

UN paralysis over Syria: the responsibility to protect or regime change?

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Abstract The Syrian conflict, now in its eighth year, is a bitter example where a sovereign state and the international community have manifestly failed in their responsibilities to protect civilians from mass atrocity crimes. What factors have prevented the international community from fulfilling its obligation under the principle of the Responsibility to Protect (R2P) to save Syrian civilians? This paper argues that the contradiction between the protection of civilians and regime change has undermined international confidence in the principle of R2P and tarnished it as a tool for US foreign policy agendas. This argument is developed by a review of R2P's conceptualisation followed by examining its implementation in Libya. This study concludes that the conceptual confusion and the Libyan experience have broken the international consensus on R2P and paralysed the United Nations in dealing with the humanitarian crisis in Syria. More specifically, the UN Security Council's disagreement over the means to protect Syrians has made R2P itself an impediment to its operationalisation.

Keywords Syria · R2P · Regime change · United Nations

Introduction

Syria plunged into a bloody civil war in 2011. Seven years later, the war is still raging. By early 2018, the death toll stood at 400,000 and more than 11 million Syrians had been displaced, losing homes, livelihoods and family members. The scale of the devastation is beyond imagination, yet the international community

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has resisted taking action and continues to send contradictory signals. In the early years of the conflict, Washington and its regional allies called for regime change in Syria and provided support for rebel forces, while the United Nations sought to find a diplomatic solution through endless rounds of negotiations. With the threat of terrorism posed by the Islamic State of Iraq and Syria, along with Russia's support for Bashar al-Assad, talk of regime change has gradually faded away; nevertheless, Western consensus that Bashar al-Assad has committed atrocities against his own civilian population remains the same. Assad is seen in the capital cities of the USA, Europe and many USA-friendly states in the Middle East as a ruthless ruler who does not shy away from killing and maiming his own people to preserve his hold on power. What factors, then, have prevented the international community from fulfilling its obligation under the principle of the Responsibility to Protect (R2P) to save Syrian civilians?

The R2P agenda was developed in the wake of international inaction in the face of the Rwandan genocide in 1994. The key pillars of R2P were articulated by the International Commission on Intervention and State Sovereignty (ICISS) in 2001. The underlying philosophy of R2P is that sovereign states have a duty and responsibility to provide safety and security for their own populations, and, in exceptional cases where they are unable or unwilling to intervene in atrocities against the civilian population, the international community has a responsibility to protect the civilians with or without the consent of the state in question. The UN General Assembly adopted R2P in 2005, and it was activated in resolution 1973 in relation to Libya in 2011. While R2P was not designed as a counter-measure to the principle of state sovereignty, it did introduce a certain degree of conditionality to the principle of sovereignty: as illustrated by the Libya episode, international action against Libyan troops loyal to Muammar Gaddafi pursued an agenda far greater than protecting civilians against regime atrocities. NATO operations against Libyan armed forces lasted for 7 months, ending in October 2011 just after Gaddafi was killed by rebel groups. NATO action in Libya, applauded as a textbook operation of R2P by its advocates, demonstrated the potential for blurring the line between regime change and humanitarian action to protect civilians. The ambiguity in R2P between the protection of civilians and regime change has made many UN member states uncomfortable about its use. For example, Russia and China have withdrawn their Security Council support for R2P action in Syria, fearing a repeat of the Libyan experience.

This paper argues that the contradiction between the protection of civilians and regime change is inherent in R2P, and that the case of intervention and regime change in Libya under the rubric of R2P has undermined international confidence in the principle and tarnished it as a tool for USA foreign policy agendas. This argument is developed by a review of R2P's conceptualisation followed by examining its implementation in Libya. The paper then turns to expressions of concern and criticism in the United Nations, most notably by Russia and China, against activating the principle of R2P in relation to the Syrian crisis. This study concludes that the conceptual confusion and the Libyan experience have broken the international consensus on R2P and paralysed the United Nations in dealing with the humanitarian crisis in Syria. More specifically, the UN Security Council's



disagreement over the means to protect Syrians has made R2P itself an impediment to its operationalisation.

R2P, state sovereignty and regime change

States are the bedrock of the modern international order. Regardless of their comparative size and power, the UN Charter protects states from external interference in their domestic affairs. The Charter strictly prohibits the use of force except in self-defence or as authorised by the UN Security Council in order to maintain ‘international peace and security’.¹ At the same time, the very membership of the UN places certain legal obligations and responsibilities on sovereign states that require them to protect the basic human rights of the people within their jurisdiction. R2P is built on a refined understanding of sovereignty, dubbed ‘sovereignty as responsibility’. As Kofi Annan noted, this re-characterisation of sovereignty suggests that ‘states are now widely understood to be instruments at the service of their people, and not vice versa’.²

According to ICISS, R2P is an ally to the principle of state sovereignty, not an adversary. It stresses that since ‘the protection of populations is a defining attribute of sovereignty and statehood in the twenty-first century’, R2P seeks to strengthen and ‘build responsible sovereignty, not to undermine it’.³ This notion is best illustrated in R2P’s pillars I and II: state responsibility and international assistance.

