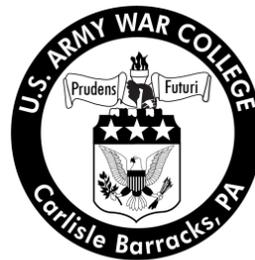# The Promise and the Peril of the Responsibility to Protect

by

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United States Army War College
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Over the last century, the international community has not adequately responded to humanitarian crises around the globe to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Serious differences in how sovereign governments and the international community viewed multiple recent humanitarian crises resulted in inefficient action, or no action at all to stop atrocities. In 2005, the United Nations codified the concept of Responsibility to Protect (R2P) in its World Summit Outcome, stating that sovereign governments have a responsibility to protect their populations from atrocities, and if that government is unable or unwilling to do so, the international community had a responsibility to act to stop the atrocity through diplomatic, humanitarian or other peaceful means, or by force in extreme cases. The concept of Responsibility to Protect has gained rapid international approval, to include its addition in the 2010 United States National Security Strategy, but serious questions remain regarding the legitimate application of force when force is deemed necessary. This paper considers the 2011 Libyan rebellion as a case study of the use of force under the auspices of The Responsibility to Protect.

15. SUBJECT TERMS

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THE PROMISE AND THE PERIL OF THE RESPONSIBILITY TO PROTECT

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ABSTRACT

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THE PROMISE AND THE PERIL OF THE RESPONSIBILITY TO PROTECT

> We will come. House by house, room by room. It's over. The issue has
> been decided, we are coming tonight ... we will find you in your closets.
> We will have no mercy and no pity. Only those who lay down their arms
> will be spared the vengeance awaiting rats and dogs.

—Colonel Muammar Gaddafi[1]

On the same day that Colonel Muammar Gaddafi[2] addressed these words to the

rebels in Benghazi, the United Nations (UN) Security Council, acting under Chapter VII

of the UN Charter, adopted UN Resolution 1973. This resolution authorized member

nations to take "all necessary measures to protect civilians and civilian populated areas

in the Libyan Jamahiriya,"[3] marking the first time military force was sanctioned by the

UN under the auspices of the Responsibility to Protect (R2P) to prevent a mass atrocity.

As the concept of R2P continues to gain approval in the international community, the

UN intervention in Libya provides the first practical example for the evaluation of the use

of force under R2P. Despite the apparent success of the military aspect of NATO's

operations in Libya, questions arise in three fundamental areas that require further

analysis. The first is legitimacy.   Was the use of force in Libya legitimate or necessary?

Did military operations exceed the UN mandate? Would the U.S. or other member

nations execute a military operation to stop an atrocity if there were not a UN

resolution? The second is the U.S. role in relation to R2P. Is the concept of R2P

executable without the involvement of the United States? The third is strategic

guidance to military commanders during an intervention. Can military operations be

limited to stopping an atrocity only? Were appropriate strategic objectives articulated by

the UN and U.S.? Beginning with a summary of the intervention in Libya, then an

explanation of the concept of R2P, this paper will evaluate these questions on the use

of force in Libya to protect civilians in terms of legitimacy, the U.S. relationship to R2P,

and the military challenges to determine the concept's universality and determine what

questions require further analysis.

United Nations Intervention in Libya
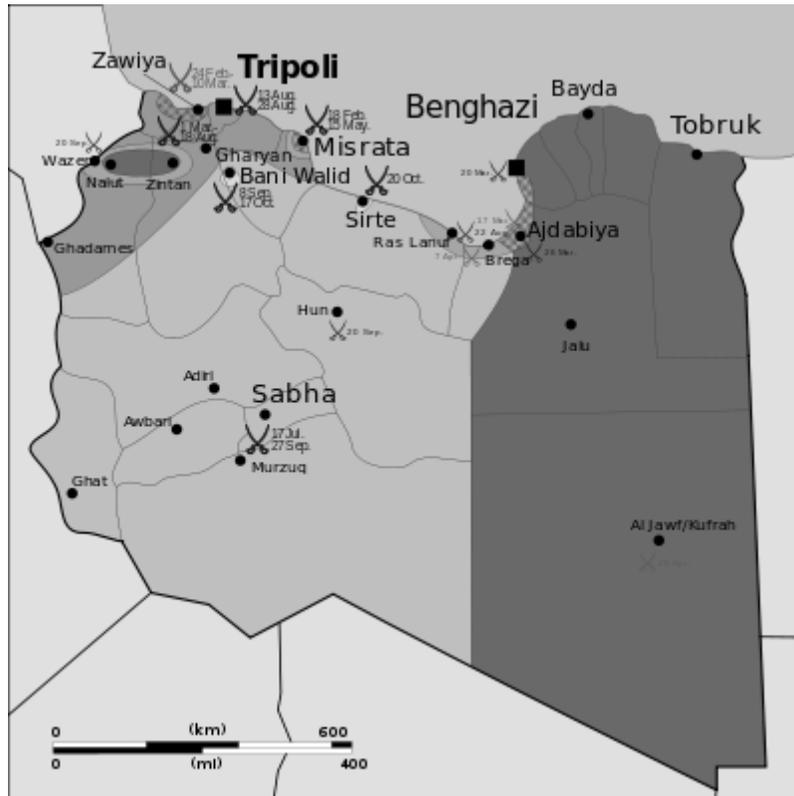
Figure 1:

The 2011 Libyan civil war took place from February to October, providing a set

timeframe for analysis.[4] In the footsteps of other North African nations such as Tunisia,

Egypt, Algeria, Morocco, and Sudan, peaceful protests and demonstrations against the

