Operationalising Responsibility to Protect
(Legitimacy & Efficiency)

Chapter 5 - Policies for Progress & Conclusion

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Abstract

The Responsibility to protect doctrine, accepted unanimously, by nature was drafted from the victim's perspective and the necessity to protect the human rights of the civilian victims and therefore establish peace. This was a landmark doctrine, which re-established the importance of human rights and the responsibility of the state and the international community to do so in any instance. This doctrine was an output of the call by the UN Secretary General Kofi Annan, who insisted on the necessity to clear the confusions and arguments between sovereignty and human rights to establish peace, at a point, when the world was witnessing mass violations of human rights nationally and regionally, which made it complicated to enforce authority to protect the victims inside a sovereign territory. Responsibility to protect gives substantial support to the dispute resolution methods for the new wave of war and conflict, dominated by civil war, regional conflict, ethnic cleansing and mass atrocities. However, it has been a very complicated discourse of humanitarian intervention, because of the questions of legitimacy and efficiency in operationalising it.

Since the Westphalian principles, post major colonial rules and post Cold War, the world nations have been very particular with the importance of national integrity, sovereign authority and the principle of equality in world affairs, where intervention is always disputed. The main reason for the dispute in humanitarian intervention is the question of legitimacy and efficiency of interventions. The question of legitimacy for the doctrine should be directly integrated into the evaluation of regulating authority through sovereignty and the importance of protecting human rights internationally. The question of maximising efficiency should be focused upon successfully institutionalising positive peace as a universal goal, evading operational challenges, influence of biases in decision making, etc. Studying the patterns of legitimacy with the role of Human rights and sovereignty and the patterns of efficiency in institutionalising peace through the approach of universality and its scope of measures, this series of papers on operationalising R2P through maximising the legitimacy and efficiency of this doctrine. Therefore, strongly contributing to the debates of improvising and regulating the norm of humanitarian intervention for peace, the most needed improvisation of this century's peace and conflict literature.

List of Abbreviations

AMIS - African Union Mission in Sudan

EUFOR Tchad/RCA - EU Military operation in Easter Chad and North Eastern Central African Republic

EULEX KOSOVO - European Union Rule of Law Mission in Kosovo

EUTF - EU Emergency Trust Fund for Africa

ICISS - International Commission on Intervention and state sovereignty

IDF - Israeli Defence Force

IHL - International Humanitarian Law

IMF - International Monetary FundAU - African Union

MINURCAT - Mission Des Nations Unies en République Centrafricaine et au Tehad

NATO - North Atlantic Treaty Organisation

R2P - Responsibility to Protect

UDHR - Universal Declaration of Human Right

UN - United Nations

UNAMID - African Union - United Nations mission in Darfur

UNGA - United Nations General Assembly

UNHRC - United Nations Human Rights Council

UNMIK - United Nations Interim Administration Mission in Kosovo

UNPK - United Nations Peacekeeping

UNSC - United Nations Security Council

WSOD - World Summit Outcome Document

Methodology

R2P was called upon due to the violation of mass human rights and the need for efficient humanitarian action. This humanitarian action was obstructed due to the confusions amongst security dilemmas and sovereignty in international affairs due to the question of legitimacy, which further impacts efficiency. These debates and dilemmas are also caused due to the difference in theory and reality while practising. Liberal notions while making soft laws in order to achieve maximum unanimity, often are too disruptive and difficult to operationalise with complete legitimacy and efficiency.

Discourses and debates even after decades of humanitarian intervention, peacekeeping, human rights measures and R2P, revolve around the question of - what legitimacy does that specific actor have to take humanitarian action under R2P and how is it efficient? Here again we reach a point that the two factors which influence R2P as a humanitarian action is its legitimacy and efficiency.

This paper analyzes legitimacy and efficiency of R2P on the basis of content analysis[7], where the contents of R2P and its composition in theory and practise are analysed to be maximised. Content analysis is a method where materials such as documents, texts, literature, conversations, verbal and symbolic mentions, etc from both theory & practise are interpreted in different contexts. R2P is an international humanitarian doctrine, which has originated through dialogues and exists in value through documents from UN and governmental practises. This provides R2P with a strong significance of both theory in the documents of its values and in practise of its use. For the purpose of our research we shall use documents from the UN, Governments, academical writings, theories etc, to analyse its nature of existence and the authority it powers as the birth of R2P lies in this above. This paper shall also use materials from practical happenings such as decision making documents from organisations, governments, historical actions and case studies from reports, comments and interviews to research on its nature of use and effectiveness R2P holds.

