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United Nations Invocations of the ‘Responsibility to Protect,’ State Sovereignty and State Actions

Introduction

The United Nations lies at the heart of the international system established at the end of the Second World War. The maintenance of international peace and security was (and remains) the first of the purposes assigned to it. Its Charter defined norms that if respected, would make it a more effective instrument for preventing and resolving conflict than the inter-war League of Nations had ever been. Initially, the Cold War prevented the new United Nations from fulfilling many of its creators’ hopes and expectations, but its moment seemed at last to have come when the Cold War ended in 1989 (Goulding, 2003, p.346).

Recent developments following the so-called Arab Spring have raised questions concerning why the United Nations (UN) seems to have been unable to perform a more meaningful and stabilizing role as Goulding’s argument would have suggested was likely. Indeed, many analysts have argued there are now signs of a renewed Cold War, particularly in Syria. Suspending for a moment, a focus on these contentions, what is certain is that unilateral actors and alliances have employed force in the present Syrian conflict on a broad scale—apparently without United Nations will or capacity to prevent or stop it—and following often conflicting agendas. During 2015, France and a coalition led by the United States (USA) that includes Bahrain, Italy Jordan, Qatar, Saudi Arabia and the United Arab Emirates, began to bomb targets controlled by the self proclaimed Islamic State of Iraq and Syria (ISIS) within

Syrian territory. Meanwhile, Iranian troops and Hezbollah fighters have reportedly engaged in a ground offensive against anti-Assad forces, with Russian air support. Russian backing of the Syrian government has often been at cross-purposes with the French-USA coalition, a fact that threatens to broaden the conflict in that nation to a far larger field. In addition, according to the newspaper *Ha'aretz*, Israel has launched at least a dozen airstrikes in Syria and Lebanon since 2011 targeting what it considers to be terrorist weapons caches and arms-transport convoys (principally associated with Hezbollah).

The United Nations has remained largely vague or silent regarding the legitimacy of these operations affecting the territorial sovereignty of one of its members, reflecting the incapacity or unwillingness of its members to use the UN Charter to address the issue. Members have neither effectively worked to assist the Syrian government to reassert its sovereignty, nor otherwise intervened to address meaningfully a situation that presently threatens international stability.

This brief article examines evolving UN understanding of state sovereignty in light of the Responsibility to Protect (R2P) doctrine in recent years. We contend that states have continued to act in ways that erode the principle of sovereignty in practice, but without evidencing sustained political will to address the circumstances such interventions create. The result, increasingly, is an international system whose architectonic structural principle is no longer sacrosanct, but one without clear criteria to guide when usurpation of that organizing premise is appropriate or prudent. We treat these concerns through an analysis in three sections below

of the recent use and implications of the Responsibility to Protect doctrine, especially in the current evolving crisis in Syria.

Syria, the United Nations Charter and “Responsibility to Protect”

In order to discuss the role of the United Nations in the Syrian Conflict one must begin by addressing what one means by the “United Nations.” As Goulding observed in 2003,

There is ... imprecision in the phrase ‘the United Nations.’ Does it mean the United (or not so United) Nations, which are members of the “United Nations Organization” created by the Charter in 1945? Or does it mean that Organization, with its six ‘principal organs’ —the General Assembly, the Security Council, the Trusteeship Council, the Economic and Social Council, the International Court of Justice and the Secretariat? Or does it just mean the last of these organs, the Secretary General and his (or soon, one hopes, her) staff? Or does it mean all of the above, plus the alphabet soup of programmes, funds, offices and agencies, which since 1945 have accreted to the original organization? The answer is that ‘the United Nations’ can have all or any of these meanings. In the Secretariat one used to feel that if the context was congratulatory (‘the UN has eradicated smallpox,’ ‘the UN has brought Namibia to independence’) the phrase meant the member states, but that if the context was critical (‘the UN ought to be doing something,’ ‘the UN has missed another opportunity’) it was the Secretariat that was meant (Goulding, 2003, p.21).

This argument suggests that the second connotation listed seems likely to be chosen when United Nations member states wish to use the institution as a scapegoat for action or inaction for which they do not wish to accept responsibility.

The UN Charter named that organization’s Security Council as the only body that could legitimately wage war or commit member states otherwise to seek peaceful resolution of disputes. The Charter envisaged the Security Council authorizing military actions against governments that committed acts of aggression or otherwise broke the peace. Chapter VII of that document went further to distinguish between internal and external disputes and limited

the conditions under which the UN could intervene without a state's consent to address situations threatening to the peace and security of a region. United Nations adoption of the Responsibility to Protect doctrine in 2005 expanded the institution's role to include protection of people and not simply states. This shift recast sovereignty as no longer contingent on international recognition alone, but also on a state's behavior and performance. However, as Paris (2001) has argued, the specific criteria for assessing at which point a state's (mis)behavior legitimizes international intervention remain vague and contested. Since R2P's adoption as the organizing principle for the UN role as an international security organization, a number of states have complained that it actually fosters an interventionist agenda, and that those governments labeled as "rogue"—i.e., unable or unwilling to protect their citizens from an array of issues, ranging from political oppression, to violence, to extreme poverty—have therefore become potential targets for one form or another of international action. These critics have argued that, in effect, such nations have de facto lost at least a portion of their claim to sovereignty.

