a formal law amongst states, it can be classified as an international norm.[6] This means that it is not legally binding; however, once a norm is established, failure to comply by a state could result in pressure from other states, and this can force the state to fulfil its international duties. However, the doctrine of R2P naturally clashes with the ideal of sovereignty, as outlined in article 2.7 of the UN Charter. Article 2.7 of the UN Charter states:

[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.[7]

According to this definition, all matters within the state are primarily within the jurisdiction of the state, and this can include genocide. Although article 2.7 states that the principle of sovereignty should not influence enforcement measures under Chapter VII (military intervention), it has been assumed that the right of state sovereignty trumps human rights within the state. This is primarily due to the realpolitik nature of the international system, which is composed of a system of sovereign states acting within their own self-interest. However, R2P challenges this narrative by defining sovereignty as a responsibility. Defining sovereignty as a responsibility means that states are responsible for protecting the lives of their citizens, and should be held to account both internally and by the international community through the UN.[8] Furthermore, the concept of human security is becoming more relevant in international law and international relations. Human security extends the definition of security to include the protection of people, not just states,[9] and thus challenges the narrative of realpolitik.

R2P extends the definition of sovereignty to include responsibility; if a state does not fulfill its responsibility, then it is not just accountable to its citizens, but also to the international community. However, what about the state that intervenes? Who are they responsible to? The ICISS report notes that states must have the “right intention” when intervening. It defines right intentions by stating that “the primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering.”[10] This definition is inherently problematic, as it allows for states to have other motives for intervening in the domestic affairs of a country, as long as the primary purpose is to save lives. Therefore, this definition allows politics to play a role in the intervention and allows intervening states to have other priorities; this raises ethical concerns over the principle of R2P. For example, who can justifiably claim to speak on behalf of the international community? And whose vision or narrative of the world will the R2P doctrine pursue? Ambiguous answers to these questions surely cannot be enough.[11] Noam Chomsky provides a clear depiction of whose narrative the R2P doctrine will follow. Chomsky states that “the self-described bearers of enlightenment happen to be the rich and the powerful, the inheritors of the colonial and neo-colonial systems of global dominion: they are the North, the First World.”[12] Therefore, the global North, who are the inheritors of power from the colonial system, will get to decide where the doctrine of R2P is applied, and will get to decide who merits saving based on their own strategic interests.

It is important to note that the principle of R2P is embedded within Immanuel Kant’s belief of “perpetual peace”, which is the idea that it is the responsibility of the enlightened, cultured, and liberal world to establish peace within the uncivilized, uncultured, and illiberal world overwhelmed by conflict.[13] This has implications in Edward Said’s concept of *Orientalism*, as the Orient (people of the East, or people of the “uncivilized” world) are observed as submissive recipients of charity from the West and are viewed as people who cannot represent themselves and, therefore, they need to be represented by “the Other” (First World, or the West).[14] Furthermore, in this context, R2P can be viewed as a 21st century vehicle for colonialism, due to the fact that it is usually powerful western countries that have benefited from the colonial system intervening in countries who have suffered from the colonial system. This is why the doctrine of R2P has received its strongest criticism from post-colonial scholars. Post-colonialism begins with the statement “that it is both unethical and dysfunctional to maintain hegemonic concepts of international order, international morality, and international law.”[15]

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Additionally, another problem with R2P is that it is a political phenomenon, and thus is a construct of complex relationships of power, which has enabled the powerful and reinforced the militarization of human rights.[16] Furthermore, invoking the doctrine of R2P allows states the right to assert that they are representing the whole of humanity.[17] This can be extremely dangerous due to the fact that the state is no longer seen as pursuing its own self-interest or strategic goals, and therefore its intentions are not thoroughly examined. Conversely, the doctrine of R2P does not discard realpolitik and replace it with humanitarianism; rather it disguises realpolitik under the veil of humanitarianism, which is even more dangerous. This creates concern amongst the citizens of the countries of the Global South. Ramesh Thakur states:

“They” (the European colonizers) came to liberate “us” (the colonized natives) from our local tyrants and stayed to rule as benevolent despots. In the name of enlightenment, they defiled our lands, plundered our resources and expanded their empires.... Should they be surprised that their fine talk of humanitarian intervention translates in our consciousness into efforts to resurrect and perpetuate rule by foreigners.... Should we be mute accomplices when they substitute their mythology of humanitarian intervention for our narratives of colonial oppression? Do they think we do not remember or do not care, or is it simply that they themselves do not care.[18]

In regards to R2P, the perspective of those within the country that is being intervened in needs to be heard and recognized, as they are not only the ones who have to tolerate the cost of intervention both physically and psychologically, but are often the ones who are left to rebuild, sometimes in a even worse situation than prior to intervention.

