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The international response to the crisis in Libya has been remarkably quick and decisive. Where many other cases of mass atrocity crimes have failed to generate sufficient and timely political will to protect civilians at risk, the early response to Libya in 2011 has shown that the United Nations Security Council is able to give effect to the 'responsibility to protect' norm. While not an implementing party in a legal sense, the Australian government has taken a forward-leaning diplomatic stance in helping to mobilise broad support for addressing this crisis. In light of the ongoing political controversy over armed humanitarian intervention, the Libya case shows that state-based advocacy for R2P matters, given the on-going need to bolster the legitimacy of the principle. A discussion of Canberra's diplomatic activity is a prelude to an examination of the proceedings of the UN Security Council and the two key resolutions, the second of which gave effect to the forcible action. The article then considers three dimensions of the Security Council's implementation of the responsibility to protect: the language of the resolutions and the intriguing absence of a textual reference to the international community's responsibility to act; the expansive mandate for civilian protection in Security Council resolution 1973; and the first unanimous referral to the International Criminal Court, with novel support from the United States of America.

Keywords: Australia; humanitarian intervention; Libya; responsibility to protect; Security Council

The terroristic use of state power turns a classic civil war into mass murder. If there is no other way out, democratic neighbour states have to intervene in an emergency based on a legitimisation by international law. (Habermas 1999)

> Liberal justifications for a 'humanitarian war' ... construct an inherently problematic link between military means and humanitarian ends ... The West was neither willing to risk the lives of its own soldiers nor to bear the burden of shedding others' blood, a burden the waging of war necessarily entails. (Barkawi 2000)

Arguments for and against humanitarian intervention—such as those embodied in the quotations above—are currently being debated in the global media. These particular statements were made in relation to the Kosovo War, serving as a reminder that, despite the consolidation of the responsibility to protect norm in the UN system during the post-Kosovo period, the application of military power for humanitarian ends remains a divisive ethical and political question.

The sight of attack aircraft targeting Libyan command and control facilities triggered a barrage of criticisms by anti-interventionist commentators and state leaders. For them, Operation Odyssey Dawn did not look, resemble, or feel, like humanitarian *protection*. Rather, it reminded them of the worst aspects of Operation Allied Force 12 years previously—a lengthy air campaign to degrade a vastly weaker opponent's political and military infrastructure, accompanied by political disunity over both the mandate and strategic disagreements about targeting. The problematic link between military means and humanitarian ends—noted by Barkawi and other critics of intervention—is evident today just as it was in 1999.

Despite the challenges presented by the intervention agenda, the Australian government in the post-Cold War period has not wavered in its long-standing view, encapsulated aptly by Habermas during the Kosovo War, that states have a duty to intervene when citizens elsewhere are in mortal danger. Over Libya, Australia has adopted a pro-intervention policy that has been, in the words of one official, 'early, clear, and consistent'. Sceptics—those who Habermas described as having a 'hermeneutics of suspicion'—could argue that it is easy to be in favour of a high-risk policy response when the stakes were so low for Australia. It is true that no military assets have been deployed by Australia and that no significant trade or security interests are at risk as a result of the action. Yet such a crude conjunction of material interests with policy take-up is unsatisfactory. As we argue below, Canberra's championing of responsibility to protect (R2P) in relation to Libya is only intelligible against the backdrop of a long-standing commitment on the part of several Australian foreign ministers to the evolution and consolidation of these norms (Bellamy 2010a).

The article opens by considering the diplomatic moves made by Foreign Affairs Minister Kevin Rudd and the impact he exerted on international policy formulation. This is manifestly not a narrative about 'Rudd's War' for the same reasons that Kosovo was not 'Blair's War', despite attempts by journalists to make such outlandish claims. Exaggerations of this kind do not go unnoticed. When the former British Prime Minister was in the United States during the

Kosovo War, making the case for a ground invasion, the influential conservative foreign affairs commentator, Patrick J. Buchanan, asked whether 'the mouse had roared'? To which he added pithily that 'it isn't going to be British troops humping up the road to Belgrade'. There is clearly a serious point underlying Buchanan's objection and that is the tendency for those who agitate for military action to confuse generalised responsibilities with the disproportionate burden that falls on those who have the capability to act. At the same time, it is defensible on neither moral nor analytical grounds to treat humanitarian intervention as though it was the sole prerogative of the great powers.

