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Responsibility to Protect: Tensions between Sovereignty and Security

By Barry Desker and Joel Ng

Synopsis

Responsibility to Protect was invoked to justify international intervention in Libya. But fundamental tensions were exposed in operationalising it since “failed” states are not necessarily weak states. Nevertheless, RtoP requires a reframing of conceptions of sovereignty. There are implications for ASEAN.

Commentary

THE MULTINATIONAL INTERVENTION in Libya has been justified on the grounds that the international community needed to respond to attacks on civilians by Libyan leader Muammar Gaddafi’s security forces. The justification invoked the principle of the Responsibility to Protect (RtoP) established in 2006. UN Security Council Resolution 1973 authorises countries “to take all necessary measures ... to protect civilians and civilian populated areas under threat of attack ... while excluding a foreign occupation force of any form on any part of Libyan territory”. Inherent in this resolution, however, is the international dilemma between sovereignty and human security, while it also fails to outline an operational plan for intervention.

Conception of Responsibility to Protect

The RtoP principle was the result of failure by states in the 1990s to protect civilian populations in conflict areas particularly in the former Yugoslavia and Rwanda, which led to widespread atrocities. RtoP authorises the use of force to intervene in four specific mass atrocity situations --:genocide, war crimes, crimes against humanity and ethnic cleansing. However, Libya represents the first engagement of RtoP since it was formally adopted by the UN. It is therefore imperative that the states enforcing it get it right, because it sets precedents for future intervention. Opinions expressed in the media and Internet by academics and security organisations have diverged on the proper course of action, because the policy choices involved are not straightforward.

Basically RtoP intervention was envisaged in case of state failure, where the state is unable or unwilling to protect the civilian population. However only conflicts resulting in the four mass atrocities specified could justify activating the RtoP principle. In the case of Libya, it was the most extreme situation of a state attacking its own population – that led to an immediate response. The ability to attack one’s own population – and yet remain firmly entrenched in power – is not a case of state failure, but in fact a sign of a very strong state, even if delegitimised through its actions.

Another conflict in Cote D’Ivoire at around the same time demonstrated that a low-intensity conflict with weak command and control would not provoke the same strong reaction and immediate intervention. Arguably then, it

is only when overt actions of state-sponsored atrocities are carried out that international intervention will be mandated.

Thus the implication is that foreign intervention is more likely to occur not in a vacuum (as in state failure), but in direct opposition to a sovereign state. The question then is what to do with the hostile state, short of direct war, which Resolution 1973 does not address. Certain states, such as those in ASEAN, have asserted sovereignty as inviolable. Others, especially the backers of RtoP and the leaders of the current intervention in Libya, have argued that sovereignty is a responsibility that will be forfeit in the event of crimes against humanity.

RtoP and the ASEAN Dilemma

An ASEAN stance, if applied to Libya, could possibly be criticised for doing too little. The Western stance has already been criticised for doing too much, especially by Russia and China, despite agreeing to prohibit troops on the ground. Earlier US administrations might even have taken a firmer view with respect to the introduction of ground forces. In some ways the Obama doctrine is testing a middle-ground approach – limiting the use of force while maintaining diplomatic pressure and sanctions.

If the prohibition of ground troops was an acknowledgment of sovereignty considerations, they could also have been prompted by fears of over-commitment or so-called “mission creep” of ever-expanding objectives. China and Russia too, while overtly disturbed by actions on the ground, may wield their veto in future Security Council deliberations if they envisage threats to the principle of sovereignty that fail to produce real protection.

Critics now argue that if there was no international intervention, the situation in Libya would have resulted in a stalemate. With a travel ban, no-fly zone, trade embargoes and International Criminal Court investigations, there are few exit options for Gaddafi and his inner circle. The worst-case scenario would be a long, costly engagement protecting civilians without addressing the root cause of the threat to them. A political solution was increasingly being suggested, something that an organisation like ASEAN would have sought. But the shift in the balance of power on the ground led to a clear tilt towards the opponents of the Gaddafi regime.

Victory for the insurgents across Libya has now resulted in the UN General Assembly recognising the National Transition Council as the new government, even though a number of third world states opposed or abstained in the vote on the issue. Interestingly, ASEAN was divided on the vote, reflecting the continuing debate within ASEAN on this issue. Brunei, Malaysia, the Philippines, Singapore and Thailand voted in favour, Indonesia abstained and Cambodia, Laos, Myanmar and Vietnam were absent and did not participate in the vote.

Tensions between Sovereignty and Security

There is much to be gained from understanding the dilemma between sovereignty and intervention. While security was the original concern of ASEAN, threats to security have come from increasingly unpredictable sources. Though a Libyan scenario is unlikely to occur in ASEAN, the fundamental tension between sovereignty and human security faces every state. The Arab League, despite facing internal political dissent against regimes in several member states, came out clearly and strongly in support of intervention in Libya. One remarkable aspect of the intervention was the speed with which consensus was reached on the responsibility to protect civilians despite Libya's own insistence of its sovereign rights.

Even if direct intervention may only occur in the most extreme cases, RtoP is here to stay as an international norm. Thus if human security is now an international concern framed and advanced via RtoP, then more attention must be paid to how sovereignty is envisaged. If the rights of sovereignty are seen to be non-reducible in all circumstances – meaning states cannot violate them under any circumstances – then ASEAN will be unable to deal with complex political crises that occur within the region.

Complex emergencies are likely to spill over into neighbouring states because of the small geographical sizes of most ASEAN states. If this happens the traditional lines of sovereignty will be blurred as problems of one member become the concern of neighbouring states. A more nuanced approach to sovereignty in ASEAN will hold it in good stead to face the 21st century's political challenges.

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