An example of this is Libya, where the doctrine of R2P was invoked, intervention ensued, and the country was left in worse condition than prior to intervention. By 2011, Libyan dictator Muammar Gaddafi had been in power for 42 years.[19] The Libyan political system under Gaddafi lacked adequate political institutions. Instead the system relied upon the harsh repression of the opposition and the cult of personality around Gaddafi and his family.[20] Conversely, instability in the Middle East broke out following the beginning of the Arab Spring in 2011, with protests in Egypt and Tunisia. As a result of this, discontent with the 41-year rule of Gaddafi began in the eastern city of Benghazi on February 15th, 2011.[21] However, what began as peaceful protests quickly erupted into violence as a result of Gaddafi's threat to use force against protestors.[22] Consequently, protests quickly turned into clashes between the government and opposition fighters, and Gaddafi's regime was accused of employing helicopter gunships, snipers, and foreign mercenaries against opposition fighters.[23] According to an Amnesty International report in 2012:

The toll on civilians was particularly heavy in Misratah, where residents were trapped from late February onwards as al-Gaddafi forces laid siege to the city and fired rockets into the port area the only entry point for humanitarian aid and the only evacuation point for wounded and sick patients. Indiscriminate attacks ceased in May but resumed in mid-June and continued sporadically until early August. According to local medical sources, more than 1,000 people were killed during the siege of the city.[24]

Furthermore, in August of 2011, Genocide Watch classified Libya as a stage 7 on their 8 stages of genocide, meaning that it was in the process of extermination.[25]

As a result of the atrocities committed by Gaddafi's forces, the international community felt compelled to intervene. On March 17th, 2011, the UN Security Council passed Resolution 1973, which granted NATO the use of force under the principle of R2P, which included the imposition of a “no-fly zone”.[26] However, Brazil, China, Germany, India, and Russia all abstained from the vote. Therefore, the representatives of a significant amount of the world's population did not vote in favour of intervention.[27] However, as previously stated, when R2P is invoked, it allows the interventionists to speak on behalf of humanity, even though the majority of the international community did not vote in favour of the intervention in Libya. The countries that voted in favour included the United States, Britain, and France; states that Chomsky would classify as the inheritors of power from the colonial system. However, the question that needs to be asked is why did these countries want to intervene in Libya? Since the intervention in Libya was invoked under the principle of R2P, it was obviously to “halt human suffering”. However, there were secondary reasons that made Libya significant. If the implementation of R2P in Libya was done only for the purpose of

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preventing human suffering, then why was it not also invoked in Syria, or the Congo, or North Korea? This once again can be traced back to the fundamental problem of R2P: that states only take action when it fulfills their self-interest.

What were the secondary reasons for intervention that made Libya so significant? In regards to the secondary reasons for intervention, once the veil of the R2P doctrine is lifted, they usually become exposed as the primary reason for intervention. In regards to Libya, Canadian political economist Sean McMahon provides a convincing secondary reason for NATO's intervention. McMahon notes that the countries of NATO (western neo-liberal countries like Canada, Britain, France, and United States) participated in the Libya campaign in the service of "the transnational historic bloc led by finance capital." [28] According to McMahon, the purpose of the war in Libya was to shift capitalism's catastrophe of surplus capital, and to inherit the favourable conditions of accumulation that could be achieved through the destruction of Libya. [29] Furthermore, McMahon notes that the Canadian governments decision under Prime Minister Stephen Harper to bomb Libya was made to validate the purchase of the F-35 fighter planes and to benefit Canadian corporations like Suncor and SNC-Lavalin. [30] The point of presenting McMahon's argument is to demonstrate that countries pursue their own self-interest when intervening under the principle of R2P. As a result, minimizing human suffering becomes a secondary priority at best, it may not even be a priority at all; thus, the powerful get to decide who are worth saving, and consequently, decide who are truly human.

The 2011 intervention in Libya was initially seen as a victory for human rights and for the implementation of R2P. Ivo H. Daalder and James G. Stavridis stated, "NATO succeeded in Libya...it saved tens of thousands of lives from almost certain destruction" and it "enabled the Libyan opposition to overthrow one of the world's longest-ruling dictators." [31] However, NATO's military intervention in Libya was quickly criticised for violating its mandate. First, rather than using its resources to protect civilians through the enforcement of the "no-fly zone", NATO began to turn its attention to Gaddafi's forces and waged a full-blown war for the purpose of regime change. [32] Second, NATO reinforced arms and ammunition to anti-Gaddafi forces, and provided them with air support. [33] However, the UN Human Rights Council inquiry on Libya concluded that the huwar (anti-Gaddafi forces) committed "war crimes and breaches of international human rights law", which included "unlawful killing, arbitrary arrest, torture, enforced disappearance, indiscriminate attacks, and pillage". [34] Furthermore, it was NATO that provided the anti-Gaddhafi forces with ammunition and air support; thus, it was NATO weapons that were utilized in these human rights violations. This raises the question on whether R2P in Libya represented the responsibility to protect civilians and people, or if it represented the responsibility to protect state interests (or as McMahon would frame it, the transnational historic bloc led by finance capital). The evidence would point to the latter as the primary goal of the intervention in Libya.