However, the sovereignty–R2P relationship increasingly becomes uncomfortable where the state in question ‘manifestly fails’ in its responsibility to protect its own populations. In other words, when a state becomes the perpetrator of mass atrocity crimes, the norm of non-intervention yields to the international responsibility to protect. The practical implementation of R2P, however, is fraught with complications, especially where it involves the use of force. When the United Nations Security Council (UNSC), for the first time, authorised the use of force against the Libyan regime, it not only challenged the principle of sovereignty, but it also effectively paved the way to its downfall.

Forcible regime change has been controversial in international politics. This is more so when carried out under the rhetoric of humanitarian intervention. The post hoc rationalisation of the 2003 USA-led invasion of Iraq by George W. Bush and Tony Blair as a ‘humanitarian intervention’ did particular damage to the credibility of military humanitarianism. It coincided with the emergence of R2P, which would later be endorsed at the UN World Summit gathering in 2005. Following the Iraq experience, many states were alarmed by the emerging doctrine of R2P as it seemed to offer powerful states more freedom to intervene unilaterally in the affairs

¹ UN, *Charter of the United Nations*, <http://www.un.org/en/sections/un-charter/chapter-i/index.html>.

² Kofi Annan, ‘Two Concepts of Sovereignty’, *The Economist*, 16 September 1999, <http://www.economist.com/node/324795>.

³ UN General Assembly, *Implementing the Responsibility to Protect: Report of the UN Secretary-General*, Document A/63/677 (New York: United Nations, 2009), p. 10.



of weaker states under the rhetoric of humanitarian emergency. In its report *The Responsibility to Protect* (2001), the ICISS had included some specific recommendations, which some states were concerned that might result in further loosening of restrictions on the use of force. For example, anticipating the Security Council's failure to take timely and decisive action, the ICISS had recommended that the UN General Assembly and relevant regional organisations (for example, NATO) to be considered as alternative bodies authorising the use of force. On the question of regime change, the report notes that the objective of military intervention should be the protection of a population, 'not defeat of a state'. It stresses that 'the primary purpose of the intervention must be to halt or avert human suffering. Overthrow of regimes is not, as such, a legitimate objective, although disabling that regime's capacity to harm its own people may be essential to discharging the mandate of protection—and what is necessary to achieve that disabling will vary from case to case'.⁴

In working through the problem of humanitarianism and the violation of state sovereignty, heads of state and government endorsed a modified version of R2P in 2005, which, as noted by Alex Bellamy, 'depended to a great extent on efforts to distinguish it from the concept of regime change'.⁵ This was done in two ways: first, R2P applies only to the four specific crimes of genocide, war crimes, crimes against humanity and ethnic cleansing; and second, only the UN Security Council must decide on any use of force under the R2P framework. Yet while the report rules out regime change as a legitimate *objective*, it does not explicitly rule out regime change as a legitimate *outcome* of military intervention. This difficulty in separating objectives from outcomes troubles the resolution's capacity to discourage interventions that indirectly effect regime change, which was the case in 2011 when R2P's military force was unleashed against the Libyan regime with the UN mandate to protect Libyan civilians. R2P's association with regime change thus has significant implications for the practice and operationalisation of R2P.

Resolution 1973

Resolution 1973, adopted on 17 March 2011, was the first time the military component of R2P was used against a sovereign state. While resolution 1973 sought an immediate ceasefire and prioritised political efforts to resolve the Libyan crisis, it also authorised 'all necessary measures... to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi', and imposed an arms embargo and a no-fly zone over Libya.⁶ Two days later, on 19

⁴ International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (Ottawa: IDRC, 2001), p. 35.

⁵ Alex Bellamy, 'The Responsibility to Protect and the Problem of Regime Change', *E-International Relations*, 27 September 2011.

⁶ United Nations Security Council [hereafter SC], Resolution 1973 (2011), 17 March 2011, http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1973%20%282011%29.



March, NATO began implementing the mandate. The feared threat to civilians in Benghazi was quickly thwarted. However, the war went on. NATO ended its mission in late October 2011, only after the fall of Gaddafi's regime.