Libyan government began in January 2011 and spread from the capitol of Tripoli to

cities across northern Libya. On 16 February, the arrest of a human rights activist

triggered a riot in Benghazi,[5] which set off violent protests in other Libyan cities. Over

the next two weeks, there were riots in Bayda, Misrata, Tobruk, Zawiya, and other cities

in Libya. These riots resulted in large numbers of government forces joining the revolt, causing Gaddafi to react. On 22 February, COL Muammar Gaddafi vowed to crush the revolt, and launched counteroffensive operations primarily focused on Benghazi and Misrata, resulting in civilian casualties. The same day saw massive Libyan diplomatic defections, as the Libyan ambassador to the UN, Mohammed Shalgham and his deputy, Ibriahim Dabbashi, defected from Libya and appealed in tears to the UN Security Council to take action. In addition, the Libyan ambassadors to the U.S., the Arab League, Australia, Indonesia, Malaysia, Poland, India, and Bangladesh also defected.[6]

Gaddafi's reaction to the riots was violent, and included using live ammunition to disperse crowds, resulting in, as initially reported, hundreds of civilian deaths.[7] His vow to commit more atrocities spurred the international community to act with unprecedented unanimity and speed.

On 25 February, the Embassies of the US, France, England and other countries were closed and they began evacuating their citizens. On 25 February, an open letter to the UN signed by over 200 Arab groups demanded a no-fly zone in Libya to protect civilians.[8] On 26 February, the UN Security Council issued United Nations Security Council Resolution (UNSCR) 1970.[9] This resolution referred the situation in Libya to the International Criminal Court (ICC), emplaced an arms embargo on Libya, instituted a travel ban for key members of the Gaddafi regime, and directed member nations to freeze all Libyan assets. Libya responded to the UN resolution on 2 March, stating that the resolution was premature, and requested that the resolution "be suspended until the truth about the allegations against Libya could be confirmed."[10]

Other significant actions were underway during this period that would further isolate Gaddafi and set the stage for military intervention. On 3 March, the United Nations Human Rights Council voted to suspend Libya's membership on the council for gross and systematic human rights violations.[11] On 3 March, United States Africa Command (AFRICOM) established Joint Task Force Odyssey Dawn (JTF-OD) to facilitate UNSCR 1970 and conduct noncombatant evacuation operations (NEO), provide humanitarian assistance as required, and transport Egyptian civilians from Tunisia to Egypt in support of the US Department of State (DOS). England, France and thirteen other nations volunteered to participate in the coalition, and began deploying military forces to the area to support evacuation and humanitarian activities in Libya.[12]

Control of the government and the country continued to slip from Gaddafi's hands as the Interim Transitional Council in Benghazi declared itself Libya's sole representative on 5 March.[13] Over the next week, multiple international organizations publicly demanded that the UN establish a no-fly zone over Libya to protect civilians. These included the Organization of the Islamic Conference, the Gulf Cooperation Council, the African Union Peace and Security Council, the European Union and the National Atlantic Treaty Organization (NATO). NATO also agreed to increase the number of ships and reconnaissance systems in the region.[14] In a rare display of unity with the West, on 12 March the Arab League asked the UN to impose a no-fly zone over Libya to protect civilians.[15]

On 17 March, in a radio address to Benghazi, COL Gaddafi threatened to burn the city of Benghazi, the current rebel stronghold, to the ground.[16] In response, the UN

issued UNSCR 1973, authorizing the use of "all necessary means" to protect civilians in Libya.[17]

Immediately afterwards President Obama declared that the U.S. and its allies would enforce UNSCR 1973, and on 19 March JTF-OD launched offensive military operations in Libya to eliminate Gaddafi's command and control, air defense, armor and air capability. In an effort to stem the perception that Operation ODYSSEY DAWN was a U.S. imperial quest, and to minimize the U.S. contribution, the U.S. government immediately began working on plans to transition leadership of the campaign to NATO. Twelve days after the commencement of military operations, on 31 March, NATO assumed full control of operations under Operation UNIFIED PROTECTOR (OUP); Operation ODYSSEY DAWN concluded and JTF-OD was disestablished.[18]

NATO military operations that were ultimately aimed at destruction of the Gaddafi regime would continue for the next seven months. The duration of the operation strained domestic politics in member nations and stretched NATO resources. As early as March 2011, statements by President Obama and other heads of state calling for COL Gaddafi to step down also called into question motives for the operation. This rhetoric caused concern that NATO and participating nations had overstepped the mandate of UNSCR 1973, which had originally just called for the protection of civilians, not a regime change.[19] After the death of COL Gaddafi on 20 October, the UN published two other significant resolutions relating to Libya. The first, UNCSR 2016, declared that NATO military operations would cease on 31 October, despite the Libyan Transition Council request for an extension until the end of the year.[20] The second was

UNSCR 2017, which addressed concerns over lost accountability of surface-to-air missiles, and continued accountability of chemical weapons.[21]

The Transitional Libyan government was sworn in on 24 November. Led by Prime Minister Abdurrahim el-Keib, the transitional government will rule the nation and set conditions for government elections in June of 2012.[22] The challenges the Libyan transitional government face are steep. They must begin by building government institutions that did not exist during Gaddafi's 42-year rule. They are faced with revitalizing the Libyan oil industry and establishing a justice system, whose first task will be to try members of the Gaddafi regime for crimes against humanity.[23] They also have the task of accounting for the casualties and estimated 25,000 missing Libyans in the aftermath of Libya's civil war. They will need to re-establish services across the country and establish trust with the population. Among the most challenging tasks will be deciding what kind of government will lead Libya into the future in the wake of Gaddafi's 42-year rule. One of the key figures in this debate will be Libyan cleric Ali Sallabi, a 47 year old spiritual leader who will be a key figure in shaping Libya's future government under Islamic rule.[24]

As shown above, the sequence of critical events that led to the UN intervention in Libya to protect civilians was unique, and is essential for the evaluation of the application of military force under R2P. Before we evaluate the application of R2P in Libya, however, it is critical that an understanding of the background and current state of R2P be understood.

