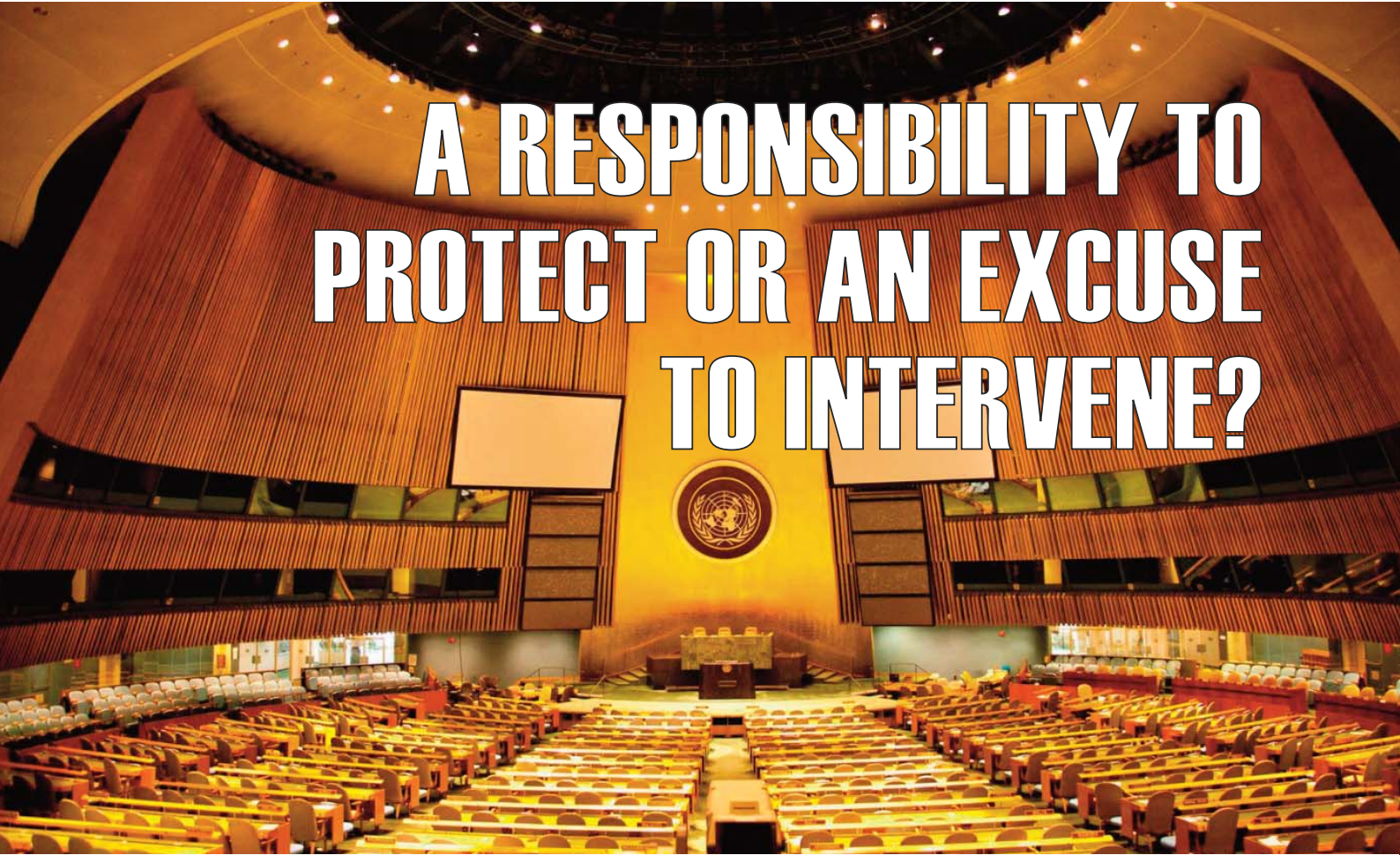# A RESPONSIBILITY TO PROTECT OR AN EXCUSE TO INTERVENE?

