

## **Does the Responsibility to Protect principle resolve the political problems that result from humanitarian interventions in developing world conflicts?**

The issue of humanitarian intervention has proved to be one of the most controversial aspects of international relations in the post-Cold War world. The use of coercive military action for purpose of protecting human rights raises the fundamental question of whether a right to intervene in the internal affairs of a sovereign state exists. Whilst it can be argued that the development of Responsibility to Protect (R2P) has had an impact on the notion of sovereignty and the challenged the Westphalian principle of *cuius regio eius religio*, the practical difficulties of persuading a nation state to act outside its own interest is still the dominant factor within international relations (Mayall 2000). As such this paper contends that R2P is a positive step and will help make humanitarian missions more likely in the future, but the fundamentally political problems remain unaltered. Arguably this comes down to the original principles of R2P from 2001 being watered down in order to ensure the adoption at the 2005 World Summit, which leaves R2P as a mainly moral argument with no real teeth to tackle the problems of intervention in the post-Cold War world. (Hehir 2010 & ICISS 2001).

The political problems of intervention are not exclusive and there is a substantial degree of crossover and inter-connectivity between them. Indeed, the core problems are so interlinked that it is almost impossible to discuss them separately, sovereignty, the United Nations Security Council (UNSC), and political will (Evans 2006). This paper sets out that the overriding concern in the debate on humanitarian intervention, and whether it takes place or not, is the national interest of the countries in the international community. Indeed all the other factors are subservient, as they can be tempered depending on the need of the state at any given time. Sovereignty is often put forward as the key problem with regard to intervention, though this is effectively authorised by the UN recognising its validity as a sovereign nation state. As the UN also provides the legal standing for intervention it is argued that the UN is actually the fundamental problem with dealing with humanitarian intervention, though Mayall posits that a referral to UNSC implies a tacit acceptance that in order for the collective security provisions of the UN Charter to be triggered then reference has to be first made to the interests of the major powers (2000). Therefore even though it is necessary to start by looking at sovereignty and the international system to establish the legal

framework and context for the R2P debate, this paper asserts that political will is the key factor in determining whether and when humanitarian intervention is undertaken.

Whether to intervene or not is a post-Cold War debate as the option to interfere within the East-West sphere of influence simply didn't exist and the UN was largely ineffective, as the atrocious genocides in Cambodia and Guatemala demonstrate (Hardwick 2011). Although R2P is a new paradigm that has been promulgated since 2001, it is the culmination of an evolutionary process that started with the decline in the absolute sovereignty of the nation state after the Second World War (ICISS 2001). The evolution is distinctly non-linear and the end of the Cold War, coupled with the inability of the international community to cope sufficiently with the transition of warfare towards Low Intensity Conflict (LIC) that has seen an increase in the percentage of civilian deaths in conflict, as high as 90%, as the century has drawn to a close (ICISS 2001).

The notion of sovereignty is traditionally seen as a fundamental problem with intervention. The international standard since the Treaty of Westphalia in 1648 has been the principle of non-intervention, as it is not the business of one country to be interfering within the confines of another sovereign nation state. Article 2(7) of the UN Charter 1945 clearly sets out the position,

'Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state' (Evans 2008: 704).

The significance that the UNSC plays in the implementation of R2P operations is further enhanced by Chapter VII of the UN Charter which states that it is illegal for any form of military action, other than self-defence, to be undertaken without the consent of the UNSC. Therefore, the ultimate decider in whether to undertake a humanitarian intervention is the UNSC. Indeed it is somewhat of a paradox that the chief vehicle for driving humanitarian intervention is the United Nations, the same organisation that is also the ultimate embodiment of the sovereign nation state.

Thus the overall intervention debate essentially breaks down to two camps, the sovereignty advocates and the human rights advocates. R2P has sought to challenge this concept by transforming the idea of sovereignty to encompass a responsibility, which thereby puts R2P as the enabler to bridging the gulf between the two sides of the debate (Chatham House 2011). Advocates argue that the new understanding of sovereignty is more advantageous as it places human rights and sovereignty on the same level and makes objections based on the principle of non-interference nonsensical (Evans and Sahnoun 2002).