What we present in the first part of the article is a parallel narrative about the take-up of R2P in relation to Libya. We look at the agential capacity of a state-based actor—Australia—that is structurally located outside the UN Security Council and has a limited range of tools it can pull out of the foreign policy 'box'. At the same time, there is a significant focus on what went on inside the chamber of the Security Council, the institution that has authority for authorising measures to maintain global peace and security. What brings these two narratives together is not a neat and tidy causal story in which the Foreign Minister's 'words' trigger international 'deeds'. The social world does not work this way. What unifies Australia and the Security Council's deliberations over Libya is the importance of establishing the *legitimating principle* that is required for intervention. R2P is a principle that legitimates coercive measures to be taken, as a last resort, to protect peoples at risk from genocide, war crimes, ethnic cleansing and crimes against humanity. Through its unstinting support for R2P, Australian foreign policy has become one of the 'enabling conditions' for the elaboration of new international rules authorising intervention (Skinner 2002: 156).

The second part of the article picks up the Libya story as debated in the Security Council in New York. While Australia has been part of the enabling condition for the consensus that exists around R2P in broad terms, it is in the Security Council where its applicability is tested.[1] Here we see how the meaning and use of R2P is debated and contested, or in Quentin Skinner's words, 'how far these [meanings] can be plausibly stretched' (2002: 156). We argue that the multilateral deliberations of the Security Council involved considerable stretching in relation to previous articulations of R2P. This makes our position different to that of Simon Chesterman (2011), the respected writer on international law in the UN system, who broadly argues that Libya is significant only from a political and not from a legal perspective.[2] The concluding discussion asks what impact Libya is likely to have on the diplomacy of responsibility. While we concur with those who argue that regional organisations are exerting greater influence, this case study shows that state-based advocacy and activism—bilaterally and multilaterally—remains important to the legitimation of R2P.

Australia's R2P activism

Libya was not Australia's humanitarian intervention moment.[3] That came in September 1999 when Australian defence forces intervened to prevent pro-Jakarta militias from overturning the outcome of the vote on the self-determination of Timor Leste. Of course it could be argued that this was not a real case of humanitarian intervention as a functioning government in Indonesia did not oppose the INTERFET operation (Cotton 2001; Wheeler and Dunne 2001). Yet the reality was that many doubted the extent to which there was effective control over the Indonesian military, particularly given their known opposition to East Timorese independence. Whichever side of this debate one adopts as to whether this was in fact a case of humanitarian intervention, the key point was that the Australian government was prepared to take significant risks in relation to its military personnel in order to underwrite the outcome of a ballot on regime change.

Tracking Australia's diplomatic initiatives in relation to Libya is intelligible only in relation to the long-standing commitment the country has made to the R2P principle, despite objections to it—and frequent abuses of it—by various governments around the world. Championing the principle, as many countries have done often in concert with NGOs and international organisations, has been critical to the legitimacy it has acquired in contemporary international society.

R2P and ideological innovation

The German social theorist Max Weber described social actors who challenge the prevailing consensus as 'ideological innovators' (Skinner, 2002: 148).[4] The innovation stage of R2P within international politics took off in 1999 when Kofi Annan reflected on the problems of both inaction in Rwanda and unlawful action on Kosovo (Annan 1999). The International Commission on Intervention and State Sovereignty (ICISS) was created to find a solution to these tensions, co-chaired by Australia's former Foreign Affairs Minister, Gareth Evans. The ICISS produced a report titled 'the responsibility to protect' which outlined thresholds of suffering beyond which the norm of non-intervention would give way to the exercise of international responsibilities (ICISS: xi). Through an intensive process of advocacy these ideas were distilled into the 2005 World Summit outcome document, which outlined national and international responsibilities to take 'timely and decisive action'—on a case-by-case basis—in response to genocide, war crimes, ethnic cleansing and crimes against humanity (United Nations General Assembly 2005). After being endorsed in 2005, R2P moved into the consolidation phase where it has become a regular part of discussions within the United Nations (see Bellamy 2010b). In 2006 the Security Council reaffirmed both paragraphs of the World Summit document (see resolution 1674).

