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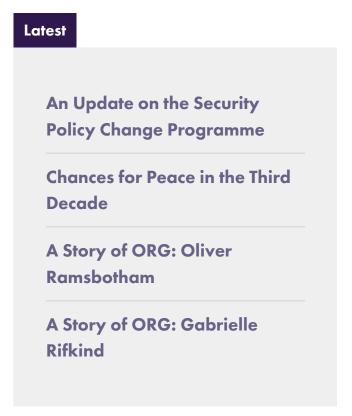
Interview - Aidan Hehir

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In his interview Dr. Hehir discusses the Responsibility to Protect and Libya, post-conflict peacebuilding, the need for UN Security Council reform and the prospect of a UN standing army.

Q. In 2011, the intervention in Libya was seen as a successful first true test of the Responsibility to Protect (R2P). The Security Council authorized a military intervention citing the R2P and Western leaders justified intervention on the grounds of stopping Gaddafi's threats of imminent mass murder in Benghazi. However, the recently released House of Commons Foreign Affairs Committee's report on the Libya intervention has called into question the humanitarian case for intervening. Do you feel that the intervention in Libya ultimately represented more of an abuse of R2P rather than an actual implementation of the doctrine?

While the 2011 intervention in Libya may well have looked like "R2P in action", in my view, R2P had negligible influence on the decision to take military action. Naturally, those who believe that R2P influences state behaviour heralded the intervention as evidence for their claims, but I believe they conflated correlation with causation. There is simply no evidence to suggest that the decision of the Security Council was in any way influenced by R2P.

The reference to R2P in Resolution 1973 mentions only the internal aspect of R2P; in other words, it simply states that the Libyan government has a responsibility to protect its own people. It did not identify R2P as the basis for the action the international community was taking. This determination to avoid using R2P as the justification for intervention, and exclusively referring to it in the context of Pillar I, has been a common theme running through all Security Council Resolutions. Using R2P in this way places the onus on the host state to deal with the issue and thereby enables the Security Council to deflect responsibility away from itself.

The key influence on the decision to act in 2011 was the statement made by the League of Arab States calling for intervention; this was, as Hilary Clinton declared at the time a "game-changer". It pushed the previously unwilling President Obama into supporting intervention – albeit in a half-hearted fashion – and also convinced the Russians and Chinese not to block the intervention through the use of their veto. The idea that the League of Arab States was motivated by their commitment to R2P to call for action in Libya is of course implausible; they took this decision on the basis of realpolitik.

With respect to the French and British position, again a coincidence of factors aligned to convince them to take action; a genuine desire to prevent a

slaughter may indeed have been one of these factors, but that in itself was not a sufficiently powerful incentive.

This is not to suggest that the decision to intervene was inherently wrong or singularly mendacious, but rather that the chorus of delight emitted from R2P supporters was premature. Prior to 2011 there had been instances when collective action was taken in response to a looming or actual intra-state crisis; the problem has always been, however, that these instances are a function of a correlation between national interests and humanitarian suffering. As a result, the record has always been inconsistent. Libya was a case where all the stars aligned so to speak and not evidence of a "new" disposition motivated by a determination to abide by R2P. The manifestly inconsistent record since 2011 highlights this.

So, the question as to whether it was an "abuse" of R2P is, to my mind, built on a false premise. It had nothing to do with R2P. Of course, the fact that so many of R2P's proponents declared it to be "R2P in action" has meant that it is widely associated with R2P. Given that the intervening coalition so obviously exceeded the mandate granted by Resolution 1973 – by engaging in "regime change" – and the nature of the chaos in Libya since the intervention, R2P has certainly been tainted by association with the intervention in Libya. But I wouldn't describe it as an "abuse of R2P" because this gives the concept more credit than it's due. R2P is a hollow slogan that states insert into speeches every now and again; it's not in any sense clear what it means, and thus it's difficult to see how such an inherently malleable, vacuous concept can ever be "abused".

Q. Since the intervention, Libya has descended into anarchy and civil war, which the Islamic State is looking to exploit and use as a 'gateway to

Europe'. Do you feel that this situation would have occurred had Gaddafi not been removed?