Another significant point to notice here is that, there exists a gap between theory and practise of R2P, which has caused issues in achieving the right legitimacy and efficiency, as mentioned by the UNPK Leader upon interview - "there is no or less communication between academia and practitioners".

This has guided the paper to take a method in approaching the research through a bridging perspective between both academia or theory and practical reality. Therefore, the following is the methodology of this paper using the content analysis methods and tools in answering the research question of maximising legitimacy and efficiency of R2P :

- Researching literature, theories, output documents and resolutions of R2P under theoretical perspective through evaluative assertion analysis8 as a method of content analysis provides us with the understanding that the concept of legitimacy for R2P is driven by the concepts of Human rights and Sovereignty. The evaluative analysis guides our understanding of how states, conflicting stakeholders and organisations interpret R2P and authorise legitimacy.
- Researching through comments, interviews, historical actions, case studies, interpretations, etc under the practical perspective of R2P through contingency analysis as a method of content analysis has provided us with the understanding that R2P lacks universality and the vagueness in defining the efficient scopes of measures for R2P. This leads this paper to the point of "what if" strategy using universality and the right set of methods to maximise efficiency. This helps the research in reaching recommendations as a result of analysis of the contingency from the present and the past.
- Analyzing the theoretical perspective and practical perspective using the tools of content analysis, this paper also tried evading the point of mislead or gaps in between the both. Bridging the theory and practise is achieved by using the methods of content analysis through interviews of academicians and practitioners.

According to the above methodology used to analyse the research materials and resources, this whole series of papers are structured beginning with (a) : the analysis of legitimacy using evaluative assertion with two of R2P's main concepts - Human rights and Sovereignty. Following this, using the (b) : contingency analysis method, resources from the practise of R2P is structured in this paper using the two factors of R2P' efficiency - Universality and Scopes of measures. (c) : Bridging the theoretical and practical understanding of R2P follows to fill in the missing gaps of the above two sections. Analysing (a), (b) and (c) provides us with the end result of our research target, the recommendations to operationalise R2P with better legitimacy and efficiency.

Policies for Progress

1. **Ratione Materiae :** Paragraphs 138 and 139 of the 2005 World Summit Outcome Document (A/RES/60/1) is too vague to define the approach of the R2P doctrine. R2P's written form of legitimacy needs further clarifications, though it carries universal support. R2P has the aspects of "Ratione personae" defined in the outcome document as its focus is on the civil population, however, it lacks the clear aspect of "Ratione materiae" where clear specifications about what subject matter does it talk about within the understanding of the four mass atrocities. Interventions and enforced state protections in many cases, mostly define protecting human lives against torture and violence as protecting human rights, but other basic human rights such as socio-economic, political and cultural rights and freedom are not given importance. Violation of these basic rights from political to economic, in many instances have been the major cause for civil wars and mass atrocities. There needs to be a better understanding of the constructive growth of these atrocities and should involve broader responsibility to protect all rights indivisibly. This shall provide legitimacy to the doctrine, with a better understanding of the root cause and therefore, gaining humanitarian support for the same. R2P, must highlight the importance of protecting socio-economic, political and cultural human rights specifically.

2. **Operationalise early protection :** Mass atrocities can only be prevented if they are given due importance at a very early stage and therefore, they need an indivisible approach instead of a very categorised approach in protecting human rights. Stages of each mass attrocities must be clearly classified and responsibility must be focused on preventing the atrocities to reach adavanced stages, such as the stage classification of Genocide. To facilitate pre intervention, according to our UNPK leader, it must be based on two steps - 1.Analysing the reason why the conflict started and 2.The objective of the intervention.

3. **Hard laws on human rights should be incorporated into R2P :** Nationally and internationally binding documents and hard laws must be incorporated into R2P with a specified mechanism to add legitimacy for the actions of the actors. Example, convention on Genocide, arms trade treaty,etc. Methods and combination of economic and monetary laws can also be a possibility to incentivise states to legitimise the authority of every actor's action to protect human rights.etc.