This situation has paved the way for an interventionist posture among United Nations member states, who have not, however, consistently sought the authorization of the Security Council to wage wars (whether declared and open or low intensity in character). Unfortunately, the Western choice to support those opposed to Syrian President Bashar al-Assad because of that government's poor human rights record, without inquiring deeply from the outset into the exact character of the forces on the ground arrayed against his rule, has created a favorable terrain for such previously unknown groups as ISIS and al Nusra to capitalize on the governance instability in the region to score political points and gain power.

As one considers past policies for an analogue to describe the current alliance stance toward Syria, it appears fair to conclude that it most resembles the doctrine that dominated the Reagan administration's approach to Central America during the 1980s. As Goulding has remarked,

During the Reagan Administration, my enemy's enemy [was] my friend. ... But it is not a sound doctrine, for it can lead to alliances which, when all is later revealed, bring shame to the democracy that has been unwise enough to enter into them (Goulding, 2003, p. 215).

Moreover, the UN Charter binds states to subsume national interests to compelling international needs when the two come into conflict,

Any decent state has often to debate how far policy dictated by narrow national interest should be modified to take account of moral imperatives. It is the role of Governments to decide where the balance should be struck between these two factors. But the United Nations is different. The message of its Charter is that, notwithstanding the sovereignty of the UN member states, their individual national interests should not prevail over the ethical purposes for which the Organization was [established in 1945](#) (Goulding, 2003, p. 343).

This vision had already become very rare among governments when Goulding wrote a dozen years ago. Since then, as Thakur (2006) has argued, the tensions between the UN as the institutional embodiment of the normative aims of the international system and the interests of individual states have only grown.

While member governments have increasingly refused to subject themselves to the normative aspirations and prescriptions of the United Nations Charter concerning peaceful resolution of disputes, they have also more and more often bypassed that institution as the body with authority to adjudicate the "*jus ad bellum*," or the body with authority and legitimacy to determine whether a war or conflict will be considered just and permissible. The 2003

invasion of Iraq is just the most recent case in point, for which the United States assembled a coalition and acted apart from UN authorization. In addition, the United Nations has explicitly and implicitly increasingly been used as a legitimizing tool for bilateral political choices. In his 2007 end of mission (and of service) report, for example, Alvaro de Soto, Under-Secretary General and United Nations Special Coordinator for the Middle East Process and Personal Representative of the Secretary General to the Palestinian Liberation Organization and the Palestinian Authority and Envoy to the Quartet (USA, Russia, the European Union and the UN), argued that the United Nations was made part of the “quartet” of stakeholders addressing the Israeli–Palestinian conflict without being allowed to play its traditional institutional role as a *super partes*, or impartial actor, in that process. As Special Coordinator for the Peace Process, De Soto was not allowed to engage in conversations with Syria, even though he contended that it made sense to do so since a share of that nation’s territory was occupied by Israel and therefore the country was directly relevant to the negotiation. De Soto argued that the United Nations presence at the Quartet table served principally to legitimize policies decided by the group’s other stakeholders.

Independent State Action, “The Responsibility to Protect” and the Role of the UN

Since its acceptance as an additional organizing principle of the United Nations role in the New Millennium, the Responsibility to Protect doctrine has often been adopted without a prudent assessment of the chain of events such international initiatives may elicit. Amoureux and Steele (2014) have argued that competence should be the guiding criterion for adjudicating ethical decisions relating to international intervention choices. Competent decision-making

includes not only advocating abstract principles for action, but also an assessment of the means needed to take such actions and of the potential consequences an intervention could unleash or create.

Consensus among leading states on a conceptualization of sovereignty as conditional upon performance and on the international responsibility to protect has created a situation in which declaring a regime as “rogue” now functions as the modern secular equivalent of a “*Dictatus Papae*.” Pope Gregory VII issued 27 assertions concerning papal authority, known as the *Dictatus Papae*, in 1075 (Pope Gregory VII, 1075). These included the right to depose emperors, transfer bishops, ordain anyone and to deputize others to overthrow rulers. In addition, Gregory argued that the excommunicated would be cast out of human society and immediately be deprived of any legitimacy or authority. The R2P is increasingly used by like-minded states in a manner analogous to the *Dictatus Papae*, i.e., as a right to excommunicate regimes not considered “good” players in the international arena. But today’s states take such actions without assuming full responsibility for rebuilding what they may destroy by their interventions or, often, even considering carefully the forces that are at play or the consequences that could arise from de-stabilization of the political status quo.