France's recognition of the Libyan rebels as Libya's legitimate representative as early as 10 March 2011; NATO's unwillingness to accept, and at times deliberate rejection of, Gaddafi's numerous ceasefire offers; its assistance and arms transfer to the rebels; and the USA, the UK and France's insistence that 'Gaddafi must go' lend support to the claim that the war was primarily about regime change. The most blatant indicator that regime change had become an objective came in April 2011 in a joint statement by the then US President Barack Obama, UK Prime Minister David Cameron and President Nicholas Sarkozy of France. The statement noted that

It is impossible to imagine a future for Libya with Qaddafi in power ... It is unthinkable that someone who has tried to massacre his own people can play a part in their future government ... There is a pathway to peace that promises new hope for the people of Libya – a future without Qaddafi ... However, so long as Qaddafi is in power, NATO must maintain its operation ... Then a genuine transition from dictatorship to an inclusive constitutional process can really begin, led by a new generation of leader. In order for that transition to succeed, Qaddafi must go and go for good.⁷

Regime change was neither explicitly authorised nor ruled out by resolution 1973, but it did endorse the use of 'all necessary measures... to protect civilians and civilian populated areas under threat of attack', which left room for manoeuvre. Based on a broad reading of the resolution, the USA, the UK and France (P3) saw regime change as legitimate and the best way to protect civilians. According to this perspective, Gaddafi and his forces were the main source of threat and, as such, eliminating the regime was seen as a 'necessary measure' to protect civilians and civilian populated areas.

This interpretation, however, caused unease in the United Nations. Russia and China, as permanent members of the UNSC, along with elected members South Africa, Brazil, India and Nicaragua, objected to the P3's broad interpretation. Their opposition was based on the unacceptability and illegitimacy of forcible regime change, especially under the rhetoric of humanitarianism and R2P. South Africa, for instance, accused NATO of abusing the UN resolution 1973 in order 'to advance a political regime-change agenda'.⁸ China asserted that 'there must be no attempt at regime change ... under the guise of protecting civilians'.⁹ Brazil, Nicaragua and India echoed similar frustrations.

⁷ Barack Obama, David Cameron and Nicolas Sarkozy, 'Libya's Pathway to Peace', *New York Times*, 14 April 2011.

⁸ SC, S/PV.6650, 9 November 2011, p. 22, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20S%20PV%206650.pdf>.

⁹ SC, S/PV.6531, 10 May 2011, pp. 20–1, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Syria%20SPV%206531.pdf>.



Concerns about the confusion of the line between protection of civilians and regime change also permeate current responses to R2P. ICISS commissioner Ramesh Thakur and former Australian Foreign Minister Gareth Evans (who was also a former co-chair of the ICISS) have insisted that regime change should not be part of any military intervention in the framework of R2P,¹⁰ as do other vocal advocates of R2P. But in practice, separating protection from regime change is not straightforward. This is because military intervention, by a third party against a regime that violates R2P, alters the balance of power on the ground. Effective protection often requires weakening the regime's military capacities, which ultimately facilitates the conditions for its dismantlement. Regarding the Libyan case, Evans conceded that 'it may be that the Libyan intervention could not practicably have been conducted any other way',¹¹ a remark that amply demonstrates a seemingly irresolvable logical contradiction at the heart of R2P.

The long shadow of Libya on the Syrian crisis

As the UNSC was deliberating on what then became resolution 1973 in relation to the Libyan crisis, popular waves of the Arab Spring had already arrived in Syria. The regime's incremental and 'calculated escalation of violence' against peaceful demonstrators was a key driver of the rapid spread of protests and a catalyst for Syria's subsequent descent into a brutal civil war. Now in its seventh year, with more than 400,000 people killed, 1.9 million wounded, and 11.3 million either internally displaced or forced to flee the country, the Syrian conflict is a bitter example of a double-manifest failure of the responsibility of a sovereign state and of the international community (namely, the Security Council) to protect Syrians from mass atrocities. As the sole bearer of the international responsibility to protect, the UNSC has been more part of the problem than the solution to the conflict in Syria. Since the beginning of the crisis, Russia, along with China, has vetoed eight Security Council draft resolutions on Syria. The UNSC's failure to uphold its obligation under R2P led the UN Special Envoy Lakhdar Brahimi to resign his post in despair in May 2014.

There is a direct relationship between the UNSC paralysis over Syria with what went wrong in Libya. Advocates of R2P, such as Alex Bellamy, reject this connection.¹² Bellamy argues that factors such as regime affinities between Moscow and Damascus, Russia's significant economic and strategic interests in Syria (including arms sales and its naval facility at the Syrian port of Tartus) and concern over the spread of radical Islamist groups in Russia's neighbourhood best explain Russia (and China's) vetoes and their steadfast support for the Syrian regime. According to

¹⁰ Gareth Evans, Ramesh Thakur and Robert A. Pape, 'Correspondence: Humanitarian Intervention and the Responsibility to Protect', *International Security*, vol. 37, no. 4, 2013, pp. 199–214.

¹¹ Gareth Evans, 'Responding to Atrocities: The New Geopolitics of Intervention', in *SIPRI Yearbook 2012: Armaments, Disarmament and International Security* (Oxford: Oxford University Press, 2012), pp. 33–5.

¹² Alex Bellamy, 'From Tripoli to Damascus? Lesson Learning and the Implementation of the Responsibility to Protect', *International Politics*, vol. 51, no. 1, 2014, p. 37.