The Responsibility to Protect Doctrine (R2PD) and the Duty to Prevent Principle (DPP) has spread as new approaches to protect people from mass atrocities and to prevent threats against international security. However, the world's failure to respond effectively to ongoing atrocities in Syria, including the horrific use of chemical weapons, have opened the discuss on the efficacy and legality of these doctrines. This article explores the debate of the legality of humanitarian intervention, considering the particularities of the cases of Libya and Syria.

POR NOEMÍ RABBIA*

Many years before Martin Luther King, Woodrow Wilson[1] also had a dream. After the I World War, he promoted the creation of a League of Nations, which was intended to ensure national sovereignty, uphold international law and provide a peaceful channel to deal with international conflicts. Wilson wanted to protect the world against a second general war. History showed us, however, he failed because of the opposition of the United States (US) Congress. The League of Nations was finally formed but without the US as a part of the institution and many other problems.[2]

Nevertheless, Wilson's vision was re-visited at the end of the II World War, when in 1945 the United Nations Organization (UN) was formed. Its creation embraced the hope that it would become an effective forum for preventing war and conflict between nations.

As a consequence, the Charter of the UN stated high ideals, seeking to promote human rights, humanitarian assistance and the need to avoid conflict through collective assistance.

However, despite the fact that the UN intended to unite "peace-loving states" to secure international peace and security, the Cold War did not allow it to succeed in most of its main goals. And even worse, its structure and processes were subsumed to the superpowers' force games to keep their influence over key regions in the world.

After the end of the Cold War, the US emerged as the main state actor in the international arena. Rather than a more peaceful and secure world, the post Cold War order brought an increase in the perception of imminent conflict throughout the world and Western countries predominance over the UN structure made Wilson's dream often unfeasible.

Moreover, UN collective security system and its actions have been widely criticized.

1- Thomas Woodrow Wilson was the 28th President of the United States, in office from 1913 to 1921 and the mentor of the former League of Nations, which a couple of years later was succeeded for the United Nations Organization.

2- One of the main problems was the requirement of unanimity, which means that every nation entitled one vote and decisions had to be accepted unanimously. The lack of consensus and internal political division were a major problem as well.

Western countries have continuously stated that the "old rules" related to the prohibition and limitations to the use of force[3] under UN Charter are not useful to deal with current national situations in some conflictive countries. As a result, in the last decade new approaches about security have been developed, for instance the Responsibility to Protect Doctrine (R2PD) and the Duty to Prevent Principle (DPP).

According to Western analysts and academics like Lee Feinstein and Anne-Marie Slaughter (2004) the R2PD and the DPP have been developed to mitigate the weaknesses within the UN' system. On the one hand, the R2P is a UN initiative that claims that sovereignty is not a right, but entails responsibilities for States that provide protection and security for their populations.

On the other hand, the DPP (Feinstein & Slaughter, 2004) is set as a collective duty to prevent threats against international security and is assumed as a complementary principle of the R2PD. Even today, this principle is considered a corollary of the R2PD and is one of the main academic elaborations reflecting and providing support to Western policies.

These arguments and policies are not new in political affairs. They are still on the table because have been recently invoked in Libya's intervention and reflected in Western Declarations like the G8's Deauville Declaration (2011).

On the opposite side, the situation of Syria, the massive violations of rights and the deaths, consequence of the fight between the government and the opposition's forces, did not find any precise initiative from the international community represented in the UN.

In the end, the R2PD and the DPP are merely theoretical constructions to support the international organized hypocrisy[4] (Krasner, 2011: 42) reflected in the UN system. Despite the fact that they have been stated to overcome the weaknesses within the system, in fact they have not increased or benefited its strength or even decreasing the feeling of distrust in the efficiency of the UN security system. Thus, even when the UN principles are committed to international peace, development and security, its initiatives are actually constraint by Western foreign policies and its predominance in the international arena.

A new challenge to UN collective security: the Arab revolts and intervention in Libya

Since the beginning of the Arab Revolts in 2010, Western countries expressed their concern about the evolution of national conflicts in the Middle East and the North of Africa. The case of Tunisia, Egypt and Libya were the most relevant in North Africa. The Middle East per se caught Western policy makers' attention from the very start because of its enormous strategic relevance.