The current situation in Libya – the political chaos, the civil war and the presence of ISIS – was certainly avoidable. The manner in which the intervention occurred did not, to my mind, inevitably lead to the post-intervention situation; the fact that the intervening coalition so quickly abandoned Libya, and put their faith in the National Transitional Council, was the key factor in the collapse which followed the intervention. In this sense, I don't think that Gaddafi's removal caused the situation we now face; rather the absence of planning for post-Gaddafi Libya was the issue. Obviously his removal left a vacuum that needed to be filled but this was not impossible to do (though it would have required significant political will and expenditure of resources from the intervening states).

Had Gaddafi not been removed would ISIS have been able to exploit the situation? I think it very much depends. There are two scenarios that could have resulted in him staying in office but really only one is plausible.

The first scenario that may have seen Gaddafi retain power would have been some form of negotiated settlement; South Africa in particular tried to pursue this during the intervention. The talks were essentially scuppered by the intransigence of both parties; the TNC understandably felt they would achieve more if Gaddafi was forced out of power by NATO, while Gaddafi appeared to be unwilling to cede control. So it's difficult to imagine that it was in any way possible that a political settlement could have been reached which kept Gaddafi in power.

The second scenario would have come to pass if there had been no intervention and Gaddafi's forces had been able to defeat the rebels in Benghazi. While he may have "won" and retained power, the slaughter that would have likely accompanied a Gaddafi victory would surely have generated even more anti-government sentiments and the east of Libya would potentially have become a zone of prolonged civil war. ISIS may well have exploited this and moved into this part of the country. It's worth remembering that ISIS entered Syria while Assad was in power and therefore the idea that having a "strong man" in power would have prevented ISIS from gaining a foothold in Libya is not necessarily true. Once the uprising in Libya had reached a certain point – certainly by mid-February 2011 – the chances of there being a peaceful return to the previous status quo were negligible. Given Gaddafi's reluctance to accept that change was necessary, conflict within Libya thus became inevitable and with civil conflict in Libya comes the potential for ISIS to enter the fray.

That said, it is possible that Gaddafi may have "crushed" dissent in such an emphatic way that rebels fled and "order" was restored. If this had happened then it may well have influenced the Syrian rebels. Given that they were to a large extent encouraged by the experience of the Libyan rebellion – and especially the NATO intervention – a brutal crackdown in Libya may well have tempered their tactics. Obviously, if the Syrian rebels hadn't engaged in a civil war against Assad, then ISIS would have found it more difficult to enter Syria and naturally that would have meant it would have been more difficult for ISIS to move towards Libya. This "don't intervene and make the situation worse" is the kind of thinking that Alan Kuperman has advanced. It's somewhat plausible though it would mean tolerating dictatorship and repression but, given what's happened in Libya and Syria since 2011 one could certainly make

the case that as bad as these are they are preferable to the mass slaughter and prolonged suffering we are now witnessing.

Q. Ineffective post-intervention planning seems to a recurrent trend and problem. Are there any examples of exit strategies and post-intervention peacebuilding initiates that could be deemed effective?

It all depends on how one defines "effective" I think. Between 1994 and 2004 expectations regarding the efficacy of post-conflict/intervention statebuilding were ridiculously high. During this period operations were launched in Bosnia, Kosovo, Afghanistan, and Iraq with totally unrealistic aims. Obviously the "reconstruction" in Afghanistan and Iraq failed quite spectacularly but even in Bosnia and Kosovo it would be difficult to class the statebuilding as a success, if judged according to the original aims.

These experiences were in large part responsible for the far less intrusive statebuilding operation implemented after the intervention in Libya. Yet, while toning down the aims and intrusive nature of post-conflict reconstruction makes sense, in Libya the scaling down clearly went too far. As a result the country spiralled into crisis.

I think the primary aim for any such operation must be to ensure order; to prevent civil war and provide safety for all groups, ethnicities, religions etc. That naturally requires the presence of foreign troops, which of course raises a number of ethical and logistical dilemmas. But I think the old model of "traditional" UN Peacekeeping where the aim was to simply stop violence – as opposed to new ideas around "peacebuilding" – could work here and it would transfer the operation to the UN rather than ad hoc coalitions of states that – as so apparent in the case of Libya – can become distracted.

So ultimately, I think we need to be more realistic about what can be achieved after civil war and external military intervention; the key measure of effectiveness should be the suppression of violence and of course maintaining basic welfare provisions such as water, electricity etc.

Q. Recently, several emerging powers have contributed to the R2P debate with their own versions of global human rights initiatives. What do you feel are the implications of these developments for the future of R2P and, more broadly, global human security?