The Responsibility to Protect

The Responsibility to Protect was born in response to mass atrocities committed across the globe with inadequate or ineffective actions by state governments over the

last century. One of the most significant obstacles to intervention to stop mass atrocities is the concept of sovereignty. Sovereignty is the "supreme and independent power or authority in government as possessed or claimed by a state or community." Since the Treaty of Westphalia in 1648, the concept of sovereignty has been maintained as an international norm, even to this day, to include language in the UN Charter as a core principle. Article 2.1 of the UN Charter states that "The organization is based on the principle of the sovereign equality of all its members." Article 2.7 goes on to say that "Nothing in this present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the state or shall require the members to submit to settlement under the present Charter."[25]

Even in the aftermath of the Holocaust in WWII, sovereignty remained a significant reason for nations not to get involved in another state's business, even to stop mass atrocities. In fact, a host of atrocities occurred between WWII and the end of the Cold War that demonstrated the reluctance of the international community to intervene in a sovereign nation for humanitarian reasons.[26] Four examples of genocide from the 1990's in Somalia, Rwanda, Bosnia, and Kosovo, however, garnered enough international interest to spur further action from the international community to develop a paradigm to stop preventable atrocities.[27]

Against the backdrop of the atrocities of the 1990s, UN Secretary General Kofi Annan, who was personally involved in the policy debates over Rwanda, issued the following challenge to the UN General Assembly: "If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross systematic violations of human rights that affect every

precept of our common humanity?"[28] The Canadian government responded to this challenge by establishing the International Commission on Intervention and State Sovereignty (ICISS). The commission spent a year thoroughly debating all aspects of intervention, and included all who had concerns about the subject, to include the five permanent members of the UN Security Council. The result was a report, unanimously agreed to by all twelve commissioners, published in December, 2001, that promulgated the concept of "The Responsibility to Protect."[29]

The commission developed the core principles that defined The Responsibility to Protect, and proposed criteria for military intervention, one of the most hotly contested aspects of the concept. The ICISS advanced two basic principles that constitute R2P: First, that state sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Second, that where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect. The ICISS founded its conclusions based on the obligations of sovereignty, Article 24 of the UN Charter, international law, and the developing practices of member nations of the UN. The ICISS determined that there are three elements, or responsibilities, with R2P. First is the responsibility to prevent; addressing the core issues in a given situation that are the direct causes that put populations at risk. The second is the responsibility to react; using all means, to include military force if necessary, to respond to situations of compelling human need. The third is the responsibility to re-build; to assist nations, especially after military intervention, in recovery, reconstruction and reconciliation. The

priority, according to the ICISS report, is always to prevent, using the least coercive measures first.[30]

In addition to establishing these core principles in R2P, the ICISS proposed criteria for the use of force to protect civilians. These included the basic elements of the just war theory; that there must be a clear and serious threat of harm, there must be a proper purpose for the use of force (to protect civilians), the use of force must be a last resort, proportional means must be used, and there must be a reasonable chance of the military operation being successful. In addition, the ICISS proposed that the "right authority" to authorize the use of force (to maintain legitimacy) is the UN Security Council, and addressed situations that involve the veto of one of the permanent five members, and other situations that may not have unanimous support. That the ICISS suggests that a country could, and in some cases should, intervene in a sovereign nation, even without a UNSCR, remains a controversial issue. Finally, the ICISS suggested "operational principles" for the use of force. They include establishing clear objectives, with a mandate and resources to match, common military approach with a unified chain of command from all member nations, acceptance of the limitations of the use of force with the purpose of protecting civilians, not defeating the state. Additionally, the ICISS stated that the rules of engagement be clear and consistent with the operational concept, that force protection cannot become the principle objective, and that there must be maximum coordination with humanitarian organizations.[31]

The publication of the ICISS report on the heels of the September 11th, 2001 terrorist attacks in the U.S. immediately pushed the issue out of the limelight as the world struggled to deal with the terrorist attacks. The report became a key document,

however, when in 2003 the UN Secretary General established the High-Level Panel on Threats, Challenges, and Change. The panel discussed a wide range of issues, but endorsed the concept of the Responsibility to Protect. The panel also refined the five basic criteria for the use of force. Thus R2P was included in the panel's March 2005 report entitled *In Larger Freedom: Towards Development, Security and Human Rights for All.* [32]

After much debate within the UN, the 2005 General Assembly Outcome included the Responsibility to Protect, although its final form was somewhat different than the recommendations of the ICISS report and, significantly, did not include criteria for the use of force. The final version of R2P in the General Assembly Outcome can be summarized as follows: Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity...the international community should encourage and help states exercise this responsibility. The Outcome also stated that the international community, through the UN, has the responsibility to use diplomatic, humanitarian, and other peaceful means to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and in extreme cases, under Chapter VII, authorize the use of force.[33]

Since 2005, the R2P concept has continued to gain acceptance in the international community. In 2008, former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen led the Genocide Prevention Task Force (GPTF) in an attempt to address policy issues associated with preventing mass atrocities.[34] In the U.S., R2P has been integrated into key strategic documents such as

the 2010 National Security Strategy,[35] the 2010 Quadrennial Defense Review,[36] and was the subject of a 2011 Presidential Study Directive.[37]

As the concept or R2P continues to gain international approval, albeit with many who ardently disagree with it, it is important that the fundamental issues with regard to R2P and its application in Libya be examined to determine the viability of the concept and look at ways to improve policy and procedures for its implementation. With a basic understanding, then, of the events of the 2011 UN intervention in Libya, and an understanding of the concept of R2P, we turn to the issues of legitimacy, the U.S. role in R2P, and military operations.

