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China and the Responsibility to Protect

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The Responsibility to Protect (R2P) is a significant, if controversial, development in international affairs. China has proposed its own semi-official version of R2P called "Responsible Protection".

Author's Note: *This article highlights issues discussed in more depth in various publications, including Andrew Garwood-Gowers, 'China's "Responsible Protection" Concept: Reinterpreting the Responsibility to Protect (R2P) and Military Intervention for Humanitarian Purposes' (2016) 6 Asian Journal of International Law 89 and Andrew Garwood-Gowers, 'R2P Ten Years after the World Summit: Explaining Ongoing Contestation over Pillar III' (2015) 7 Global Responsibility to Protect 300.*

Introduction

Over the last decade and a half the Responsibility to Protect (R2P) principle has emerged as a significant normative development in international efforts to prevent and respond to genocide and other mass atrocity crimes. Yet it has also been controversial, both in theory and in practice. R2P's legal status and normative impact continue to be debated in academic and policy circles, while its implementation in Libya in 2011 reignited longstanding concerns among many non-Western states over its potential to be misused as a smokescreen for regime change. These misgivings prompted Brazil to launch its "Responsibility while Protecting" (RwP) concept as a means of complementing and tightening the existing R2P principle. China, too, has proposed its own semi-official version of R2P called "Responsible Protection" (RP). This contribution explores the key features and implications of the lesser known Chinese initiative.

The R2P Principle

R2P first appeared in a 2001 report by the International Commission on Intervention and State Sovereignty (ICISS), a body set up by the Canadian government to consider how the international community should address intra-state humanitarian crises. However, after the initial concept proved contentious a modified version of R2P – labelled "R2P-lite" by one commentator – was unanimously endorsed by states at the 2005 World Summit. In its current form R2P consists of three mutually reinforcing pillars. The first is that each state has a responsibility to protect its populations from the four mass atrocity crimes (genocide, war crimes, crimes against humanity and ethnic cleansing). Pillar two stipulates that the international community should encourage and assist states in fulfilling their pillar one duties. Finally, pillar three provides that if a state is manifestly failing to protect its populations the international community is prepared to take collective action in a timely and decisive manner on a case-by-case basis, in accordance with Chapter VII of the UN Charter.

Action under pillar three can encompass non-coercive tools such as diplomacy and humanitarian assistance, as well as coercive means including sanctions and the use of force. The international community's pillar three responsibility is framed in conservative terms, creating only a duty to *consider* taking appropriate action, rather than a positive obligation to actually respond to a state's manifest failure to protect. Crucially, the UN Security Council remains the only body that can authorise coercive, non-consensual measures under pillar three. R2P does not grant states a right to undertake unilateral humanitarian intervention outside the Charter's collective security framework. Overall, R2P is best characterised as a multi-faceted political principle based on existing international law principles and mechanisms.

The most well-known instance of pillar III action to date is the international community's rapid and decisive response to the Libyan crisis in early 2011. The Security Council initially imposed sanctions and travel bans on members of the Gaddafi regime before passing resolution 1973 authorising the use of force to "protect civilians and civilian populated areas under threat of attack''". China, Russia, Brazil and India each abstained on the vote to mandate military force against Libya. As the extent of NATO's military targets and support for the Libyan rebels became apparent, many non-Western powers criticised the campaign for exceeding the terms of the Security Council resolution. For these states, the eventual removal of the Gaddafi regime confirmed their perception that R2P's third pillar could be manipulated for the pursuit of ulterior motives such as the replacement of unfriendly governments.

The post-Libya backlash against R2P was at least partly responsible for Security Council deadlock over Syria. Russia and China have exercised their vetoes on four separate occasions to block resolutions that sought to impose a range of non-forcible measures on the Syrian regime. At the same time, there has been renewed debate about the strengths and weaknesses of R2P's third pillar. In late 2011 Brazil's RwP initiative proposed a series of decision-making criteria and monitoring mechanisms to guide the implementation of coercive pillar three measures. While RwP initially attracted significant attention and discussion, Brazil's foray into norm entrepreneurship was short-lived and R2P has remained unaltered.