Just as the media is said to amplify a problem and act as either an agenda setting agency, an accelerant or an impediment to the foreign policy of a nation state, we can see that the UNSC

performs exactly the same task at the level of international law (Livingston 1997). If we look at Kosovo then the UNSC was unable to agree on action, and the intervention had to be undertaken under the guise of NATO, this is despite the recent history of inaction and the genocides in Rwanda and Srebrenica (Furley 1998 & Honig 1996). At first glance the problem of Kosovo appears to follow this path, with action unable due to the threat of a Russian and Chinese veto. Thus the action of NATO to intervene unilaterally can be seen as having no other real choice in order to maintain some form of credibility (Mayall 2000). Furthermore, it is argued that even whether Russia and China had genuine concerns over the use of force and possible consequences, or were more simply concerned with maintaining their sphere of influence, is irrelevant as the UNSC was paralysed and failed to deliver the intervention necessary to prevent the unnecessary loss of life (Bellamy 2006). In other words you have inaction due to lack of will, and even when significant players in the international community have the political will for action, the international organs to facilitate this will do not function as required. A potential solution could be the encouragement of more regional action undertaken by neighbours, though a significant adjustment to the role of the UNSC (Walzer 1995).

This brings in a further problem, as illustrated earlier the UNSC is the sole legal body or authorising intervention, yet in Kosovo it did not do, so was the NATO action illegal under international law? As Guicherd points out the rights of the victims of mass atrocity crimes and the rights of the UNSC to authorise the use of military force for humanitarian interventions does not amount to the right of humanitarian intervention either by states or collectively (1999). Indeed the main controversy and debate that comes out of the Kosovo problem is between how to go about preventing a Mass Atrocity Crime when the UNSC is unable or unwilling to authorise the use of military force. The debate revolves around the legal mechanism for intervention as seen between those who oppose the circumvention of the UNSC as the ultimate legal body for sanctioning intrastate action and the right of an individual state to intervene unilaterally in the event of UNSC paralysis (Thakur 2006). R2P does not address this problem, furthermore an attempt to allow for a code of conduct to enable quick decision making when the vital national interest of the permanent five members of UNSC were not clearly threatened, and as such the version adopted at the 2005 World summit has been referred to as R2P LITE (Bellamy 2009 & Pattison 2010).

Thus it can be said that whether intervention takes place with UNSC approval, without it, or just not at all it creates controversy, and in the case of Kosovo that the intervention created more chaos than it solved (Chatham House 2011). A very similar situation to Kosovo is now occurring in Syria, with intervention unable to take place due to the geo-political dynamic of UNSC, which means that it is in effect still suffering from the spheres of influence that the decline of the superpower status was

supposed to have overhauled. Though it is contended that the inaction in Syria is not just down to impasse in the UNSC, but rather that the lack of will to engage comes from the full conditions, and tests, for the use of military force not being as clear cut as in Libya, specifically as to whether or not the people at risk will be better or worse off following military action (Chatham House 2011). This is the view of Gareth Evans, one of the architects of R2P, so he is bound to be looking for reasons to argue that the lack of action is justified, or in essence he is arguing that R2P is no longer able to hold sway.

The problem with avoiding another Kosovo is much more significant to overcome, as it is a structural deficit within the global system. From a realist perspective it can be said that states do not intervene because they see humanitarian intervene as a just cause, the reason they intervene to pursue nationalistic interest and goals (Barkawi 1998). Furthermore, this is exactly how they should be acting within the Westphalian system as the primacy of their responsibility falls to the protection of their own population. R2P does seek to address this by changing the language of sovereignty from a right to control to the right to protect (ICISS 2001). It is asserted that in order to move the debate along proponents of R2p must get away from the language of democracy versus dictators (Findlay 2011).