In light of the broad acceptance of the R2P principle in international society, Australia's diplomacy shifted from the role of ideological innovator to that of being a tenacious advocate of its applicability. Australia has recently created the senior governmental position of 'National R2P Coordinator' and has been a strong promoter of R2P (see Rudd 2011d). Foreign Affairs Minister Kevin Rudd has been tireless, to the point of criticism from conservative quarters, in his support for R2P and its application.

If we doubt that advocacy matters, consider the views of Anthony Lake, national security advisor to President Clinton during the Rwandan genocide: in Lake's words 'it was seen as impossible to contemplate American intervention, because nobody was for it' (cited in Barnett 2008: 198–9). A looming humanitarian catastrophe 17 years later, on the African continent, did not meet with the same international indifference.

It is important to reflect carefully on what is, and is not, being claimed when R2P is said to be an international 'norm'. Given the structural weaknesses in international society around collective action, no norm in relation to the use of force is sufficiently robust that it will be applied consistently. Once the standard claim about how norms work is turned on its head, we get a better understanding of R2P: it has made *non*-intervention in the face of mass atrocity crimes *less* likely. The legitimacy accorded to R2P is sufficiently broad and deep to mean that it is more difficult for states to continue with 'business as usual' when mass atrocity crimes are occurring.[5]

Rudd's diplomatic activism

The uprising in Libya began shortly after the fall of Tunisian ex-President Ben Ali on 14 February 2011 after 23 years in power. While the people celebrated, Colonel Muammar Gaddafi expressed regret about the regime change in Tunisia, saying 'there was no one better' than Ben Ali. The social revolution of the Arab Spring soon spread to Libya. A week after the uprising began, and with the government crackdown gathering momentum, Kevin Rudd made a strong statement on ABC radio lending his support to the aspirations of protestors for freedom from repression and the right to live a better life (Rudd 2011a). He stopped short, at this early stage, of explicitly invoking 'pillar three' responsibilities as set out in paragraph 139 of the World Summit document.

The League of Arab States (LAS) suspended Libya from the organisation on 22 February 2011: the first indication of the critical role that regional organisations were to play in the response to the crisis. On the same day, the UN Security Council issued a statement calling for the Libyan government 'to meet its responsibility to protect its population' (United Nations Security Council 2011a). This was an unusually quick response from the Security Council only a week into the crisis.

It was in the days immediately following that Australia sought to leverage its diplomatic influence through its strong bilateral relations with permanent Security Council members (P5), as well as through direct membership of bodies such as the Human Rights Council. In advance of the Special Session of the Human Rights Council in Geneva, the Foreign Minster urged the Council 'to pursue its mandate to send a strong message to the Gaddafi regime that violations of human rights will not be tolerated'. Later in the same statement, Rudd reminded his audience that every sovereign state, and the international community as a whole, had 'a responsibility to protect civilian populations from mass atrocities, including crimes against humanity' (2011c). This was the first intervention by Rudd that urged the Security Council to consider a range of coercive measures, including the implementation of a no-fly zone. He also wrote to Brazil, as the President of the Security Council at the time, to urge them to use their presidency to push for stronger action on Libya.

The day after the Human Rights Council meeting, at which every member state severely criticised the Gaddafi regime, Australia imposed sanctions on 22 members of the regime including the ruling family (prohibiting Australians from engaging in financial transactions with the named individuals). While not wanting to overstate the material effects of this policy, this unilateral decision by the government of Australia demonstrated their willingness to take practical measures against the government of Libya. On the same tack, Australia made a significant material contribution to the crisis by being the third largest donor of humanitarian aid.

While in Geneva, Rudd met with Catherine Ashton (EU High Representative for Foreign Affairs) and her senior advisor Robert Cooper. Previously, Cooper had played an important role in advocating an internationalist position to Tony Blair during the first of his Labour administrations. Reflecting on Rudd's impact in relation to Libya, Cooper noted that 'voices from different parts can sometimes have more influence than one imagines' (cited in Stewart 2011).