Reframing R2P as "Responsible Protection"

China's traditional insistence on a strict interpretation of sovereignty and non-intervention has made it uncomfortable with the coercive, non-consensual aspects of R2P's third pillar. As a result, Beijing has consistently emphasised

the primacy of pillars one and two, while downplaying the scope for pillar three action. In this respect, its decision not to veto resolution 1973 on Libya came as something of a surprise.

China's contribution to the post-Libya debate over R2P's third pillar is less widely documented than Brazil's efforts. In mid-2012 the notion of "Responsible Protection" was floated by Ruan Zongze, the Vice President of the China Institute for International Studies (CIIS), which is the official think tank of China's Ministry of Foreign Affairs. Although China has not explicitly adopted the concept as a formal policy statement on R2P, its implicit endorsement means it can be described as a "semi-official" initiative.

RP is primarily concerned with R2P's third pillar and, in particular, providing a set of guidelines to constrain the implementation of non-consensual, coercive measures. It consists of six elements or principles, which are drawn from just war theory and earlier R2P proposals such as the 2001 ICISS report and Brazil's RwP. In this respect, RP represents a repackaging of previous ideas, rather than an entirely original initiative. However, by reframing these concepts in stricter terms it reflects a distinctive Chinese interpretation of R2P that seeks to narrow the circumstances in which non-consensual use of force can be applied for humanitarian purposes.

The first element draws on the just war notion of "right intention". It provides that the purpose of any intervention must be to protect civilian populations, rather than to support "specific political parties or armed forces". This conveys Beijing's concerns over the motives and objectives of those intervening under the banner of R2P, as expressed during the Libyan experience. Element two relates to the "right authority" criterion. It reiterates the longstanding Chinese position that only the Security Council can authorise the use of coercive

measures, and that there is no right of unilateral humanitarian intervention granted to states.

RP's third element is based on the traditional principle that military intervention should be a "last resort". Its call for "exhaustion of diplomatic and political means of solution" is consistent with Beijing's broader policy preference for diplomacy and dialogue over forcible measures. However, insisting on a strict, chronological sequencing of responses may deprive the international community of the flexibility needed to ensure timely and decisive action on humanitarian crisis. For this reason, some clarification or refinement of element three may be needed. The fourth element of RP draws on aspects of the just war principles of "right intention" (like element one) and "reasonable prospects". In relation to the latter, it provides that "it is absolutely forbidden to create greater humanitarian disasters" when carrying out international action. This stipulation reflects Beijing's position that external intervention often exacerbates humanitarian crises and can ultimately cause more harm than good.

Element five of RP provides that those who intervene "should be responsible for the post-intervention and post-protection reconstruction of the state concerned". Although the notion of a responsibility to rebuild appeared in the original 2001 ICISS report it was not included in the text of the World Summit Outcome document in 2005 and therefore does not form a component of the current concept of R2P. It is unclear whether China's RP concept is explicitly seeking to resurrect this dimension or whether this element is simply intended to emphasise Beijing's broader perspective on peacebuilding and development in post-conflict societies. Finally, element six calls for greater supervision and accountability of those carrying out UN authorised civilian protection action.

This is a similar demand to that made in Brazil's RwP proposal, though little detail is given as to what form any such monitoring mechanism would take.

Conclusion

Overall, the Chinese notion of RP is an attempt to reinterpret and tighten the content of R2P's third pillar so that it aligns more closely with Beijing's own normative preferences and foreign policy objectives. Compared to RwP and the ICISS report, RP outlines a narrower set of circumstances in which military intervention for humanitarian purposes would be appropriate. Some aspects of the proposal would certainly benefit from clarification and refinement.

However, it is notable that despite strongly criticising the way R2P was implemented in Libya, China has chosen to engage with, and actively shape, the future development of the norm. This illustrates the extent to which China, as a permanent member of the Security Council, is enmeshed in the ongoing debate over R2P. In fact, RP is explicitly framed as an example of China "contributing its public goods to the international community". In the future we can expect China and other non-Western powers to play increasingly influential roles in the development of international security and global governance norms.

Image by UN Photo via Flickr.

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