Putting this into context what we see is that as the Cold War ends and the spheres of influence begin to unravel the ability to intervene is constrained by the doctrinal shift going on within the Western military, and their force structures not being suited to engaging in LICs (Van Creveld 1991). With the United Nations similarly being unable to deal effectively with the challenge of when to intervene or not, essentially what we have is a mess whereby even if the will of the international community to intervene existed then it was unlikely to succeed due to inadequate training and understanding of what exactly the challenge of intervention is (Clarke and Herbst 1997). This is why the change of language and the shift of the idea of sovereignty from being a right to a responsibility becomes so important (ICISS 2001). As the proponents of R2P point out, the phraseology of the right to intervene focuses the debate too much on the international community as opposed to considering the suffering of the people within the offending state (Bellamy 2009).

Now that the legal framework for humanitarian intervention has been illustrated we can move onto look at the problem of political will. In order to facilitate this debate we will look at its subsidiary problems in turn, the impact of the media, neutrality, false friends, and capacity.

It should be realised that the CNN effect is largely from the impact of technology on the media, as opposed to a more significant re-appraisal of the links between the media and government in terms of agenda setting. Belknap posits that,

‘The advent of real-time news coverage has led to the immediate public awareness and scrutiny of strategic decisions and military operations as they unfold. Is this a net gain or loss for strategic leaders and war-fighters?’ (2002: 100).

It is hard to pin down the actual impact of the media on the decision making of a government at any given time. Indeed it is more often than not a public perception of media influence that has helped to perpetuate the notion of the CNN Effect (Livingston 1997).

The impact of the media, and the CNN Effect, does have an important role to play in influencing political will, but it should be noted that even with substantial media pressure it is not an overpowering driving force for intervention, as is seen by the inaction in Syria and the delayed reaction in Rwanda. That said it can be argued that the media did play a substantial role in ensuring intervention did take place in Kosovo, though it should be noted that the military came in for severe criticism for not co-operating adequately with the media when operations did get underway, due to the controversial nature of the unilateral action (Belknap 2002). It is argued that the CNN Effect is a misnomer in that the media doesn't actually have an effect on whether or not an intervention takes place, but that it is in the interest of governments to portray the media as having influence as it thus enables them to present the image of being a government of the people, doing the people's will. (Robinson 1999). The government and military have not helped to dispel the notion of media dominance, especially with the footage of the US marines going ashore in Somalia being more of a choreographed movie set than a military operation (Belknap 2002).

The next aspect of political will comes down whether or not an intervention can be neutral? As any action will have a cause and effect within the wider international community. Therefore, intervention, whether neutral or not, is going to have an impact on the dynamics of the international relations of the actors involved in the intervention decision. This leads onto the notion that neutrality is impossible to achieve, which has a consensus as even proponents of humanitarian intervention admit that neutrality is difficult to achieve (Jett 2000).

The issue of neutrality is demonstrated by looking at the events of Somalia and Rwanda. Somalia is often viewed via the simplistic argument that the United States arrived with a clear mission objective. This mission was carried out by enabling the NGOs operating to (re)establish their distribution of aid. The US then handed over the United Nations who then changed the goalposts

and allowed a degree of mission creep to set in, by engaging in state-building, which led to the ultimate failure of the mission, and the view that Somalia was a short term humanitarian success but a long-term political-military failure (Weiss 1997). The reality is much more complex, and involves US military doctrine, force structures, and suiting the politics of the United States (Clarke and Herbst 1997). Furthermore, it was not fully realised that by simply intervening to provide aid, at least one side in the conflict would gain to the detriment of the other protagonists. This thereby creates an effective market to be fought over and from which power can be derived from (Reno 1999).

When we move onto Rwanda the problem of distinguishing between humanitarian intervention and state-building has not been resolved. Indeed it can actually said to have been worsened due to Somalia and the symbiotic cause and effect they have on each other, as it is an illusion that any form of intervention can be undertaken without having an impact of the politics of the country in question. This is clearly demonstrated by the problems of the refugees, and former combatants in Zaire and Tanzania, where refugee camps actually became bases for launching assaults into Rwanda (Furley 1998 & Jett 2000). Furthermore, just by pursuing the deliverance of aid, and even the most basic form of order that requires, the imposition of security means that a form of state-building is taking place (Clarke and Herbst 1997). It needs to be realised that,

‘Providing aid to some, or even to all, will always alter the balance of power because the ability of some warring factions to produce a military-resolution is strengthened’ (Jett 2000: 113).