Bellamy, it is these Syria-specific factors that underlie the Security Council's paralysis over Syria, rather than more generalised concerns about R2P and the experience in Libya.

The US administration has also emphasised the significance of these factors for Russia. For example, referring to Russia's naval facility at the Syrian port of Tartus and its arms sales, Hillary Clinton noted that the Syrian President Bashar al-Assad's regime was too strategically important to Russia. Criticising Russia and China's vetoes, the USA's UN ambassador Susan Rice offered this rebuke: 'For months, this Council has been held hostage by a couple of members. Those members stand behind ... individual interests ... That intransigence is even more shameful when we consider that at least one of those members continues to deliver weapons to Al-Assad'.¹³

There is no doubt that arms exports play a significant role in Russia's economy. In Vladimir Putin's own words, the arms trade serves as 'an effective instrument for advancing [Russia's] national interests, both political and economic'.¹⁴ Many have suggested that in 2011, Syria accounted for about five to ten per cent of Russia's total arms exports abroad and that this percentage has grown following the 2011 Syrian crisis.¹⁵ However, the significance of economic relations and the strategic importance of Tartus need to be put in perspective, as do the claims about the significance of Russian arms sales.

Syria does not even rank among Russia's top 15 trading partners in terms of export sales. When weighed against Belgium, for example, which ranks fifteenth and accounts for just two per cent of Russia's total export sales, Syria's trade value is insignificant. After Asia, the Middle East and North Africa constitute Russia's second-largest market in arms exports, which accounts for 17.8 per cent of Russia's total arms exports abroad. According to a report by Chatham House, Syria, accounts for only 1.4 per cent of Russia's total arms exports abroad (not five or ten per cent as has widely been presumed).¹⁶ Furthermore, data from the World Bank suggest that the sum of Russia's total exports to Syria has significantly declined from US\$1.892 billion at its peak before the 2011 crisis, to US\$186 million in 2015.¹⁷ Indeed, if material interests in Syria were a factor for Russia, it would have chosen a different policy towards the Syrian conflict—one that would not have undermined its image and interests in the broader region as a whole. For instance, in 2012, in response to

¹³ SC, S/PV.6711, 4 February 2012, p. 5, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Syria%20SPV%206711.pdf>.

¹⁴ 'Meeting of the Commission for Military Technology Cooperation with Foreign States', 2 July 2012, President of Russia official website, <http://en.kremlin.ru/events/president/news/15865>.

¹⁵ See for example Christopher Phillips, *The Battle for Syria: International Rivalry in the New Middle East* (London: Yale University Press, 2016), p. 94; and Jess Gifkins, 'The UN Security Council Divided: Syria in Crisis', *Global Responsibility to Protect*, vol. 4, no. 3, 2012, p. 391.

¹⁶ Richard Connolly and Cecilie Sendstad, 'Russia's Role as an Arms Exporter: The Strategic and Economic Importance of Arms Exports for Russia', *Chatham House*, 2017, pp. 17–8, <https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2017-03-20-russia-arms-exporter-connolly-sendstad.pdf>.

¹⁷ The World Bank, *World Integrated Trade Solution*, 2017, <http://wits.worldbank.org/CountryProfile/en/Country/RUS/StartYear/2011/EndYear/2015/TradeFlow/Export/Partner/ALL/Indicator/XPRT-TRD-VL>.



Russia's support for the Syrian regime, the Gulf States announced the cancellation of their economic deals with Russia; at the same time, public support for Russia in countries such as Jordan and Egypt fell below 20 per cent.¹⁸ More embarrassingly, Russia's Qatar ambassador was physically attacked at Doha airport in November 2012; and in July of the same year, renowned Muslim scholar Yusuf Qaradawi appeared on *Al-Jazeera*, calling on Muslims to boycott Russian products. Undoubtedly, Syria alone—in economic terms—is no substitute for the region as a whole or those states in the region with which Russia has been on opposing sides of the Syrian conflict.

The significance of 'regime affinities' between Moscow and Damascus, although important, also needs to be treated with some caution. Russia's Foreign Minister Sergey Lavrov publicly stated in 2012 that Russia would not be opposed to Assad's departure as a result of a peaceful national negotiation. This view was also publicly reiterated by Russia's President Vladimir Putin: 'We support the legitimate government of Syria', not necessarily Assad himself.¹⁹ Speaking at the Mediterranean Dialogues conference in Rome in December 2016, Lavrov put it bluntly: 'This is not personal friendship. We just want Syria to avoid the fate of Libya'.²⁰ The significance of the Syrian port of Tartus is similarly overemphasised. In 1971 Syria granted the Soviet Union access to its naval basis in the port of Tartus. This is Russia's only naval outpost in the Mediterranean Sea. But the port of Tartus, according to Daniel Treisman, a political scientist who specialises on Russian politics, 'is probably too small and poorly equipped to matter much, although the Russian military might have plans to expand it'.²¹ Treisman notes that the Turkish Straits, which connect the Mediterranean and Black Seas, impact the efficacy of Tartus for Russia. This is because Turkey (under the Montreux Convention of 1936) 'has the right to deny passage through these straits to military vessels from countries with which it is at war or in imminent danger of conflict'.²² The limited significance of the port in the Mediterranean Sea is evident in Russia Maritime Doctrine, which barely mentions Tartus. The Doctrine covers six regional areas (namely the Atlantic, Arctic, Pacific and Indian oceans, the Caspian Sea, and Antarctica), with explicit priority 'on two areas: the Arctic and the Atlantic'. Tartus is implied in passing: 'we are also restoring Russia's naval presence in the Mediterranean'.²³