Such “acts of excommunication” may occur at the behest of a single state and its allies (as obtained with the USA under the George W. Bush Administration in its 2003 decision to forcibly remove the Saddam Hussein regime in Iraq), or via UN resolutions as happened with Libya in 2011 and Syria in 2013. In all of these cases, the protection of civilians was employed as a central argument to justify ostracism of the regimes targeted. In 2011, via UN Security

Council Resolution 1973, the Council authorized a no flight zone and “all necessary measures” (i.e., military action) to protect civilians in Libya (United Nations, 2011). The action plan passed with 10 supporting votes, including that of the United States, and abstentions from Russia, China, Germany, Brazil and India. In 2013, Saudi Arabia drafted a resolution condemning human rights violations in Syria that was approved by the General Assembly. It urged the Security Council to take measures to end such abuses in Syria and passed with 127 votes in favor, 13 against and 47 abstentions (UN General Assembly, 2013b).

According to a January 2016 article published in the *New York Times*, Saudi Arabia, whose record in human rights is questionable, is also an important source of funding for United States support of the Syrian insurgency. In fact, according to the same source, the Saudis are contributing weapons and money to the effort, while CIA personnel are training Syrian rebels. Such arrangements are,

The latest chapter in the decades long relationship between the spy services of [Saudi Arabia](#) and the United States, an alliance that has endured through the Iran-contra scandal, support for the mujahedeen against the Soviets in Afghanistan and proxy fights in Africa (Mazzetti & Apuzzo, 2016, p. A1).

Prior to United Nations passage of the Saudi-sponsored resolution concerning human rights violations in Syria in December, the General Assembly on May 17, 2013 had, “strongly condemned the Syrian government’s indiscriminate violence against civilian populations and welcomed the establishment of the National Coalition for Syrian Revolutionary and Opposition Forces as interlocutors needed for a political transition” (UN General Assembly, 2013a). This measure challenged the principle of non-interference in the internal affairs of states established by Article 2.7 of the UN Charter in the name of an international responsibility to

protect citizens from government-sanctioned violence. Article 25 and Article 26 of the May 2013 General Assembly accord concerning Syria, are reproduced in full below to illustrate just how far the organizing principle of sovereignty has been eroded in favor of a Responsibility to Protect injunction:

Article 25. Reiterates its call for an inclusive Syrian-led political transition to a democratic, pluralistic political system, in which citizens are equal regardless of their affiliations, ethnicities or beliefs, including through the commencement of a serious political dialogue between credible, empowered and mutually acceptable interlocutors representing the Syrian authorities and the Syrian opposition;

Article 26. Welcomes the establishment of the National Coalition for Syrian Revolutionary and Opposition Forces on 11 November 2012 in Doha as effective representative interlocutors needed for a political transition, as well as its commitment, expressed in its communiqués dated 15 and 23 February 2013 and 20 April 2013, to the principle of a political transition leading to a civil, democratic and pluralistic Syrian Arab Republic, where all citizens are equal regardless of gender, religion or ethnicity, and notes the wide international acknowledgement, notably at the fourth Ministerial Meeting of the Group of Friends of the Syrian People, of the Coalition as the legitimate representative of the Syrian people (UN General Assembly, 2013a).

Concluding Observations

Given the so far worsening humanitarian situation in Syria and the refugee crisis that has ensued as a result of the continuing conflict in that nation, the question arises of whether member states should not exercise more prudence before withdrawing legitimacy through UN bodies from governments that fail to match internationally recognized standards concerning how they treat some groups within their territories. In fact, the “Responsibility to Protect” should be exercised responsibly, i.e., after careful consideration of the competing interests and agenda of the various players involved in complex conflicts, and after very thorough study of

the means adopted to undertake action and of the potential exacerbation of the conflict that may result from the employment of such strategies. Advocating the responsibility to protect while exercising it imprudently may create or exacerbate humanitarian catastrophes and nurture the destabilization of entire regions, as the current situations in Afghanistan, Iraq, Libya and Syria demonstrate. In addition, the ongoing massive refugee flow from these nations is sharpening the polarization of political debates in Europe and the United States. Despite the limitations of peacekeeping operations undertaken in the 1990s, at least in that decade the United Nations sought to establish Transitional Administrations in failing states or territories and to launch efforts to re-build institutions lost to or jeopardized by conflict. In contrast, UN member states today do not appear willing to accept that degree of responsibility in the unfolding crises in many Arab countries, especially Syria. Oddly, nations have become more and more willing to weaken or set aside the principle of state sovereignty, but less and less inclined to do so with care, prudence and responsibility to the interests of the populations affected by such choices.

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