Legitimacy

The legality and legitimacy of introducing coercive force into a sovereign nation is arguably the most controversial aspect of R2P, and the epicenter of the challenge of the concept. The first responsibility posed by the ICISS is to prevent,[38] which requires that action must be taken before a crime is committed, creating a significant dilemma for the UN and member nations. David Scheffer sums up the dilemma this way.

> The most effective enforcement of R2P will normally precede an accurate legal description of the crime at issue, a task that may take years and several criminal trials, or a judgment of the International Court of Justice to establish. Policymakers must make the political decision about whether and how to take action, while gambling on the nature of the crime threatening a civilian population and how, if left unchallenged, that crime may unfold. In some situations, the Security Council can cut through the complexities with adoption of an enforcement resolution under Chapter VII of the U.N. Charter, which mandates an R2P action long before the legal definitional exercise upon which R2P is predicated could be completed with certainty. In other situations, the caution required in determining whether certain actions meet the legal definition of an atrocity crime will prove to be a constructive brake on precipitous or overly ambitious R2P theorizing that otherwise might have launched unwise and unjustified military action.[39]

The 2008 GPTF report also weighted prevention as a high priority, although prevention is an elusive goal at best.[40] In an article criticizing the GPTF report, Sarah Sewell highlighted the challenges of identifying the root issues in a potential genocide, let alone preventing them, stating:

> Like counter-terrorism on the "hard" side of security, prevention offers a one-size-fits-all banner under which all manner of interests and organizations can gather. The Report's ultimate solution to mass atrocity is stable, economically viable states that respect the human rights of all citizens. What problem wouldn't this solve? It is a tautology, not a solution.[41]

In essence, then, the decision to adopt UNSCR resolutions 1970 and 1973 was a judgment made by the international community, as there was not sufficient legal evidence that atrocities had been committed that would stand up in an international court. In fact, the only verifiable evidence at the time was a report from Human Rights Watch that 233 civilians had been killed[42] at the time of UNSCR 1973 and Gaddafi's inflammatory radio address to Benghazi,[43] which begs the question of whether force was justified when seen in light of other historic genocide cases. Even as of this writing, debate is raging in the international community about how to stop Syria's Assad regime's violent crack- down on government protesters that has resulted in over seven thousand casualties to date, far more egregious than civilian casualties in Libya. Regardless, the UN intervention in Libya is viewed as legitimate due to the overwhelming popular support of the international community and the adoption of UNSCRs 1970 and 1973.

Another "crack in the armor" of legitimacy was the perception that NATO exceeded the UN mandate of protecting civilians. Critics cited two primary reasons why they believed the mandate was exceeded. The first criticism was that that the U.S. and

NATO airstrikes exceeded the mandate by imperiling civilians in Libya with its bombing

campaign.[44] The second reason was that U.S. President Obama, British Prime Minister

Cameron and French President Sarkozy called for the ouster of the Libyan leader early

in the campaign, causing speculation that protection of civilians was a ruse that allowed

them to pursue their true end state, regime change.[45] Cornell Law School professor

William Jacobson expressed two main concerns with the perception that NATO, led by

the U.S., had exceeded the mandate by seeking a regime change in Libya.

> First, whatever purported legitimacy was conveyed by the U.N. Resolution has evaporated. We no longer are enforcing a no-fly zone or protecting civilians; we are engaging in regime change and taking sides in a civil war. We may like the result, but we should not delude ourselves into thinking such result was authorized by the U.N.
>
> Second, we have damaged our ability to obtain U.N. Security Council resolutions in the future, when we actually might have vital national interests at stake. This makes helpful resolutions on Iran more difficult to obtain, as Russia and China will be hesitant to give us an inch in fear we will take a yard.[46]

The vague language contained in UNSCR 1973 authorizing member nations to

"take all necessary measures to protect civilians and civilian populated areas under

threat of attack"[47] leaves significant room for interpretation, but does not seem to

suggest that regime change was intended. This perceived, if not real, violation of the

spirit and letter of UNSCR 1973 presents a significant challenge to future diplomats

seeking UN resolutions in support of R2P. When motives are questioned, or when a

state is perceived as using the concept of R2P to advance its own national interests and

not for the protection of civilians, R2P is found suspect and the ability to act under the

auspices of R2P in the future are weakened.

R2P and the United States

Is the concept of R2P executable without the involvement of the United States? The ICISS suggests that R2P relies on its legitimacy primarily through UN resolutions.[48] The fact that the U.S. contributes 22% of the regular UN budget and 27% of the peacekeeping budget,[49] combined with the fact that it is a permanent member of the UN Security Council, gives it an enormous amount of leverage in the UN. Without U.S. support, it is unlikely that the UN Security Council could pass a resolution regarding R2P. It should also be noted that any of the five permanent members of the UNSC hold veto authority.[50]

One of the lessons of the war in Libya, suggested by New York University's Emily O'Brien and Andrew Sinclair, was that,

> The Libyan crisis showed that, in the final analysis, the West still calls the shots: The fact that, in spite of internal debates and military obstacles, NATO sustained its air campaign over Libya shows that the Cold War-era Alliance is still relevant, and the only coalition capable of concentrating serious force in a crisis.[51]