In March 2011 France started military operations in Libya for humanitarian reasons and

with the UN Security Council's authorization under Resolution 1973. After that, the debate about Western intervention in some countries was reopened. On the one hand, main Western powers stated that this kind of interference is for humanitarian reasons and pursue the maintenance of international peace and security according to UN principles.

On the other hand, others compare the case of Libya with the current situation in Syria and question why the so-called humanitarian course of actions that applied for Libya do not apply in the case of Syria. While the R2PD was revived[5] in Libya, in Syria was buried.

Here come the Libyans… no, here comes NATO…

In the last two decades, UN principles have been "complemented" with multilateral and unilateral proposed doctrines like the above mentioned. At the same time, Western political and social scientists have developed theories and explanations pursuing the justifications of Western foreign policies, especially toward the Middle East and Arab countries.

In this context, UNSC resolutions have been expected to solve conflicts, mainly when peaceful measures have failed. Moreover, the spirit of these decisions was thought to solve conflicts without creating more problems. But none of these intentions have prevailed not only in the last decades, but today for instance in Afghanistan, Iraq and now Libya.

In the case of Libya, the process of decision making was not only fast but also unclear in some circumstances, for instance, related to the resolutions' interpretations and subsequent courses of action. On 17th March 2011, the UNSC approved the Resolution 1973 authorizing to UN Member States

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3-The UN Charter article 2(4) states: All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state... Moreover, Article 51 sets that "Nothing in the present Charter shall impair the inherent right to individual or collective self-defence if an armed attack occurs against a state". Its interpretations have changed in the last years, and the range of action using force has been increased and complemented with new doctrines and principles.

4- This is an interesting concept where Krasner refers not only to the international system complexity but its weak institutionalization. Moreover, he refers to norms which sometimes are mutually inconsistent, asymmetrical power and organized hypocrisy as a norm because the application of norms relies at the end in the exercise of real power.

5- Revive: to make something start being used or done again (OXFORD, 2011).

"acting nationally and through regional organizations or arrangements […] to take all necessary measures […] to protect civilians and civilian populated areas under threat of attack […]" in Libya (UNSC; 2011: 3). In the words "all necessary measures" the use of force will find a veil of legality instead any other peaceful means.

According to Resolution 1973 (UNSC, 2011b:3), the UNSC authorized the creation of a "no-fly-zone […] in order to help protect civilians". As soon as the last signature touched the paper, on March 19th, the UK, US and France forces attacked Libya. This first action was settled as the prelude of movements to enforce UN no-fly-zone (NFZ). But ironically, the same resolution that allowed taking all necessary measures stressed "the need to intensify efforts […] with the aim of facilitating dialogue to lead to the political reforms necessary to find a peaceful and sustainable solution" (UNSC, 2011b: 2).

Including these kinds of contradictions, Resolution 1973 was a central part of the process of justification of the war against Gaddafi. It had the "virtue" of being enough broad to allow almost everything to remove Gaddafi from power.

Once again NATO' strategy set every peaceful solution or scenario as a further possibility. Moreover, by June 2011 the conflict had not ended and the problems had visibly increased.

By that time, many critics of NATO's actions took place. It was stated that NATO had exceeded the limits of the Resolution 1973 (and the R2PD spirit[6]) not only ignoring peaceful options but also by helping and assisting the rebel forces.[7]

Beyond those critics, NATO involvement in the battle field increased in the following months and what began as a humanitarian intervention turn into a different goal: a regime change in Libya. Thus, after the intervention in Libya, Western powers advocated to legitimate internationally their actions, as the Deauville Declaration shows (G8, 2011).

Revived in Libya, buried in Syria

In March 2011 Syrian uprising started and after unfruitful attempts to negotiate, two months later the Army tanks enter Deera, Banyas, Homs and suburbs of Damascus to stop anti regime protests.

Since then, Western countries worked on a similar Resolution for the case of Syria, but China and Russia blocked their attempts. The most they got was a non binding peace plan in March 2012 drafted by UN envoy Kofi Annan (UNSC, 2012). Since the beginning of the uprising in Syria until now, it is said that at least 126.000 have been killed. But no R2PD has been invoked or UNSC resolution has been approved. The arguments stated in Libya did not find equal measures or agreement in the case of Syria.