Regardless of the intentions of the intervention in Libya, it did stop the atrocities committed by Gaddafi's forces and saved lives. However, was it for the greater good? In other words, is Libya better off today as a result of the intervention? To answer that question bluntly, Libya is not better off today as a result of the intervention. In fact, Libya is in a worse situation today than it was during the Arab Spring. As a result of this, genocide is more probable now in Libya than ever, as the conditions necessary for genocide are prevalent. Since the Arab Spring, Libyan society has been obliterated as a result of civil war. According to Amnesty International, 435,000 people are internally displaced and 2.44 million people need humanitarian assistance. [35] Additionally, as a result of the weak state apparatus in Libya, groups like Libya Dawn and the Islamic State of Iraq and the Levant (ISIL) have been able to establish strongholds within the country. According to Amnesty International, ISIL forces have "committed scores of summary killings of captured fighters and abducted civilians, including foreign nationals, suspected informants and opponents, and men accused of engaging in same-sex sexual relations." [36] Furthermore, in 2012, one year after the fall of Gaddafi, Genocide Watch classified Libya at stage 6 on their 8 stages of genocide, stage 6 being polarization, which involves fundamentalists broadcasting propaganda and targeting moderates within the country. [37] Genocide Watch noted that the atrocities were committed by anti-Gaddafi militias, which included the eviction of 30,000 civilians from the town of Misrata. [38] Likewise, in 2016, Genocide Watch classified Libya at stage 8 on their 10 stages of genocide (after adding two stages between 2011 and 2016), which is persecution. That means that victims are now being separated based on religion, ethnicity, and class. [39] Additionally, Genocide Watch noted that tribal militias like Libya Dawn and ISIL were committing the killings, and the victims were government officials, police, and the army. [40] Therefore, it is clear that genocide is far more likely in Libya today than it was prior to intervention.

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It is imperative for the survival and future success of R2P to remove all aspects of realpolitik out of the conversation of human rights and genocide prevention. States strategic interests should play no role in deciding where to intervene and who to save. Clearly, that is easier said than done, and it is important to note that it is impossible to completely remove the selfish nature of states within the international system. However, tightening the rules of R2P and going back to the roots of the ICISS report can be an adequate solution in dealing with the problem of realpolitik and the inherent selfishness of the state in dealing with human rights. In regards to the definition of 'right intentions' in the ICISS report, it is inherently problematic because of the fact that it allows states to have other secondary motivations for intervention. States will always have secondary reasons for intervening, but the primary reason as the report states, has to be to halt human suffering. Did NATO intend to halt or avert human suffering when they were funding groups who were also committing human rights violations, and continue to commit them to this day? The international community needs to establish a process in which states can be investigated for invoking the principle of R2P, and their intentions need to be discussed in an open format both before and after the intervention. A process needs to be established that has the means to hold any state, or group of states, accountable if they abuse this principle. Furthermore, there needs to be more of an emphasis on the third pillar of R2P, that being the responsibility to rebuild. President Barack Obama noted that the worse mistake of his presidency was "probably failing to plan for the day after what I think was the right thing to do in intervening in Libya."^[41] Libya is on the verge of becoming a failed state due to the failure to rebuild. Therefore, a system or process needs to be established that requires the actors who intervene in a particular state under the principle of R2P, to assist in the rebuilding of that state after their objective is achieved.

R2P is inherently problematic due to the fact that it allows states to pick and choose where and when to intervene based on their own interests. As a result of this, states do not intervene for the primary purpose of preventing or halting human suffering, but rather use it as an excuse to intervene in order to achieve a strategic objective, while hiding it under the veil of R2P. In Libya, where the doctrine of R2P was invoked, intervention ensued, and the country was left in worse condition than prior to intervention. Therefore, Libya is a primary example that exemplifies the problems with the doctrine of R2P. In Libya, NATO intervened to prevent a potential genocide by the Gaddafi regime on protestors and rebel forces. However, NATO armed anti-Gaddafi rebels, who also committed horrific human rights violations, raising the question on whether human rights were the primary concern of NATO when the decision was made to intervene. Furthermore, as a result of NATO's intervention, Libya is now on the verge of experiencing a potential genocide. Therefore, it is imperative for the survival and future success of R2P to remove all aspects of realpolitik out of the conversation of human rights and genocide prevention. The doctrine of R2P was created to prevent future Rwanda's, but now it needs to be fixed in order to prevent future Libya's.

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