While NATO is critical for coalition operations, it would be hard pressed to conduct significant *sustained offensive* military operations without the financial and materiel assistance of the U.S. The U.S. provided nearly a quarter of NATO's budget in FY2010,[52] and the military capability of most other NATO countries is lacking in significant military capability. Even after the transition from the U.S. led Operation ODYSSEY DAWN to the NATO led Operation UNIFIED PROTECTOR, U.S. military enablers from aerial refueling to Intelligence, Surveillance and Reconnaissance (ISR) operations and supply of munitions were required for NATO to continue operations. According to then Secretary of Defense Robert Gates, "Frankly, many of those allies sitting on the sidelines do so not because they do not want to participate, but simply

because they can't. The military capabilities simply aren't there."[53] NATO Secretary

General Anders Fogh Rasmussen also recognized the need for increased military

capability in NATO, and NATO's reliance on the U.S. for sustained military operations.

"And obviously, the Libya operation also made visible that some European allies lack

critical capabilities, in particular within intelligence, surveillance, reconnaissance, and

air-to-air refueling. And I urge those allies to focus their defense investments in these

areas to acquire the needed capabilities."[54]

Given the context that R2P primarily, although not in all cases, depends on UN

Security Council Resolutions for legitimacy, and the influential role of the U.S. in the UN,

the U.S. is essential to the future of the R2P concept. If one of the UNSC permanent

five vetoed a resolution regarding a humanitarian intervention, the U.S. would also be

essential to build a coalition outside of a UNSCR if it deemed a looming atrocity critical

enough to do so. Also, if multilateral military operations are essential to the legitimacy

of R2P, and NATO is essential to providing a multilateral capability, the U.S. is again

indispensible to the success of the concept in the future. This is due to the reliance of

NATO allies on the U.S. financial and military capability to execute operations. The

size, intensity and duration of a military intervention will certainly determine the extent to

which the U.S. must participate in a given operation. There could be smaller, less

militarily intense scenarios in which U.S. participation is not as critical. Some of these

include UN peacekeeping operations in Sierra Leone, Cote d'Ivoire, the Congo and East

Timor, but until other nations increase budgetary and military contributions to the UN

and NATO, the U.S. will largely determine the future of R2P.

Strategic Guidance to Military Commanders

"Member states are authorized 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."[55] Translating the general guidance from UNSCR 1973 above into militarily executable orders on the ground was a daunting task. This vague guidance was not significantly clarified by the U.S. national leadership on the eve of the execution of Operation ODYSSEY DAWN, as the stated goal of President Obama was, "Specifically, to protect civilians."[56] This challenge was recognized in the 2001 ICISS report. In its "Principles for Military Intervention," which were excluded in the 2005 Outcome Summit Report to the UN, it stated as an operational principle that a military force must have "clear objectives, clear and unambiguous mandate at all times."[57] There are certainly valid reasons to make policy statements vague. It allows for diplomatic freedom of maneuver and provides more options for resolution as situations unfold. Vague policy statements, however, also pose a significant challenge for military forces that have to execute specific operations to achieve an ill-defined political end state.

A key aspect of guidance missing from the UN and National level was the end state. What did the UN and the U.S. want Libya to look like at the termination of military operations? This key guidance allows military planners to develop a strategy to achieve those objectives. As it occurred, USAFRICOM planners, in the March 2011 timeframe, were forced to deduce an end state by watching speeches and public statements from public officials. Eventually, planners "determined termination criteria (for military operations) by transfer of ongoing operations vice completion of operations or end of hostilities."[58] A well defined end state is probably not possible at the onset of a military

16

operation to protect civilians. However, certain conditions should be defined that allow

strategy development that can be adjusted as necessary as more information becomes

available as commanders develop the situation on the ground and better understand the

situation. In the UN's case, this guidance could have come in the form of more

UNSCRs that kept pace with the evolving circumstances and better anticipated future

conditions, such as the fall of Gaddafi. This would have allowed the UN to build the

capacity to deal with the conditions resulting from the military intervention.

The true complexity facing military commanders and planners was highlighted in

an interview with GEN Carter Ham, AFRICOM commander when he was asked about

the rules of engagement. "We do not provide close air support for the opposition forces,

we protect civilians…many in the opposition truly are civilians…trying to protect their

civilian businesses, lives and families."[59] Distinguishing the civilians they were charged

to protect from armed rebels while in combat against Gaddafi's forces with no contact

with the rebels or civilians on the ground was challenging to say the least.

Complicating matters is the fact that there is no specific U.S. policy or U.S.

military doctrine specific to mass atrocity situations, each with its own unique

circumstances. While many of the mission sets are relatively standard, regardless of

the context, there are elements specific to intervention in a mass atrocity situation that

should be taken into consideration. Two notable efforts took place to confront this

issue. The first, The Genocide Prevention Task Force, a commission formed and led

by former Secretary of State Madeleine Albright and former Defense Secretary William

Cohen to inform policy makers on five specific areas relating to the prevention of mass

atrocities. These areas include risk assessment and early warning, pre-crisis

engagement in at-risk countries, reversing escalation toward mass violence, employing military force to prevent and stop violence and shaping the international system to prevent genocide.[60] Their report, published in 2008, will be used to inform PSD-10 and policy makers in the future. The second effort, focused on military operations, is a joint venture between the Carr Center for Human Rights and the U.S. Army War College Peace Keeping and Stability Operations Institute. This report, Mass Atrocity Response Operations (MARO),[61] proposes specific military decision making procedures for commanders and staffs faced with planning a military intervention for a mass atrocity. The report will inform PSD-10, and parts of it will be incorporated into joint military doctrine in the near future. All of these efforts are positive steps toward developing an effective framework at the national and military level in the U.S. to prevent and deal with mass atrocity situations.