To better understand the positions of Russia and China, both veto-wielding powers within the UNSC, it is imperative to broaden the scope of our analysis and

¹⁸ Phillips, *The Battle for Syria*, p. 97.

¹⁹ CBS News, 'All Eyes on Putin', *60 Minutes*, 27 September 2015, <https://www.cbsnews.com/news/vladimir-putin-russian-president-60-minutes-charlie-rose/>.

²⁰ 'Russian Top Diplomat Says Syria Cannot Repeat Libya's Fate', *Tass*, 2 December 2016, <http://tass.com/politics/916537>.

²¹ Daniel Treisman, 'Why Putin Took Crimea', *Foreign Affairs*, vol. 95, no. 3, 2016, p. 54; see also Roy Allison, 'Russia and Syria: Explaining Alignment with a Regime in Crisis', *International Affairs*, vol. 89, no. 4, 2013, pp. 807–8.

²² Treisman, 'Why Putin Took Crimea', p. 54.

²³ 'Russian Federation Marine Doctrine', 26 July 2015, President of Russia official website, <http://en.kremlin.ru/events/president/news/50060>.



capture the range of statements made by senior officials in Moscow and Beijing. This survey finds that the legacy of Libya and R2P does feature consistently and significantly in Russia and China's positions on Syria. (This is also the case for India, Brazil and South Africa.) In what follows, we look at how Russia and China in particular justified their positions in and outside the UNSC.

Eight vetoed draft resolutions

On 4 October 2011, Russia and China vetoed the first draft resolution on Syria (on which Brazil, India, South Africa and Lebanon abstained). In justifying their votes, Russia, India and Brazil made reference, either implicitly or explicitly, to the legacy of Libya. Russia's UN ambassador noted:

The situation in Syria cannot be considered in the Council separately from the Libyan experience. The international community is alarmed by statements that compliance with Security Council resolutions on Libya in the NATO interpretation is a model for the future actions of NATO in implementing the responsibility to protect. It is easy to see that today's 'Unified Protector' model could happen in Syria. These types of models should be excluded from global practices once and for all.²⁴

Referring to the P3's confrontational approach towards the Syrian regime, India's representative stressed that the international community should 'not complicate the situation by threats of sanctions, regime change, et cetera'.²⁵ South Africa contended that it was

concerned about the [resolution] sponsors' intention to impose punitive measures that would have pre-judged the resolution's implementation. We believe that these were designed as a prelude to further actions. *We are concerned that this draft resolution not be part of a hidden agenda aimed at once again instituting regime change, which has been an objective clearly stated by some.*²⁶

Concerns about a regime-change agenda were justified. The P3 had made regime change their official policy. On 18 August 2011, the US President Barack Obama called for Assad's departure, stating that 'the time has come for President Assad to step aside'. Leaders in the UK, France and Germany followed suit. This agenda intensified the conflict. It raised expectations among rebel groups of military intervention. Convinced that the USA would eventually intervene militarily, key regional players such as Qatar, Turkey and Saudi Arabia were quick to cut ties with the Syrian regime and demanded Bashar al-Assad's departure.

²⁴ SC, S/PV.6627, 4 October 2011, p. 4, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Golan%20Heights%20S%20PV%206627.pdf>.

²⁵ *Ibid.*, p. 6.

²⁶ *Ibid.*, p. 11, emphasis added.



Obama's statement was taken seriously by US officials. Frederic Hof, who at the time served as special advisor for transition in Syria at the US Department of State, later said: 'Believing the president's words guaranteed decisive follow-up, I told a congressional committee in December 2011 that the regime was a dead man walking'.²⁷ The suspicion shared by Russia, South Africa and India that the P3 were pursuing regime change in Syria was not unfounded. During the UNSC deliberations in May and November 2011 on the 'Protection of Civilians in Armed Conflict', several member states referred to the legacy of Libya. Perhaps with the Libyan experience in mind, China noted that 'the protection of civilians falls within the realm of humanitarianism. There should be no political motives or purposes involved, including regime change'.²⁸ Other member states such as India, South Africa and Brazil opposed regime change as being part and parcel of protection of civilians in whatever form.²⁹