Here and elsewhere, the diplomacy of responsibility conducted by Canberra is a good illustration of the effective mobilisation of soft power. For reasons of geography and scale, Australia was not in a position to join the military action—though some deployment might have been possible without Canberra's significant contribution to the International Security Assistance Force in Afghanistan. But what Australia achieved was that it helped to securitise the case, which entailed the following three moves: (1) shifting the importance of Libya up the international agenda; (2) highlighting the need for decisive action to be taken by the UNSC; (3) justifying coercion on the exceptional grounds of the international community's duties to assist and protect peoples in Eastern Libya facing mortal danger.

Australia played an active role in lobbying relevant regional bodies to promote a strong stance on Libya. In early March, Rudd met with the Organisation of Islamic Cooperation (OIC) to discuss the possibility of a no-fly zone in Libya. A senior DFAT official indicated that Australia was very strongly

advocating a no-fly zone to the OIC at this time (interview 2011). Rudd met again with the OIC's Secretary General on 8 of March, the day the OIC announced support for a no-fly zone in Libya. The following day Australia and the Cooperation Council for the Arab States of the Gulf (GCC) issued a joint statement calling for the UN Security Council to impose a no-fly zone on Libya. This was indicative of Australia's 'forward leaning' stance on Libya as a promoter of R2P.

How much should be made of Australia's stance on Libya and R2P in light of the current bid for a non-permanent seat on the UN Security Council for 2013–14? DFAT's website lists the promotion of R2P as a key element in Australia's bid. A senior DFAT official maintained, however, that generating support for Australia's bid was never a consideration in formulating policy on Libya; rather, he took the view that activism on Libya was an extension of Australia's stance on human rights internationally and it was a question of 'values' (interview 2011). Rather than viewing Australia's advocacy on Libya and R2P as related to the Security Council bid, it is possible to see support for multilateralism and the value placed on responsible sovereignty as reasons for aspiring to a rotating seat on the Council *and* championing human rights in Libya (Bellamy 2010a).

Advocacy amid discord

The consensus on R2P that was forged in the post-Kosovo decade does not mean that unity is assured when it is applied to individual cases. Such ambiguity is evident in resolution 1973. R2P is only invoked in relation to 'the responsibility of the *Libyan* authorities to protect the Libyan population' (emphasis added), despite the fact that Libya had not been exercising sovereignty-as-responsibility for the period of Gaddafi's long rule. The point of 1973 of course was that Libya was not going to be trusted to show restraint, and therefore timely and decisive action (pillar three) was going to be required.

Why, then, did the Security Council choose to give effect to a pillar three intervention while presenting the rationale in pillar one terms? One possible answer can be found by tracking back to Darfur. Here resolution 1706 was more consistent in that it recalled both paragraphs 138 and 139 of the 2005 World Summit outcome document; in other words, it invoked pillar three while seeking to give effect to it. Consistent it might have been; contentious it most certainly was. According to a US State Department official, the inclusion of the international community's responsibility to protect came at the cost of other parts of the resolution (interview 2011).[6]

While P5 members have been willing to make a pillar three argument on Libya in some settings, no permanent member used pillar three language to frame resolution 1973 when speaking at the vote. The only Security Council member to do this was Colombia which stated that the Libyan government 'has shown that it is not up to the international responsibility of

protecting its population' (2011e). France used strong pillar three language after the vote for resolution 1970, but not 1973, saying that the text 'recalls the responsibility of each State to protect its own population and of the international community to intervene when States fail in their duty' (2011c). Given these pillar three statements from Security Council members on the situation in Libya, it is intriguing that no P5 member included reference to this in their statements on resolution 1973 as being an instance of pillar three implementation.

The attachment of R2P to Libya's responsibilities as a sovereign state, rather than explicitly invoking the international community's collective responsibility, is a good example of how the application of the R2P principle remains controversial and contested. It is against this backdrop that we should understand the importance of consistent R2P advocacy—including the generalised responsibilities that accrue to the society of states—by countries like Australia. Without this wider legitimacy, the struggle over the meaning and implementation of R2P in New York would probably have resulted in a diplomatic stalemate.