Conclusion

The UN intervention in the 2011 Libyan rebellion to protect civilians exposed both the promise and the peril of The Responsibility to Protect. In response to the perceived threat of a mass atrocity, the international community acted through the UN with unprecedented unanimity, speed, and decisiveness. It acted within the framework of the hard won concept of the Responsibility to Protect, codified in the 2005 Summit Outcome. While one cannot prove a negative, we do know that a large mass atrocity, as threatened by COL Gaddafi, did not occur. We do know that NATO air strikes did affect Gaddafi's forces, and they were unable to execute the systematic house-to-house search for and destruction of rebels that he threatened. Therefore, one could argue that the UN executed a successful intervention in Libya and achieved the goal of protecting civilians from a mass atrocity, thus validating the R2P concept. The intervention in

Libya, however, also raised serious concerns about the peril of the concept that will need to be addressed in order for the concept to be valid in the future.

Legitimacy, defined as "conforming to recognized principles or accepted rules or standards"[62] is a cornerstone of R2P, and must be maintained. To that end, the UN needs to make adjustments that allow for continuous assessment and adjustment to resolutions as required. The primary factor that caused the legitimacy of the UN intervention in Libya to be compromised was the perception that the U.S. and NATO exceeded the UN mandate of protecting civilians. UNSCR 1973 used vague language authorizing the use of force, which was interpreted differently by NATO and countries like Russia and China. No situation involving R2P will have crystal clear conditions, especially at the outset, that allow a complete understanding of events on the ground by all stakeholders. There must be enough flexibility in the UNSCR process to allow for continuous assessment and adjustments to the resolutions as required when the situation becomes clearer or changes after the commitment of military force. The resolutions should also describe the end state for military operations, and provide direction for post conflict operations as situational understanding improves. These adjustments will significantly reduce the legitimacy issues that emerged in the Libya intervention.

The U.S. is critical, at least in the near future, to the success of R2P. Due to its influence in the UN and NATO, as well as its military capability, it is unlikely that any *sustained offensive* military intervention in the future will not require U.S. diplomatic, financial, and military support. The U.S. is already taking steps to organize its approach, codify its thinking, and establish mechanisms to tackle the challenge of mass

atrocity situations. In addition to these ongoing actions, the U.S., in conjunction with the

UN and other nations, must organize its strategic communication (STRATCOM) plans

for these scenarios. Given the complex nature of introducing military forces in and

amongst civilians, communication of intent is critical to an operation's success and its

legitimacy. In any given mass atrocity situation, transparency to multiple audiences is

critical. The U.S. must communicate to its international audience, domestic audience,

the offending state or non-state actors, the civilians they are charged with protecting,

any rebel forces that may be involved, and the international community. Failure to

communicate with all of these audiences will result in misinterpretation of intentions, and

potentially compromise the operation and the R2P concept. As always, the U.S. must

be aware of the risk that desired messages to one audience can undermine an intended

message to another audience. In Libya, for example, the U.S. communicated with its

international audience by its actions. Although the U.S. planned, led, and ultimately

sustained the offensive operations in Libya, the rapid transition of command of the air

campaign to NATO signaled that this was not a U.S. play for domination in the region.

President Obama faced domestic challenges by Congress and the public that he

violated the 1973 War Powers Resolution,[63] and could have mitigated this with better

communication with the domestic audience. President Obama and the international

community communicated with Gaddafi in no uncertain terms, calling for him to step

down, albeit with little effect. And, finally, communication with rebels was initially

difficult, but improved after the Libyan National Transition Council declared itself the true

authority in Libya.

Finally, the U.S. and other participating military forces must develop doctrine and conduct leader training for mass atrocity operations. The execution of operations by the Soldier on the ground or the Airman flying an aircraft may not significantly change, but military leadership must grasp the overarching dynamics and indicators of mass atrocity situations, and be able to translate those concepts into executable orders with an achievable end state and clear rules of engagement. Mistakes at the tactical level can result in strategic consequences that could alter the outcome of a military intervention.

With the 2011 Libyan intervention, the concept of The Responsibility to Protect has elevated the consciousness of the international community, and has the potential of preventing some future mass atrocities. If we fail, however, to learn from the mistakes of this undertaking, the concept will not become the norm it was hoped to be, to all of our peril.

Endnotes

[1] Radio address from Colonel Muammar Gaddafi to Rebels in Benghazi 17 March, 2011.

[2] There is not common agreement on the correct spelling of Colonel Muammar Gaddafi, to include from the Libyan leader himself. For the purpose of this paper, Colonel Muammar Gaddafi, as spelled herein, refers to the Libyan leader who ruled Libya from 1969-2011.

[3] UN Security Council Resolution 1973. New York: UN Security Council, March 17, 2011.

[4] Due to the recency of the Libyan civil war, there is a lack of historical scholarship that consolidates and independently verifies dates in this conflict. The most significant events, however, have been widely reported in open source news sites, and, when combined with dated documents from the United Nations and other sources provide a level of confidence in their validity sufficient to the purpose of this paper.

[5] For geographic reference to all listed Libyan cities, refer to Figure 1.

[6] *Aljazeera*. "Libyan Diplomats Defect En Masse*."* February 22, 2011, http://www.aljazeera.com/news/africa/2011/02/201122275739377867.html (accessed 10 December 2011).

[7] Richard Sollom, Katherine Close, *Witness to War Crimes: Evidence from Misrata, Libya.* Physicians for Human Rights. Washington, D.C., August, 2011, 8.