The argument is thus that even if some form of humanitarian intervention is undertaken, even with the best wishes of the international community and its full legal backing, the mere presence and impact of the aid provided, whether it be purely food or an action to prevent a Mass Atrocity Crime, will have an effect that makes the neutrality of any intervention impossible to maintain (Jett 2000). This is an area which both proponents and opponents of intervention agree upon. Therefore, a careful balancing act has to be performed. R2P seeks to address this by clearly defining the four crimes – genocide, ethnic cleansing, war crimes and crimes against humanity. These are designed to be met with a progressive level of coercive action, the three pillars – the protection responsibility of the state, international assistance for capacity building and the timely and decisive response (Carnegie Council 2012). The final pillar is the use of military force, which itself has five tests – just cause, right intention, final resort, proportional means and reasonable prospect (Chatham House 2011). Therefore, it is argued that the resort to R2P is the result of a process of due diligence and that coercive military action is the last resort (Chatham House 2011).

False friend terminology is used to illustrate the problem of states trying to hijack intervention, or R2P, for their own political ends. This is illustrated by the current, and on-going, arguments surrounding the intervention in Libya (Bydoon 2012 & Findlay 2011). These are further highlighted by Hardeep Singh Puri, the Indian Permanent Representative to the UN, who has put forward that Libya has given R2P a bad name, and also criticised the international community for misusing Resolution 1973 and seeking to use all necessary means to bomb 'the hell out of' Libya in pursuit of Regime change (Carnegie Council 2012). Libya was the first action of R2P, though Libya became regime change not R2P, the concern that R2P is just a vehicle to be used to exercise an excuse for foreign policy objectives of the international community elite is magnified by the inaction of the UN in Syria (Findlay 2011). Proponents of R2P argue that this problem can be overcome by having a much clearer mandate from the UNSC, so that the parameters of the mission are not open to question (Carnegie Council 2012).

Supporters of R2P maintain that the delinking of the principle from regime change is important for its future (Bellamy and Williams 2011). This debate creates a great amount of difficulty for R2P, not because of whether the arguments in favour of intervention can be used to pursue national self-interest and thereby weaken the overall paradigm, even though this is accurate, but on a more fundamental level if a state has failed to such a degree to that it is no longer able to undertake its primary role and protect the human rights of its own people and, furthermore, that the international community has to intervene in order to assure the protection how can the state carry on its present form? How can R2P be independent of regime change?

This problem is further highlighted by the fact that R2P is seen as a move away from the old first response, last resort, paradigm of human intervention, to being a multi-tiered escalating response which begins by offering assistance to the state in question, before moving up to non-military coercion, before employing the ultimate use of military force. The state that is in question will have had several opportunities to address the suffering of its people. The fact that it has chosen not to do so means that it can no longer be viewed as the purveyor of sovereignty over those people, as in R2P terms, it has failed in its responsibility to protect. Therefore, R2P is and can only ever be linked to regime change.

Thus the undertaking in Libya was always going to end in regime change, though the international community has yet to accept and understand this. The sliding scale of R2P was put into place with the implementation of non-military coercion, UNSCR 1970 (UNSCR 2011a). Only when this failed to achieve its objectives did the UNSC authorise the agreed protocol devised at the inception of R2P and engage in the last resort final tier of R2P and endorse UNSCR 1973 (UNSCR 2011b).

This conundrum does have significant ramifications as it enables the opponents of action in Syria to be given an easy argument for opting out and blocking the action. This is despite there being far more examples of peaceful protestors being killed in Syria than there were in Libya, which were mainly armed rebels actually engaged in a revolt (Findlay 2011). Hence the case for R2P is stronger in Syria than Libya. Indeed it is argued that the inaction makes it harder to lobby for support for R2P in the future (Findlay 2011).