The UN Security Council's response to the crisis in Libya

The UN Security Council issued three key statements which show the evolution of its stance on Libya in the lead-up to NATO's intervention. With increasing escalation, these were a non-binding press statement on 22 February, followed by two resolutions adopted under Chapter VII of the UN Charter on 26 February and 17 March. Taken together, these actions show a response from the Security Council that is noteworthy for its speed, expansive no-fly zone mandate and changed politics toward the International Criminal Court (ICC). Ambassador Rice stated on Libya: 'I can't remember a time in recent memory when the Council has acted so swiftly, so decisively, and in unanimity on an urgent matter of international human rights' (2011a).

Security Council resolution 1973: an expansive mandate?

Resolution 1973 must be viewed in the context of the normative development of R2P and the protection of civilians since the end of the Cold War. Many aspects of this resolution are unique and reflect the difficult lessons learnt during this period. Resolution 1973 is the first no-fly zone explicitly authorised for civilian protection purposes and the language used to do this is more expansive than prior examples. However, abstentions from two permanent members and other rising powers suggest that while a shift is evident it is not without contestation.

Resolution 1973 mandates a no-fly zone, which is a rare measure for the Security Council to use. Two previous cases involving the use of no-fly zones are

pertinent here, Iraq in 1991 and Bosnia in 1992. The Security Council has built on the lessons learned from prior cases to create a mandate which is both legally authorised and explicit about its civilian protection goals. Resolution 688 on Iraq was used to justify the subsequent no-fly zones, but there is no explicit reference to this in the text (Wheeler 2000: 152). In fact, the only time the Security Council had previously explicitly authorised a no-fly zone was in Bosnia, but this resolution was justified as necessary for the delivery of humanitarian aid, rather than for the protection of civilians (United Nations Security Council 1992). In contrast to these prior examples, resolution 1973 on Libya is the first time the Security Council has authorised a no-fly zone with the explicit purpose of protecting civilians.

In deliberations of the Security Council, the use of 'previously agreed language' is valued by practitioners because it is easier to find consensus for—so much so that the Office for the Coordination of Humanitarian Affairs produces an 'Aide Memoire' which includes a selection of language on protection as a tool to assist the Security Council draft resolutions (OCHA 2011). In resolution 1973 prior wording on the civilian protection is stretched to both draw on previous agreements and take them a step further. The standard language used in resolutions is to 'protect civilians under imminent threat of physical violence' which is notable for how consistently it is used (Holt, Taylor and Kelly 2009). In contrast, 1973 uses the phrase 'to protect civilians and civilian populated areas under threat of attack', dropping the word 'imminent' and including a more expansive concept of 'civilian populated areas'. As Schmitt outlines, the inclusion of 'civilian populated areas' means that areas can be defended beyond those where civilians are in immediate danger (2011: 56). The civilian protection component of this resolution shows a more expansive approach to the protection of civilians in both actions and language.

These expansions are not uncontroversial. Abstentions in the Security Council are uncommon and a strong statement of dissent, given that between 2000 and 2010 more than 91 percent of Security Council resolutions were passed with the affirmative votes of all 15 members.[7] Yet a third of Security Council members abstained on resolution 1973, highlighting the controversial nature of this decision. More significant than the number of the abstentions, however, is *who* abstained on this resolution. The states that abstained on this resolution were Brazil, Russia, India, China and Germany. This means that none of the four BRIC countries[8] (two with a Security Council veto and two as ordinary members on a rotational basis) were prepared to support the mission. Their scepticism over the use of force in Libya raises important questions about the will and the capacity of emerging powers for taking 'timely and decisive action' to prevent humanitarian disasters or mitigate their worst effects. The main reasons cited by these members on why they abstained from the vote were twofold: they believed the mission had a low chance of success and they

were concerned about the indeterminacy of the resolution that was in front of them (2011e).

Although the abstentions on resolution 1973 indicate the contentious nature of this decision, this must be tempered by the fact that it was not contentious enough to provoke a veto from a permanent member. Even though they abstained, Russia and China chose not to veto the resolution or to campaign such that there was an insufficient majority in favour. Both veto powers cited the support of the Arab League of States for implementing a no-fly zone as key to their decision to abstain rather than veto, with Russia highlighting the importance of civilian protection as a further reason (2011e). In this respect, the phrase 'constructive abstention'[9] captures the China and Russian position over resolution 1973—a markedly different outcome to the diplomatic opposition they mounted against attempts to secure Security Council authorisation for the Kosovo intervention in 1999.