[8] Josh Rogin, "Over 200 Arab Groups Call for Libya No Fly Zone," February 25, 2011. http://thecable.foreignpolicy.com/posts/ 2011/02/25/over_200_arab_groups_call_for_libya_ no_fly_zone (accessed November 23, 2011).

[9] UN Security Council Resolution 1970. New York: United Nations Security Council, February 26, 2011.

[10] UN Security Council. March 14, 2011. http://www.securitycouncilreport.org/site/ c.glKWLeMTIsG/b.6621881/k.63C4/Update_Report_No_1brLibyabr14_March_2011.htm (accessed November 28, 2011).

[11] United Nations Human Rights Council. *"Resolution of the General Assembly" A/HRC/S-65/265.* New York: United Nations Human Rights Council, March 1, 2011.

[12] Joint and Coalition Operational Analysis. *"Libya: Operation Odyssey Dawn, a Case Study in Command and Control."* Suffolk: Joint and Coalition Operational Analysis, 4 October 2011, 1.

[13] UN Security Council. March 14, 2011. http://www.securitycouncilreport.org/site/ c.glKWLeMTIsG/b.6621881/k.63C4/Update_Report_No_1brLibyabr14_March_2011.htm (accessed November 28, 2011), 2.

[14] Ibid., 1.

[15] Arab League. *"The Outcome of the Council of the Leage of Arab States Meeting at the Ministerial Level in its extraordinary session On The Implications of the Current Events in Libya and the Arab Position."* Cairo: Arab League, 2011.

[16] Radio address from Colonel Muammar Gaddafi to Rebels in Benghazi 17 March, 2011.

[17] UN Security Council Resolution 1973. New York: UN Security Council, March 17, 2011.

[18] Joint and Coalition Operational Analysis. *"Libya: Operation Odyssey Dawn, a Case Study in Command and Control."* Suffolk: Joint and Coalition Operational Analysis, 4 October 2011. 2-3.

[19] UN Security Council. November 8, 2011. http://www.securitycouncilreport.org/site/ c.glKWLeMTIsG/b.6739039/ (accessed December 10, 2011). 1-2.

[20] UN Security Council Resolution 2016. New York: UN Security Council, October 27, 2011.

[21] UN Security Council Resolution 2017. New York: UN Security Council, October 31, 2011.

[22] *The Huffington Post.* November 24, 2011. http://www.huffingtonpost.com/2011/11/24/ libya-new-government_n_1111874.html (accessed December 11, 2011).

[23] Ibid., 2.

[24] Marc Fisher. "The Man Who Will Shape the Future of Libya". *The Washington Post.* 11 December 2011, B3.

[25] United Nations Charter, http://www.un.org/en/documents/charter/intro.shtml, 26 June 1945, Article 2.

[26] For detailed descriptions of the mass atrocities committed from WWII to the present day, see Samantha Powers. *A Problem From Hell, America and the Age of Genocide.* New York: Basic Books, 2002, and Gareth Evans, *The Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All.* Washington D.C.: The Brookings Institution, 2008.

[27] Evans. *The Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All.* 27-30. the first case was in Somalia. After the 1991 overthrow of President Said Barre, hundreds of thousands of Somalis were displaced, resulting in a massive humanitarian disaster that threatened at least that many lives. The initial UN peacekeeping force, designed to ensure humanitarian aid reached the needy, was enhanced with an eventual 28,000 peacekeepers. An expansion of the UN mission due to 40 Pakistani peacekeepers being killed, led to US forces attempting to capture or kill militia leaders responsible for preventing humanitarian aid reaching the needy. The resulting "Black Hawk Down" incident and the loss of 18 U.S. Soldiers precipitated the withdrawal of U.S. forces, quickly followed by the withdrawal of the UN, without achieving its original mission.

The second case was the 1994 genocide in Rwanda. After the downing of Rwandan President Juvenal Habyarimana's airplane on April 6th, widespread violence broke out as the UN Peacekeeping force under Canadian Lt. Gen. Romeo Dallaire stood by powerless to stop it. He was powerless because the UN failed to change his mandate and specifically ordered him not to intervene, and the UN denied his request for 5000 troops to stem the violence. The Hutu killing of 12 Belgian peacekeepers led to the eventual withdrawal of all UN forces. In the end, over 800,000 Tutsis would be massacred in a four month period.

The third case occurred in Bosnia in 1995. A UN Protection Force (UNPROFOR) entered Bosnia with the consent of the former Yugoslavia and other countries for peacekeeping operations. This mission was later expanded to include the protection of aid workers and five safe areas around five Bosnian towns to include Srebrenica. Due to complex and confusing chains of command and authorities, General Ratko Mladic seized the town of Srebrenica under the watch of 400 Dutch peacekeepers, loaded 8,000 men and boys into trucks and took them to various locations for execution.

The final case in the 1990s that would lead to international interest in intervention took place in Kosovo in 1998. Serbian president Slobodan Milosevic began a campaign to crush ethnic Albanian sentiment. The UN and NATO struggled to come up with a solution until, in March 1999, the murder of 45 Kosovo Albanians led the U.S. and NATO to intervene despite the lack of a UN resolution, which China and Russia refused to support. The resulting 78 days of bombing continued while the Serbs killed thousands more Albanians, and forced the displacement of thousands more. The NATO bombing in Kosovo, while not technically legal in international law, was deemed legitimate by the international community due to the moral imperatives they were designed to uphold.

[28] "The Responsibility to Protect," *Report of the Internationtal Comission on Intervention and State Sovereignty.* Ottowa: International Development Research Centre, 2001. VII.