None of the BRICS are keen on R2P; each have advanced quite lukewarm positions on it. That said, they have tended to avoid declaring the concept to be "dead" or irrelevant; rather their statements have endorsed those aspects of R2P that cohere with their interests, while ignoring or warning about the others. This has generally manifest as supporting Pillars I and II while rejecting Pillar III (certainly the notion of military intervention).

I don't think any state will ever come out and say they think sovereign states *don't* have to protect their people from the four crimes, so the BRICS, and others, are happy to declare their support for Pillar I and II as both are predicated on the consent of the host state. In this sense, "declaring support for R2P" actually means reiterating the principle of sovereign inviolability while accepting that the international community should help states that ask for assistance. This is increasingly what R2P has become; an essentially irrelevant reaffirmation of the status quo dressed up to sound ethical.

Of course, significant differences exist amongst the BRICS; even though Russia and China tend to be lumped together – in large part because of the repeated "double-vetoes" cast over the past five years in the context of Syria – they

actually have a quite different approach to these issues. China is a major contributor to UN Peacekeeping missions and has consistently declared its aversion to the use of force; Russia has not had the same level of engagement with Peacekeeping and clearly has a different perspective on the use of force.

Certainly, as these states become more powerful the likelihood is that R2P will continue its evolution away from anything approximating genuine international regulation of state compliance with human rights; in this sense R2P is likely to continue to exist, but only as an empty phrase used instrumentally.

Q. You mention Russia and China's vetoes on Syria, a situation that could be described as one of the worst humanitarian crises of recent times. Does the structure of the Security Council inhibit the consistent application of R2P and, more generally, the enforcement of international human rights law?

Proponents of R2P often make expansive claims about its transformative impact and revolutionary potential. It is important to remember, however, that R2P has not in any way changed the existing means by which compliance with international human rights law is regulated or enforced. The process by which the international community responds to an intra-state crisis or mass atrocity is exactly the same today as it was prior to R2P. In this sense, the institutional architecture highlighted as problematic by the end of the 1990s – particularly after the intervention in Kosovo – has not been altered.

In particular, the powers of the Security Council remain unchanged. The Security Council is very obviously a political body; it was designed not as a means by which to ensure justice but rather as a way to maintain order. As a result, the way the Security Council responds to an intra-state crisis – which in effect determines the "international" response – is a product of the P5's

national interests. As a result inconsistency is inevitable; if the P5 are divided there can be no effective coordinated response (as we see in Syria); if the P5 are simply not interested, or indeed support the aggressor state, then there will be no meaningful response (as was the case with Sri Lanka in 2009). Thus, a meaningful, robust response will only ever occur if there is a coincidence between the P5's national interests and mass human suffering. These are, of course, exceedingly rare occurrences.

Prior to the emergence of R2P the Security Council's record was widely criticized as inconsistent; by definition this implies that *sometimes* the P5 reacted in a meaningful way, but only in exceptional cases. This inconsistency is clearly still in evidence. It is not, therefore, that the Security Council will never – or has never – reacted to a crisis in a timely and effective manner, but rather that they will only ever do so in a highly inconsistent fashion.

As a result, the scale of the atrocities being committed matters less than who is perpetrating them; some governments will always get away with committing one or more of the four crimes proscribed by R2P as they are allies with one or more of the P5. A good example is Bahrain; it has consistently been shielded from external censure by the US and UK despite its clear record of systematic human rights violations and crimes against humanity since at least 2011.

When R2P's more vocal proponents – like Simon Adams – express wounded outrage at the Security Council's inaction over Syria, their arguments lack credibility; the Security Council was not designed to respond in a timely and consistent manner to intra-state crises. Supporting the systemic status quo while expecting revolutionary change in the behaviour of those who consciously designed the system to enable the realization of their narrow geopolitical interests, is wilfully naive at best. So long as the powers of the Security Council

remain unchanged, and the existing international legal order more generally is preserved, there is no way R2P can achieve the highly ambitious goals it has set.

Q. Reform of the Security Council has arguably been an issue since its inception, but is certainly not an easy matter. Taking into consideration the major obstacles to this process, are there any genuinely plausible pathways to reform?

As soon as anyone suggests reforming the Security Council there is a collective sigh and a shaking of heads. Clearly it's been suggested many times and literally hundreds of proposals have been advanced to no avail. It's not hard, therefore, to be fatalistic about this. Personally, I don't see the Security Council reforming anytime soon.