On 4 February 2012, Russia and China vetoed a second draft resolution on Syria. Bellamy claims that 'memories of Libya were absent entirely from the Council's deliberations' on this resolution. This is a wishful reading of events. It is true that Libya was not mentioned by name, but Russia and South Africa did refer to 'regime change'. Pointing to Obama's call for 'Assad to step aside', Russia, for instance, noted that 'from the very beginning of the Syrian crisis some influential members of the international community, including some sitting at this table, have undermined any possibility of a political settlement, calling for regime change, encouraging the opposition towards power, indulging in provocation and nurturing the armed struggle'.³⁰ Other members also expressed concerns about the hidden agenda of regime change. For instance, although it voted in favour, South Africa stated that it was 'satisfied that the final draft resolution ... was not aimed at imposing regime change on Syria'.³¹ India emphasised that 'the leadership of Syria is a matter for the Syrian people to decide'.³² Outside the UNSC, in June 2012, Lavrov publicly stated that 'Russia will not allow Libya-style regime change in Syria',³³ and after vetoing the third draft resolution on 19 July 2012, Russia noted that although 'the Western members of the Security Council denied such intentions, they refused to exclude military intervention. Their calculations to use the Security Council ... to further their plans of imposing their own designs on Sovereign states will not prevail'.³⁴

Bellamy notes that neither Russia nor China 'related their position either to lessons learned from Libya or concerns relating to' R2P. However, looking beyond the Security Council, both states justified their position with explicit reference to

²⁷ Frederic Hof, 'I Got Syria So Wrong', *Politico*, 14 October 2015, <https://www.politico.com/magazine/story/2015/10/syria-civil-war-213242>.

²⁸ SC, S/PV.6650, p. 25.

²⁹ SC, S/PV.6531; S/PV.6650.

³⁰ SC, S/PV.6711, p. 9.

³¹ *Ibid.*, p. 11.

³² *Ibid.*, p. 8.

³³ Cited in Roland Dannreuther, 'Russia and the Arab Spring: Supporting the Counter-Revolution', *Journal of European Integration*, vol. 37, no. 1, 2015, p. 83.

³⁴ SC, S/PV.6810, 19 July 2012, p. 8, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.6810.



Libya and R2P. After vetoing three draft resolutions, Russia and China came under severe criticism, mainly by the P3 states. For example, the UK's UN representative declared that 'Russia and China have failed in their responsibilities as permanent members of the Security Council to help resolve the crisis in Syria. They have failed the people of Syria'.³⁵ Responding to such criticism and justifying its position, China's Assistant Foreign Minister Le Yucheng said that 'China saying "no" to some countries' actions against Syria is a responsible move'. Likening the Libyan intervention to a 'successful surgery that kills the patient', the Chinese official cautioned that 'we should not forget the lesson in Libya'. More importantly, he noted that as 'some countries seek regime change in Syria under the pretext of "the Responsibility to Protect", 'being responsible means saying "no" to such "protection"'.³⁶ China's Foreign Ministry spokesman Hong Lei reiterated that China's stance on Syria remained 'consistent and clear'. He stated further: 'We do not approve an armed intervention or forcing a so-called "regime change" in Syria'.³⁷ Likewise, an article in the *People's Daily*, the main voice of the Communist Party of China, noted that 'China's long-held principle [is] that regime change is not a cure to Syria's problem. The grim consequences of such decisions have already been clearly shown in Iraq and Libya'.³⁸

When Russia and China vetoed the subsequent UNSC draft resolutions, Russia in particular consistently pointed to the legacy of Libya in justifying its position. For instance, in vetoing (along with China) a fourth draft resolution on 22 May 2014, which was referring the situation in Syria to the International Criminal Court (ICC), Russia pointed to the US arming of the Syrian rebels as a means for 'pursuing regime change by force ... at all costs'. This would, according to Russia, 'prolong the crisis and undermine' political efforts to settle the crisis. Referring to the case of Libya, Russia's UN ambassador further noted:

The draft resolution rejected today reveals an attempt to use the ICC to further inflame political passions and lay the ultimate groundwork for eventual outside military intervention. One cannot ignore the fact that the last time the Security Council referred a case to the International Criminal Court (ICC) – the Libyan dossier, through resolution 1970 (2011) – it did not help resolve the crisis, but instead added fuel to the flames of conflict.³⁹

³⁵ *Ibid.*, p. 3.

³⁶ 'China Saying "No" on Syria Issue Is Responsible Move: FM Official', *People's Daily*, 11 April 2012, http://www.gov.cn/misc/2012-04/10/content_2110380.htm. See also Li Xiaokun, 'Beijing's Policy on Syria "Responsible"', *China Daily*, 11 April 2012, http://europe.chinadaily.com.cn/world/2012-04/11/content_15018253.htm.

³⁷ 'China's Stance on Syria "consistent"', *People's Daily*, 21 February 2012, http://www.chinadaily.com.cn/china/2012-02/21/content_14661572.htm.

