

## Humanitarian Intervention 2.0?

Written by Benedetta Berti and Gallia Lindenstrauss

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BENEDETTA BERTI AND GALLIA LINDENSTRAUSS, APR 14 2011

### Humanitarian Intervention 2.0:

#### **Can the International Community learn from the Failures of the 1990s and Strengthen the Responsibility to Protect Doctrine?**

The positive impact of the ongoing international military engagement in Libya on the global standing of the “Responsibility to Protect” (R2P) doctrine and, more generally, over the future of humanitarian military interventions, has led some scholars and practitioners to argue that the international community is heading back to the “golden era” of humanitarian intervention: the 1990s. In contrast, other prominent scholars have stressed the temporary, exceptional, and narrow scope of the military operations in Libya, denying a significant shift in states’ attitude towards humanitarian interventions, and cooling anticipation that we will see a future rise in the direct involvement of the international community in internal conflicts to avoid gross human rights violations (see D. Chandler in e-IR).

While this second school of thought may appear to be more grounded in reality—avoiding overly optimistic assessments of the state of international law—both approaches fail to recognize that it is still premature to determine the effect of the Libyan mission. Indeed, the key element in shaping its impact will be whether the current military operations can overcome some of the recurrent problems humanitarian interventions have been facing in the past two decades. In other words, will the Libyan intervention be able to learn from some of the mistakes made during the 1990s?

Presently, the record of the UN-authorized and NATO-led mission seems mixed.

On the positive side, the international community’s actions in Libya have been conducted under the explicit authorization of the UN Security Council (UNSC), a welcome change from the “illegal but legitimate” NATO operations in Kosovo. One of the key requirements in moving towards the “contingent sovereignty”-based world envisioned by the R2P doctrine is in fact the existence of a strong international order which, through the UN, is able and willing to intervene in domestic conflicts in order to prevent massive and widespread atrocities against the civilian population, while still guaranteeing that such involvement is carried out with the “right intention” (this is why the R2P guidelines strongly recommend a UNSC-authorization of the use of force and a “right intention” requirement).

However, to date, the UNSC—the designated UN body with the mission to maintain peace and security—has been unable to step in and fulfill this role. Since its creation, the record of the UNSC regarding authorizing or organizing peace keeping operations, including humanitarian interventions, has been disappointing. During the Cold War the Security Council was paralyzed by the superpowers’ rivalry and unable to take action, leading to the rise of the UN General Assembly as a secondary organ in charge of recommending and dispatching peace operations. For example the very first peace keeping operations (the dispatch of a Special Group of observers to monitor the Israeli-Arab truce in 1949, and the peace keeping mission in Sinai in 1956) were authorized and organized by the General Assembly and not the UN Security Council.

Even in the aftermath of the Cold War, however, the UNSC did not fully step up its involvement, an element that contributed to its progressive decline. In this sense, the UNSC failure to authorize the intervention in Kosovo and the

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NATO decision to conduct a military campaign short of such prior approval only confirmed the decline of the status and authority of the UNSC. Similarly, the UN International Commission on Kosovo's conclusion that the NATO operations were "illegal but legitimate" casted an additional shadow over the relevance and authority of the UNSC and its capacity to truly fulfill its mandate.

In this context, the explicit endorsement of the current NATO mission in Libya, through UNSC Resolution 1973, constituted a notable development in the international order, strengthening the standing of the Security Council, and, along with it, also the future of "R2P" interventions.

In addition to the significance of the UNSC pre-authorization of the mission for the future legal standing and legitimacy of humanitarian interventions in general, another crucial point that will determine states' future attitudes towards direct involvement in ongoing internal conflicts will be whether, operationally, the military engagement in Libya is judged to be successful, showing the capacity of the international community to learn from the failures of past humanitarian operations.

A first lesson from the 1990s is that attempts to intervene in ongoing conflicts as a *neutral party* are not only highly difficult to implement in practice but, in fact, by striving to be *super partes*, the intervention indirectly ends up supporting the stronger actor in the conflict. The neutrality principle was first codified in 1970s UN Guidelines on Peace Keeping Operations and it results from the legal fiction of equality between the parties, while—in reality—many internal conflicts (as learned by the international community in cases like Rwanda or Darfur) don't involve two main actors fighting on equal terms, and one side often is more in need of protection by the international community than the other. Thus, to prevent falling into the neutrality trap, humanitarian interventions should choose between taking over control of the entire area where they are intervening and impose imperial impartiality, or deciding which side to support.

It seems that this lesson has been learned with regard to Libya, as the NATO-led forces, although formally tasked only with protecting civilians, are operating in a way that assists and protects the rebel forces.

A second important lesson of the 1990s has been that the international community should strive for rapid and even preventive action. In the case of Libya it seems that this lesson has also been learnt. Although many international relations commentators have criticized the international community for its delay in imposing a "no-fly zone" over Libya, in reality the response to the ongoing human rights violations of the Libyan regime against its population has been rather swift. In addition, the intervention has been justified by claiming that failing to act would have led to widespread massacres in Benghazi, and that the military engagement would prevent such outcome. Hence, the intervention also had a preemptive nature to it.

Another recurrent problem of humanitarian interventions has been defining a clear and coherent mandate, in tune with the reality on the ground. In addition there needs to be a match between the chosen objectives and the rules of engagement and means designed to meet such goals.

In the case of the NATO-led operations in Libya, the mandate has been carefully crafted to be both clear and specific: to protect civilians and enforce sanctions, while explicitly "excluding a foreign occupation force of any form on any part of Libyan territory." However, it is absolutely unclear how the ongoing mission will manage to attain this seemingly limited goal without having to expand its mandate into regime change, with the potential of becoming entangled in a civil war scenario it does not fully understand. In addition, presently, the international community does not seem prepared to commit the necessary military resources needed to obtain its objectives, and even less certain is whether this commitment is going to be sustained over time.

Similarly, the mission seems to lack the necessary understanding and commitment to devise a "day-after" plan for Libya. Specifically, even though the NATO mission is supposed to be followed by a Bosnia-styled multinational peacekeeping force, it is questionable whether the international community has enough knowledge of the reality on the ground or of the composition and agenda of the anti-regime forces needed to operate effectively in the post-Qaddafi Libya.

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The last lesson from the 1990s that should be discussed when analyzing the Libyan operations is that humanitarian military intervention requires specialized thinking and training. While it can be claimed that NATO has learned from its actions in the Balkans and in Afghanistan and is now better equipped to deal with intra-state warfare, its member state armies still lack enough designated units to deal with such crises. Additionally, the international legal framework lags behind in addressing the issue of combating non-state actors, who at times also operate from within a civilian population.

In conclusion, while the current military engagement in Libya had the important effect of strengthening both the status of the emerging R2P norm and the role of the UNSC in implementing this doctrine, it is still far from clear whether this will have a long-lasting impact upon the international community's will to deal with humanitarian emergencies. The response to the Libya crisis will only be able to shake the West's reluctance toward renewed humanitarian interventions if the ongoing operation attains its mission objective without once again becoming entangled in a protracted internal conflict.

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