Why was the R2PD so evidently buried in Syria? There are several factors (and actors) that explain this situation and everything seem to point out that the problem did not start in Syria, did not start in Libyan civilians but is forwarded to Gaddafi after all.

Russia messing around

It is well known that even when Dimitri Medvedev was in power (May 2008-May 2012), when Putin caught a cold, Dimitri sneezed. And for sure one of the main (if not the most important) reasons for Resolution 1973 approval is that Medvedev was in power instead of Putin. And he might not be pleased with Medvedev clumsy handling of the situation in Libya.

Since the end of the Cold War Russia has kept its opposition to Western intended rule in the world, especially in sensitive areas of interests, for instance Syria or Iran. During Medvedev presidency, Russia allowed UNSC Resolution 1973 by its abstention and the non use of the veto's right.[8] However, after Resolution 1973 enforcement in the context of BRICS ' summits NATO's actions were strongly criticized. Western powers had excluded BRICS countries[9] in Libyan situation by rejecting a peacefully roadmap to end Libyan conflict (Prashad, 2012: 197-198).

Since then, "they declined to allow the G7 to repeat their Libyan mission in Syria" (Prashad, 2012: 198) by blocking a UNSC resolution. Some analysts stated that BRICS "complicity [was] shameful" (NYT, 2011). What they did not say was that BRICS came up with a peaceful solution for the Libyan conflict backing African Union's initiatives and leader by Jacob Zuma and the G7 did not pay attention to that option.

This shift in Russian policy might have something to do with the start of run for elections in Russia and the shadow of Putin once again. For Russia, but especially in Putin's

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6- The R2PD spirit was protecting civilians and prevent atrocities, not increasing them and considering bombing the most suitable solution.

7- The R2PD states that it applies in cases of genocide, war crimes, ethnic cleansing and crimes against humanity (UNGA, 2005, p.31) and should be authorized "on a case-by-case basis" when peaceful means are inadequate or national authorities manifestly failed to protect their populations.

8- The veto power is wielded by the five permanent members of the UNSC: China, France, Russia, United Kingdom, and US.

9- Group of the biggest developing countries: Brasil, Russia, India, China and South Africa.

view, Syria had always been strategically sensitive to Russian interests. In first place, in Tartous Syria hosted the only remaining Russian naval base on Mediterranean. Secondly, and also important, because of Putin's security paranoia and his antipathy to Western moralizing.

Spaghetti bowl of interests

Despite the fact that Russia support has been key factor in Syrian redemption and to reach a peaceful roadmap (that Libya never had the chance to take), the other determinant factor has been the several forces supporting Syria, not because Assad is better than Gaddafi but because of consequence of NATO's actions in Libya.

The Arab League supported Resolution 1973 but then turn to a critic view.[10] For that reason, in late 2011 launched two different initiatives to a peaceful solution in Syria, but without success. On that respect, and even when Russia did not veto the Resolution, it remained the most suitable actor to deal with Assad's regime. And its involvement in a peaceful solution backing Arab League's initiatives would be essential.

Russian support to Syria and Arab League initiative were backed by other actors like China, but most important, Iran. The message from Iran government was clear: "We believe that Americans are committing a folly and mistake" (CNN, 2013). The funny thing is that if you visit the article, you should not be surprise reading the title: "Iranian leader: U.S. will 'definitely suffer' if it leads strike on Syria". A good example of copy and paste and the way how politicians with the help of media construct arguments to support and create public legitimacy on their policies.

Finally, from other different point of view but equally important Israel –number one ally of US in the region- is also concern with the situation in Syria. Israel knows that if Syria is attacked, it will be probably the next one in the list.

They say…

After Libyan intervention, Western powers and its academic supporters as Thomas Weiss (2011) have tried to make the widespread assertion that interference in Libya was a successful first test of the R2PD. However, analyzing the outcomes not only in the battlefield but also its impacts in the international legality and the UN system as a provider of framework in terms of security, the final outcome does not look as positive as they say.