³⁸ Guan Yan, 'China's Roadmap Based On Syrian Realities', *People's Daily*, 2 November 2012, <http://en.people.cn/90883/8001906.html>.

³⁹ SC, S/PV.7180, 22 May 2014, p. 13, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7180.pdf.



Russia cited similar grounds when it vetoed the fifth resolution on 8 October 2016 (though it did not do so for the sixth, on 5 December 2016).⁴⁰

Then again, on 28 February 2017, Russia and China vetoed a seventh draft resolution, which included imposition of sanctions against the Syrian regime for the use of chemical weapons. The draft resolution was based on the findings of the third and fourth reports by the Organization for the Prohibition of Chemical Weapons—United Nations Joint Investigative Mechanism in Syria (OPCW—UN Joint Investigative Mechanism), which found that the Syrian regime forces were responsible for three chlorine attacks against civilians in 2014–2015. Russia justified its position, as did China, by pointing to the lack of ‘reliable facts’ establishing the Syrian regime as the perpetrator of the attacks. Russia’s Deputy UN ambassador went further, noting: ‘Let us be frank: the whole thing strengthens the impression that the authors of the draft text submitted for a vote today needed the Joint Investigative Mechanism for the sole purpose of laying responsibility for the use of chemical weapons at the door of Al-Assad’s Government, thereby creating additional reasons for regime change in Damascus’.⁴¹ While China emphasised the need for ‘solid evidence that can truly stand the test of history’, its UN ambassador accused the P3 states of having ‘ulterior motives’ by making reference to regime change, not in the case of Libya but Iraq before that:

As we all recall, the purported existence of weapons of mass destruction was used in the past to unleash a war that has brought untold suffering to the people in the Middle East. Countries in the Middle East remain beset today by the legacy of that war. The lessons of history must be learned. Only in that way can mistakes be avoided in the future.⁴²

When Russia vetoed the eighth draft resolution on 12 April 2017 (on which China abstained), which condemned the Syrian regime for its chemical attack at Khan Shaykhun, it did not refer to the legacy of Libya. Rather it justified its position by stressing that the draft resolution ‘designated the guilty party prior to an independent and objective investigation’.⁴³ Even when Russia did vote (along with 14 other member states) in favour of the UN resolution S/RES/2139 (2014), which focused purely on the humanitarian situation in Syria, Russia’s ambassador stressed that ‘the Security Council decided relatively recently to consider the humanitarian situation

⁴⁰ SC, S/PV.7785, 8 October 2016, p. 4, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7785.pdf; SC, S/PV.7825, 5 December 2016, p. 7, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7825.pdf.

⁴¹ SC, S/PV.7893, 28 February 2017, p. 7, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7893.pdf.

⁴² *Ibid.*, p. 9.

⁴³ SC, S/PV.7922, 12 April 2017, p. 6, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7922.pdf.



in Syria, and only after it became clear that attempts to use the deterioration of the humanitarian situation to effect regime change were unsuccessful'.⁴⁴

Outside the Council, Russian officials have consistently and publicly justified its position on Syria with reference to the experience in Libya and the fear of reproduction of the 'Libyan scenario' in Syria. In a 2016 interview with a German newspaper, for instance, Putin reiterated that 'we do not want the Libyan or Iraqi scenario to be repeated in Syria'.⁴⁵ Lavrov echoed the same message on numerous occasions during the years 2015 and 2016. It is the same with China's position. In a series of commentaries in the *People's Daily*, an author using the pen name 'Zhong Sheng'—an appellation often used to signify the 'voice of China' and to communicate official foreign policy—paid special attention to the Libya experience:

Libya offers a negative case study. China should not forget the lesson of Libya ... If the Libya model was applied to Syria, then it could be applied again and again ... The West ... merely want to use the Security Council as a rubber stamp. We must not allow that the UN Security Council turns into a rubber stamp that some country can use freely at its will.⁴⁶

The convergence of the Russian and Chinese positions at the UNSC was not accidental, but forged in opposition to the instrumentalisation of R2P by the USA against unfriendly regimes. Noting the experience in Libya, Russia and China insisted on a limited understanding of R2P. They have been pushing to limit the scope of R2P to pillars I and II. For instance, China's UN Ambassador Liu Zhenmin stressed that

the protection of the citizens ultimately depends on the government of the state concerned. This is in keeping with the principle of state sovereignty. Therefore, the implementation of R2P should not contravene the principle of state sovereignty and the principle of non-interference of internal affairs. There must not be any wavering over the principles of respecting state sovereignty and non-interference in internal affairs.⁴⁷

Further, the 2016 *Foreign Policy Concept of the Russian Federation* cites the following foundations of its foreign policy framework:

(a) to counter attempts by some States or group of States to ... interfere in the domestic affairs of States with the aim of unconstitutional change of regime,

⁴⁴ SC, S/PV.7116, 22 February 2014, p. 7, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7116.pdf.