[29] Ibid., VIII.

[30] Ibid., XI.

[31] Ibid., XII-XIII.

[32] Evans. *The Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All.* 45-47.

[33] UN General Assembly. "General Assembly Outcome." New York: United Nations General Assembly, September 15, 2005. Paragraph 138-140.

[34] Madeleine K. Albright, William S. Cohen. *"Preventing Genocide, A Blueprint for U.S. Policymakers."* Washington D.C.: United States Holocaust Museum, The American Academy of Diplomacy and the Endowment of the United States Institute of Peace, 2008.

[35] Barack Obama. *National Security Strategy.* (Washington DC: The White House, May 2010), 48.

[36] Robert Gates. *Quadrennial Defense Review.* (Washington DC: U.S. Department of Defense, February 2010).

[37] Barack Obama, *Presidential Study Directive on Mass Atrocities*, Washington D.C. August 4, 2011. http://www.whitehouse.gov/the-press-office/2011/08/04/presidential-study-directive-mass-atrocities.

[38] *The Responsibility to Protect: Report of the International Comission on Intervention and State Sovereignty.* Ottowa: International Development Research Centre, 2001. XI.

[39] David Sheffer. "Atrocity Crimes Framing the Responsibility to Protect." *Case Western Reserve Journal of International Law*, 2001, vol. 40: 134. This article provides and excellent analysis of the legal and political ramifications of R2P.

[40] Madeleine K. Albright, William S. Cohen, *Preventing Genocide, A Blueprint for U.S. Policymakers.* Washington D.C.: United States Holocaust Museum, The American Academy of Diplomacy and the Endowment of the United States Institute of Peace, 2008.

[41] Sarah Sewell. "Do the Right Thing. A Genocide Policy That Works." *The Boston Review.* September/October 2009.

[42] Manal Omar, Sarah Sewell, Richard Williamson, interview by Mike Abromowitz. *Libya and The Responsibility to Protect* (June 16, 2011). 13.

[43] Radio address from Colonel Muammar Gaddafi to Rebels in Benghazi 17 March, 2011.

[44] Emily O'Brien, Andrew Sinclair, Richard Gowen. *The Libyan War: A Diplomatic History.* New York University Center on International Cooperation, August 2011. 5.

[45] *Aljazeera.* April 15, 2011. http://www.aljazeera.com/news/africa /2011/04/ 201141503351178872.html (accessed November 28, 2011).

[46] *Legal Insurrection.* June 10, 2011. http://legalinsurrection.com/2011/06/obama-mishandling-of-libya-hurting-efforts-against-syria/ (accessed November 28, 2011).

[47] UN Security Council Resolution 1973. New York: UN Security Council, March 17, 2011.

[48] *The Responsibility to Protect: Report of the Internationtal Comission on Intervention and State Sovereignty.* Ottowa: International Development Research Centre, 2001. XII-XIII.

[49] *Better World Campaign.* 2009. http://www.betterworldcampaign.org/issues/funding (accessed November 28, 2011).

[50] A current example is Russia and China vetoing a resolution against the Assad government killing of over seven thousand civilians in Syria. The U.S. is currently attempting to form a coalition outside of the UN to determine how to stop the killing. *The Huffington Post*. Louis Charbonneau. "Syria UN Resolution: Russia, China Veto Resolution." 4 February 2012. http://www.huffingtonpost.com/2012/02/04/syria-un-resolution_n_1254441.html (Accessed 4 February 2012).

[51] Emily O'Brien, Andrew Sinclair, Richard Gowen. *The Libyan War: A Diplomatic History.* New York University Center on International Cooperation, August 2011. 3.

[52] Morgan, David. *CBS News.* June 10, 2011. http://www.cbsnews.com/stories /2011/06/10/501364,som20070541.shtml (accessed November 28, 2011).

[53] Ibid., 1.

[54] Anders Fogh Rasmussen, interview by Robert Siegel. "Rasmussen Discusses NATO Campaign in Libya." *All Things Considered.* National Public Radio. November 7, 2011.

[55] UN Security Council Resolution 1973. New York: UN Security Council, March 17, 2011. 3.

[56] Gertler, Jeremiah. *Operation Odyssey Dawn (Libya): Background Issues for Congress.* Report for Members and Committees of Congress, Washington D.C.: Congressional Research Service, 2011. 4.

[57] "The Responsibility to Protect . "*Report of the Internationtal Comission on Intervention and State Sovereignty.* Ottowa: International Development Research Centre, 2001. XIII.

[58] Joint and Coalition Operational Analysis. *"Libya: Operation Odyssey Dawn, a Case Study in Command and Control."* Suffolk: Joint and Coalition Operational Analysis, 4 October 2011. 8.

[59] Josh Rogin. *Foreign Policy.* March 21, 2011. http://thecable.foreignpolicy.com/posts /2011/03/21/rules_of_engagement_are_murky_in_libya_air_war (accessed November 23, 2011).

[60] Albright, Cohen. *Preventing Genocide, A Blueprint for U.S. Policymakers.*

[61] Dwight Raymond, Cliff Bernath, Don Braum, Ken Zurcher. "Mass Atrocity Prevention & Response Options: A Policy Planning Handbook Draft v. 3.0." September, 2011.

[62] Merriam-Webster Dictionary On-line. http://www.merriam-webster.com/dictionary/legitimate

[63] The discussion of the potential violation of the War Powers Resolution is outside the scope of this paper, but important to the discussion of strategic communication and presidential powers. Yale Law School, Lillian Goldman Law Library. http://avalon.law.yale.edu/20th_century/warpower.asp (accessed 20 November 2011).