However, I don't agree that because something is difficult to do or hard to imagine happening it should not be considered; that's a depressing blueprint for inertia. Historically, there are numerous examples of institutions or governing structures that appeared immutable but later collapsed. Often, existing power structures appeared at their most supremely powerful just before they fell.

The only hope with respect to the Security Council stems, I think, from the fact that at present there is a huge disjuncture between its behaviour and what is expected of it. During the Cold War few people held out much hope that the Security Council could do anything but that's changed now; expectations on a number of issues – not least human rights – have been raised considerably in the post-Cold War era. Even with the demise of the West people across the globe still increasingly feel that the "international community" should help

free them from oppression. So even the new systemic alignment can't put that genie back in the box. We are left therefore with a dramatic disconnect between the existing institutions – their remit and behaviour – and the expectations/needs of the people they are established to represent. That is not sustainable in the long-term. In 1945 Hans Kelsen described the UN system as "primitive"; it's the same system today, but there are some signs that momentum behind change is building, albeit not among the "Great Powers". It's important, therefore, to at least consider what the parameters of a new system should be. That's not utopianism; it's pragmatic. To scoff at the idea of reform is ultimately to claim that the status quo is in some sense irrevocable; this is both miserably fatalistic and ahistorical.

Q. You've previously discussed the concept of a standing UN army for peacekeeping. What would this force consist of and in what sort of situations would it be deployed?

People have been writing about a standing UN force since the organisation was established; few in fact realise that this was (and still is) part of the Charter (Article 47). Generally people have written about this in the context of Peacekeeping; as a means to ensure there is a force ready to be deployed when authorisation is given. In certain cases – such as Darfur – the authorisation has been given but the troops have not been volunteered promptly. My suggestion in *The Responsibility to Protect: Rhetoric, Reality and the Future of Humanitarian Intervention* was to build on the basic idea and mandate the force to also engage in military operations sanctioned without the consent of the host state (in contrast to Peacekeeping deployments). However, simply having an army doesn't necessarily overcome the problem that its deployment would be a function of the P5's national interests. There is little

point in having a standing army if it can only ever be used if the P5 agree. So my suggestion included the establishment of a judicial body that would be called into action in the event of Security Council paralysis; namely in situations where there is incontrovertible evidence that one or more of the four crimes are being committed by a state, diplomacy has failed and yet the P5 are divided about how to respond. In such situations the matter would be devolved to the alternative body to determine whether a military intervention is warranted. In this sense the body would not take over from the Security Council but rather serve as a substitute for it in particular situations (and only with respects to intra-state mass atrocity crimes).

Of course, the logistics of this would need to be worked out in detail and I didn't engage with this in any great depth. My intention, rather, was to defend the principle and outline the contours of the institutional change required. From talking to members of various national militaries, it would seems that there is nothing inherently impossible about forming or deploying a standing international army, in terms of the logistics. The problem of course is the absence of political will. That said, at various General Assembly debates on R2P states have advocated the idea of a standing force and lamented the politicized nature of the current means by which remedial action is authorised. Also, in terms of the P5's likely response to this, it need not be wholly negative; one could argue that this proposal would not remove their power and status, and in fact in certain cases would take the burden of responding away from them. Obviously, the new body charged with authorising the deployment of this force would never engage in a military action likely to incur the wrath of one or more of the P5; prudence would clearly have to be exercised.

Ultimately, all legal systems are fundamentally flawed if there is no objective means by which their laws are enforced; there must be a separation between the executive, the judicary and the police/army. Currently, the three are conflated and so it can't come as a suprise that international law – particularly with respects to human rights – is routinely flouted without censure. This is an unsustainable situation; unless one believes in the immutability of the present system – which, though understandable is as I said earlier ahistorical and fatalistic – it is surely incumbent on those of us unhappy with the present systemic architecture to think about progressive reforms.

Aidan Hehir is a Reader in International Relations, and Director of the Security and International Relations Programme, at the University of Westminster. He has published a number of books on humanitarian intervention/R2P including Humanitarian Intervention An Introduction 2nd Edition (Palgrave 2013); Libya, the Responsibility to Protect and the Future of Humanitarian Intervention (with Robert W. Murray, Palgrave 2013); The Responsibility to Protect: Rhetoric, Reality and the Future of Humanitarian Intervention (Palgrave, 2012); and Humanitarian Intervention After Kosovo (Palgrave, 2008).

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