The International Criminal Court

Resolution 1970 is only the second time the Security Council has asked the ICC to investigate a situation. As such, it is informative to consider the Libyan case in light of the Council's prior referral of Darfur in 2005 to show how the politics surrounding the ICC are different in these two cases.

The unity expressed in the 15–0 vote by members of the Security Council is the first major difference. Other points of note are the speed with which the Security Council referred the matter of Libya to the ICC: less than two weeks into the Libyan conflict and more than two years into the Darfur crisis. Also, the Darfur referral was triggered by an International Commission of Inquiry (see Schabas 2010), whereas the ICC was asked to investigate Libya without a prior judicial endorsement.

Although the membership of the Security Council in 2011 includes five non-signatories to the Rome Statute, all five voted in favour of referring the situation of Libya to the ICC. The non-signatories either expressed strong support or raised concerns but voted affirmatively because of Arab and African support for the referral (United Nations Security Council 2011c). Brazil, a strong supporter of the ICC, voiced the same concerns over the caveats in the texts of both referrals, but abstained on Darfur and voted in favour of the Libyan referral because of 'the urgent need for the Council to send a strong, unified message' suggesting a powerful pull towards unanimity (United Nations Security Council 2011c).

The shift in position by the United States on the ICC merits further discussion. After abstaining on the Darfur referral, United States Ambassador Patterson reminded the world that 'we have not dropped, and indeed continue to maintain, our long-standing and firm objections and concerns regarding the ICC' (United Nations Security Council 2005). On Libya the United States not only voted in favour of the referral of Libya to the ICC; it went as far as to

co-sponsor the resolution. Here we have the somewhat unlikely situation of the United States putting forward a resolution to the Security Council in support of a referral to a court from which it had insisted its military personnel and political elite were immune.

Both resolutions on Libya show that current debates on R2P in the Council are about the implementation of R2P, rather than the appropriateness of the norm. The Russian view illustrates well the legitimacy that is now accorded to the principle that 'timely and decisive action' is acceptable under certain circumstances. At one point during the diplomatic debate, Russia's view was that the most effective way to protect Libyan civilians was by demanding an immediate ceasefire rather than through a no-fly zone (United Nations Security Council 2011e). Here we see a non-liberal great power contesting the means rather than the ends of protective intervention.

Conclusions: Libya's legacy

It is a truism, though an important one nonetheless, that the state of intervention in international society will greatly depend on whether Libya is seen as a successful operation. The no-fly zone and other punitive sanctions were in place for five months before the Gaddafi regime fell. It is too soon for a final reckoning of the intervention; however, it is clear that the UN mandated measures curbed Libyan state terror and tipped the balance of forces in favour of the Transitional National Council. Yet the spectre of Kosovo remains in terms of a mismatch between the protection of civilians mandate and the declared aim—of the intervening states—to remove Gaddafi from power. As uncomfortable as it may sound, R2P advocates have said all along that there is nothing in the doctrine that guarantees a successful outcome either in the military phase of the operation or in the institution-building that follows the intervention.

The focus of this article has not been an evaluation of the impact of the two UN resolutions. Rather, we have sought to ask what the Libya case tells us about the state of intervention. Initial commentaries have highlighted the potential leadership deficit in a post-American world. An article in *Foreign Policy* expresses this viewpoint neatly—'there will always be crises that require multilateral action'—and this stark reality opens up the question of 'when the BRICS[10] will be willing to step up to the plate and place idealism above self-interest' (Wagner and Jackman 2011). The reasons for BRIC caution in relation to 1973 are multiple and include reasonable concerns about the efficacy of force and a likely gap between the political intent and the kind of military actions that were suitable.

Many commentators in late February and early March believed that a Security Council agreement on coercive military action would never be forthcoming. Various factors lessened the opposition of Russia and China,

including a worsening of the terror being perpetrated by Gaddafi's military supporters, to the point where the veto-casting members of the BRIC coalition effectively enabled resolution 1973 by not opposing it (either through casting the veto or by mobilising the opinion of non-permanent members against the resolution, as France and Russia did in March 2003 over Iraq).