⁴⁵ 'Interview to German Newspaper *Bild*: part 2', President of Russia official website, 12 January 2016, <http://en.special.kremlin.ru/events/president/transcripts/51155>.

⁴⁶ Zhong Sheng, 'Preventing UN Security Council from Becoming a Rubber Stamp', *People's Daily*, 8 February 2012, <http://en.people.cn/90780/7723344.html>; Zhong Sheng, 'Regime Change Should Not Be Determined by External Forces', *People's Daily*, 18 July 2012, <http://en.people.cn/90777/7879699.html>; Zhong Sheng, 'Why China Vetoes UN Draft Resolution for Syria Issue', *People's Daily*, 8 February 2012, <http://en.people.cn/90780/7723539.html>.

⁴⁷ Cited in Ruan Zongze, 'Responsible Protection: Building a Safer World', *China Institute of International Studies*, 15 June 2012.



including by supporting non-State actors, such as terrorist and extremist groups;

...

(c) to prevent military interventions or other forms of outside interference contrary to international law, specifically the principle of sovereign equality of States, under the pretext of implementing the 'responsibility to protect' concept.⁴⁸

These concerns are persistently raised in spite of assurances by proponents of R2P that 'no state seriously continues to challenge the principle that the wider international community should respond with timely and decisive collective action [including the use of military force] when a state is manifestly failing to meet its responsibility to protect its own people'.⁴⁹ The argument that even without a Libya precedent Russia (and China) would have chosen the same policy course in relation to Syria is far from certain. Policy documents and statements made by officials in Moscow and Beijing clearly point to the legacy of Libya and regime change as key factors in their thinking.

Conclusion

Notwithstanding the unprecedented rise in popularity of R2P in international political discourse, the humanitarian military intervention component of R2P remains controversial. As illustrated in the case of Libya, inherent in the practice of R2P is its role in facilitating regime change. While removing by force a murderous regime may halt or prevent the murder of innocent civilians, the empirical evidence suggests that foreign-imposed regime change is fraught with complications. In the post-Gaddafi era, characterised by chaos, disorder and lawlessness, Libyans are subjected to widespread and systematic human rights violations on a scale that far exceeds the brutal excesses of the Gaddafi regime.

The legacy of Libya has created in parts of the globe a perception that R2P may increasingly be used by certain states in the West as a smokescreen for unconstitutional change of unfriendly governments. The uncompromising positions, over the past 6 years, of Russia and China and the P3 states on the fate of the Syrian regime of Bashar al-Assad have not only paralysed the Security Council but they have effectively made the Council itself an obstacle to the resolution of the Syrian crisis. Ultimately, the legacy of Libya and the *attempt* to replicate a similar scenario in Syria has hampered the protection of Syrian civilians. Or, to put it differently, overemphasis of the means of regime change rather than the ends of protection of civilians has

⁴⁸ Ministry of Foreign Affairs, Russian Federation, 'Foreign Policy Concept of the Russian Federation (approved by President of the Russian Federation Vladimir Putin on November 30, 2016)', 1 December 2016, http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptlCk6BZ29/content/id/2542248.

⁴⁹ Gareth Evans, 'R2P Down but Not Out after Libya and Syria', *gevens.org*, 9 September 2013, <http://www.gevens.org/speeches/speech485.html>.



rendered R2P effectively irrelevant to the suffering of millions of Syrians. Taken together, these cases have not only significantly damaged R2P's credibility and effectiveness as an actionable international norm, but they have also given the doctrine a bad reputation as susceptible to manipulation by the powerful states. This is ironic because R2P was formulated as a 'victim-focused' and 'human-oriented' international policy response to the question of power. It was supposed to operate at a higher level—but it has become entangled in the same web of power politics.

Given the shifts in the distribution of power from the West to the rest and with that, the restoration of the principle of sovereign equality, there is an urgent need to find a remedy to this practical-conceptual confusion in the doctrine of R2P. In the absence of a renewed consensus among the UNSC permanent members on the third pillar of R2P, the doctrine will likely be increasingly marginalised. In order to fulfil the doctrine's core mandate, a clear distinction needs to be maintained between regime change and the responsibility to protect civilians.

There is no easy or quick fix option to this dilemma. One possible option could be a strict adherence to the original ICISS's criteria governing the use of force, supplemented by the Brazilian-proposed concept of the 'Responsibility while Protecting' and China's semi-official concept of 'Responsible Protection'. Both concepts call for greater UNSC role in overseeing the implementation of the UN resolution mandating the use of force by establishing monitoring and accountability mechanisms. If such mechanism were already in place, the Libyan trajectory could have been avoided. Establishing such mechanisms could potentially lead to a tipping point in normative convergence between the West and non-Western rising powers. In a moment of transitional international order, this could also be a test case for the West to accommodate the concerns of non-Western rising powers and for non-Western rising powers to take up their role as 'responsible' stakeholders.