Weiss (2011) states that Libya showed that the R2PD was successful in the goals of prevent, react and rebuild. Reality does not say the same. We can recognize that certainly the Libyan intervention succeeds on preventing no new human right violations but new interventions. NATO's actions and Resolution 1973's application of the R2PD put in alert the international community about Western power intentions, its predominance within the UN system and its always present moralizing.

Nevertheless, the excitement of NATO's success has been overreacted and misplaced. While Resolution 1970 condemned the use of force against civilians and expressed its concern at the deaths of civilians in Libya (UNSC, 2011), Resolution 1973 did the contrary by authorizing all necessary measures and set the image of the R2PD as a sword of Damocles over UN members heads.

As Pérez Llana states: in the so-called "old international order" the principle of non-intervention was violated many times, but who did it at least was morally condemned by global public opinion. With the emergence of the "new international order" in the […] post-Cold War […] the principle of non-intervention has started to erode in front of the advent of the denominated duty to interfere, concretely in relation to the provision, defense and validity of the Human Rights.

"If the duty to interfere constitutes one of the relevant supports of the new order, immediately appears the central question: in the name of what values and who is the responsible 'operator'" (Pérez Llana, 1992: 86). Concerning the role that the United Nations could play as a responsible operator, the problem is that in general this ends acting to solve the damage caused by almost arbitrary unilateral or multilateral interventions, through the action of its subsidiary organisms and to put tasks of small strategic value.

Nobody doubts the necessity of protect human rights and prevents its violations. But the problem is that the so-called humanitarian interventions ended up worsening the humanitarian situations. Libya was not an exception to the rule.

The moralpolitik, that is to say, the policy based on moral or ethical questions has been used as a warrant to interventions with selective application. "This situation has put on the table questions on why Libya was a case punished through intervention while many actions that violated rights in Syria did not receive the same response from Western powers and the same

> **Nobody doubts the necessity of protect human rights and prevents its violations. But the problem is that the so-called humanitarian interventions ended up worsening the humanitarian situations. Libya was not an exception to the rule.**

10- On this topic see EDWARDS, Cody. "Arab League condemns broad Western bombing campaign in Libya". Washington Post. March 20th, 2011. http://www.washingtonpost.com/world/arab-league-condemns-broad-bombing-campaign-in-libya/2011/03/20/AB1pSg1_story.html. Accessed: 12/27/2013.

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reactions from their opponents" (Lechini; Rabbia, 2013: 12).

If the intervention in Libya was, as they said, because of humanitarian reasons and to stop the kills of civilians, then they should know that they arrived to help at least forty years later: Gaddafi was suspected of have committed thousands of crimes during more than forty years of rule. If they waited four decades to do something, why not a couple of months more to run a peaceful solution?

Closing remarks

"The cause of the humanitarian intervention clearly has converted itself into a moral crusade for the intellectual liberals, who seem in love with the idea of fair violence. […] These interventions have absorbed great quantities of resources that could have been used in a better way, for more genuinely hu-manitarian purposes, once they have increased the suffering in the countries that have been their objectives" (Berube&Gibbs, 2012: 2). Libya is the newest example for every element mentioned on this statement.

After the intervention in Libya, the international community was hit again for the shadow of Western countries. Where the R2PD was supposed to create a safer world, the similarities of Libya and Syria cases and the contrasting courses of action taken, brought back the well-based feeling of an uncertain international framework for international peace and security within the UN system. That feeling is not new. Actually, has been present since the crazy 80´s US policies and Reagan's dreams with a Star War.

One of the most suitable solution or attempt to offset this problem would be a SC reform. As BRICS have promoted, SC and its five permanent seats do not reflect the current need and composition of the international community.[11] The other hot topic to deal with would be the extraordinary power of veto which would make decision even more complicated with the increase of the permanent members. Of course, this proposition will find a lot of retractors. Which State would be able to give up such piece of power?

During the last international financial crisis, the BRICS came to save most of the G7 powers' economies. But as Pashrad (2011: 197) states, they lost their chance of negotiating that help, for instance demanding a SC reform. In the meantime they find another chance like that, they should re visit some common positions and strategies to get that goal. ↺

11- The 50 UN members have been replaced by 193.

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