A factor that was critical to the tipping of the balance in favour of military action on the part of the United States was the degree to which a coercive response was supported by regional organisations. Secretary of State Clinton spoke about the leadership and conviction evident in the League of Arab States declaration of 12 March 2011 that called for both a no-fly zone and the establishment of safe areas. In tracking this development, Bellamy and Williams have gone as far as to suggest that regional organisations are playing an 'emerging gatekeeper role' (2011: 867).

While the prominence of regional organisations has become an important focal point for discussion, this article is a reminder about the ongoing importance of states acting as R2P champions. As we recorded earlier in the article, Australia diplomatic support position in relation to decisive action against Libya was 'early, clear and consistent'. With no clear national interests at stake and no hard power to reinforce its diplomatic message, Australia nevertheless mobilised significant normative power, reserves of which have been built up over many years of R2P activism. It is the long-standing bolstering of the principle of R2P by Australia (in concert with other pro-R2P states and NGOs) that we believe was critical to the determination by the Security Council to take action consistent with the terms of the World Summit document (paragraph 139). The great enabler of the action against Libya was the power of legitimacy that is now accorded to R2P.

Sceptics can respond by arguing that bolstering the principle of R2P is a relatively low-cost policy commitment. The argument presented in this article suggests two rejoinders to this critique. First, pragmatic caution is frequently the preferred position taken by the majority of states when a humanitarian catastrophe is happening. Noise matters in coalition-building; over Libya, Australia made a noise. Second, while it has not featured in our discussion above, it is noteworthy that Canada—the other middle power that has championed R2P—has distanced itself from the doctrine under the Harper government.

An important legacy of the Libyan intervention for Australia will be the fall-out in its own region. The Australian government has a good record of contributing to the non-coercive dimensions of the responsibility to protect—supporting preventive strategies as well as providing assistance to those countries which are at risk of experiencing an atrocity crime. Yet by mobilising its normative power behind a high-profile pillar three intervention, the government and its agencies will now need to engage in a new round of conceptual diplomacy that reassures neighbouring countries that R2P is not a new acronym for an older practice of western state military intervention. At the same time, as Libya shows, the cry for intervention for protection will be

made again and again by those peoples who are confronting state terror. When it is too late for prevention or assistance, the applicability of force for humanitarian purposes now commands a degree of legitimacy that was absent during the 1990s—a transformation that Australian foreign policy has helped to bring about.

Notes

1. R2P is of course much wider in scope than the kinds of muscular interventionism identified during the 1980s. The current UN Secretary-General, Ban Ki-moon, helpfully characterises a 'three pillar' approach to promoting and implementing R2P. Pillar one refers to the protection responsibilities of sovereign states; pillar two refers to international assistance and capacity-building; pillar three relates to timely and decisive international responses to actual and potential atrocity crimes. It was the fact of Libya's failure to uphold its pillar one responsibilities that triggered the call for international action (hence the pillar three focus of this article).
2. Chesterman (2011: 1) refers to the legal implications of Libya as being 'interesting but not exactly ground-breaking'.
3. Holzgrefe (2003: 18) defines 'humanitarian intervention' as 'the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the states within whose territory force is applied'. It is commonplace to make the absence of consent a defining marker of humanitarian intervention—although the meaning of consent is seldom reducible to an either/or framing.
4. Weber's concept of ideological innovator has clear parallels with the constructivist notion of norm entrepreneurs, as pioneered by Finnemore and Sikkink (1998).
5. This understanding of how contentious norms operate falls far short of what Risse *et al.* (1999) would call 'rule consistent' behaviour. For an account of the status of R2P as a norm, see Bellamy (2010b).
6. Details of this case are in Jess Gifkins' PhD thesis, *Security Council Decision-Making: The Case of Darfur*, University of Queensland.
7. This data has been compiled from Security Council records. See <http://www.un.org/Depts/dhl/resguide/scact.htm>
8. BRIC is the conventional way of referring to Brazil, Russia, India and China.
9. As advocated by ICISS 2001.
10. The BRIC became the BRICS after South Africa was invited to join in 2011. South Africa voted for the resolution despite the AU being opposed to 'any foreign military intervention'.

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