The problem of capacity for intervention comes from three different strands, doctrine, force structure and availability. The change that has occurred is that during the cold war the United States viewed LIC as part of the wider struggle between the superpowers spheres of influence as opposed, to a phenomenon that has sprung up of its own accord (Makinda 1993). When we consider that the end of the Cold War changed the bipolar conflict to a series of individual actors it becomes clear that a change was needed in strategic thinking, which in the short term the United States was unable to adapt and adjust its mentality away from dealing with nation states (Kinross 2004). Indeed it is argued that the change towards LIC does not challenge the notion of Trinitarian warfare (Clausewitz 1873), but that it does challenge is the notion that warfare is dominated by the application of decisive force at the key point to render the enemy defenceless (Stone 2007). This is the thinking behind the US doctrine of AirLand Battle, and provides a solid explanation as to why the Western allies were able to so decisively defeat Saddam militarily in 1991 yet, also so unable to intervene effectively in Somalia just a year later (Lock-Pullan 2005).

Hence we see the move away from Clausewitz in US military doctrine and the introduction of Operations Other Than War (OOTW) in 1994 (Kinross 2004). This can be further seen by the opponents of Clausewitzian warfare who put forward a variety of arguments such as that going to war for the national purpose is now misplaced (Luttwark 1995). The question then becomes if not for national purpose then why, humanitarian reasons? Perhaps the most interesting take is put forward by John Keegan who argues that culture has been the prime determinant for war not politics, and that Clausewitzian theory has always been flawed by focusing on the theoretical concept of absolute war (Keegan 1993). Alternatively, there are the proponents of the Trinity who have argued that it is wholly compatible with Just War principles, and furthermore, that it is an all-encompassing doctrine that defines the nature of warfare throughout the ages (Cornish 2003). Though this is somewhat contentious as Walzer sets out the criteria for a Just intervention as involving the intervening forces being as quickly in and out as possible, which becomes problematic if we accept Stone's argument that the effect of LICs is the end of decisive force (Walzer 1977 & Stone 2007).

In terms of force structure we are talking about the transition of most Western military's to a greater reliance on reservists. The effect is that mobilisation times are increased as well as the obvious impact on the last strand, availability. There is only so much a nation state can do at any given time, so even if the desire to intervene exists then the intervention maybe constrained by the lack of available troops to perform the task, and even if they are available they may not be capable of undertaking the mission. This is born out in Rwanda, the UN peacekeeping force that had been agreed to oversee the Arusha Accords, was scaled back where it was ineffective at being able to stop the spread of killing, and the countries that had pledged troops withdrew their offer once it became clear that the conflict had intensified (Goulding 1999). Whilst this has connotations for the problem of political will and the UNSCR, it does highlight the premise here that the requisite tools are needed for an intervention to be undertaken.

Whilst R2P has changed the language of humanitarian intervention, and to a certain extent changed what we identify as the notion of sovereignty, it has been illustrated that R2P has reinforced the UNSCR as the sole authoriser for the use of force except within the international system (Bellamy and Davis and Glanville 2011). The on-going problem of Syria has merely demonstrated that R2P has not addressed the political problems caused by humanitarian intervention. The situation today is no different to the 1990s, and the parallels between Rwanda, Srebrenica, Kosovo and Syria mean that a further humanitarian crisis is likely to happen sooner rather than later.

The argument around humanitarian intervention is not going away, even former proponents of non-intervention, unless in dire exceptional circumstances, have reworked their theories to adapt to the increase in exceptional circumstances (Walzer 2002). However, R2P has not been able to challenge the core problem of nation states operating within their own national interest. Each individual intervention plays out as having its own particular problem that is highlighted at any given point in time, though it does not really matter what aspect is used to further the arguments being put forward, as the over-riding notion remains that non-intervention is the norm within the international community, and the fundamental principle that decides whether or not an intervention takes place is political will. Ultimately the solution to the political problems surrounding humanitarian intervention rests on how best to persuade sovereign nation states to risk troops on the ground (Walzer 1995 & Bellamy 2006). So far no mileage has been made to address this problem, as reality is that body bags matter more than grand principle. As such the international community has once more shown itself to be incapable of dealing with the most significant problems of Mass Atrocity Crimes.

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