4. **Clarity in a binding definition of Mass atrocities :** According to Pillar 1 of Responsibility to protect doctrine the states have sovereignty to decide and define what exactly is "mass atrocities" in their understanding. This internal sovereignty leaves states the freedom to violate human rights with strong denial under their sovereign rule. Therefore, R2P needs to clearly define what exactly is mass atrocities and what responsibilities they need to possess in order to protect human rights. A universally accepted specification of these mass atrocities, within the doctrine of R2P must be approved for stronger legitimacy.

5. **Consent Based Intervention :** When the state is incapable of protecting its own population, it should provide consent to the international community for support, therefore providing the highest form of legitimacy. The international community must as well promote diplomatic relations, using factors such as economic allies, etc, to promote consent based Intervention, which shall give the maximum legitimacy for intervention, using external sovereignty.

6. **Coerced Consent Intervention :** When the states do not give consent naturally, the international community must pull strings of coercively gaining consent to legitimise their actions against state atrocities. This involves economic and diplomatic blocks, etc.

7. **Non-Consensual intervention :** When states deny to give consent to any extent, the international community relies on the UNSC and other procedural mechanisms for legitimacy. This involves various blocks and hurdles, due to veto power, ambiguity of the UN procedures, self interest, etc. This can be resolved using the following options

    a. **Regional authorisation -** Collective sovereignty established at the level of regional organisation has better mechanisms which are in most cases binding through treaties, agreements and charters. Legitimacy to exercise authority for regional actors can lead to risks such as widening military conflict, domination due to hegemony, exploitation, etc. This can be resolved and therefore add legitimacy to the regional operations with the support of international support and partnership. This shall also allow operational, logistic and a third perspective support to the regional exercise of authority, preventing, regional complications and hegemony.

    b. **UN General Assembly authorisation** - UNGA recommendation provides two third approval of UN, which serves as a major source of legitimacy.

    c. **Coalition of the Compassionate** - Multilateral and regional coalitions can reach to the UN for retroactive support, taking the responsibility and risks in gaining the legal establishment of legitimacy retrospectively.

8. **Ideology Politics and influence of ideologies in decision making :** Civil Wars, mass atrocities and their response from local and international communities are predominantly driven by ideology politics and therefore ideological decision making. In order to evade this and reach a common consensus, to successfully get procedural legitimacy and process humanitarian intervention through R2P, states need to decide with their primary ideological preference as peace and protection of human rights. This can be guided with the use of happiness index, equality index, violation of basic human rights and the access to globalised structures and entities, etc

9. **Institutionalise positive peace :** States and the international community must aim in institutionalising positive peace, by building systems and institutions capable enough to protect human rights of its population on its own. Achieving negative peace, where simply a state of non violence, will not put an end to mass atrocities, and therefore, measures, aiming to protect civilian population from violence should be broadened to empowering and building capacity of the civilian population.

10. **Avoid the fear of Neo imperialism and exploitation :** The differences in global parity and governance internationally has reached a point where the developed and better governed countries take an approach of "Help giver" to the "Help takers", which in return leads to Neo imperialism and exploitation. In most cases efficiency in R2P operations decreases due to local resistance to international intervention, because of the fear of imperialism, mainly caused due to the international community's help giver attitude. This needs to be altered in order to increase efficiency by gaining trust and dependence from the local community, by upholding a "Duty bearer" and "Right holder" attitude, which is universal in nature, instead of instilling the feeling of being superior and fear of being in debt to foreign actors, raising resistance for international R2P intervention.

11. **The need for a minimum threshold to evade bias and the lack of universality :** Preferential biases, caused due to regional interests and alliances (military based in most

cases), are highly harmful to the universal nature of the responsibility to protect human rights. This needs to be evaded and converted into an unbiased approach in decision making and intervention. States must reach a minimum threshold of mandatory support as an international community for any intervention, without any biases. This needs to be guided by the principle of universality in human rights and therefore the responsibility in protecting it universally.

12. **International multilateral interventions to evade self interest and personal motivation :** Efficiency of R2P is directly proportional to the motives and purpose of its operations, where the question of purpose is very important in analysing the output of institutionalising positive peace. Self interests and personal motivation driven by ideologies and political differences should be completely avoided. This can be better performed by avoiding unilateral intervention. Interventions should be multilateral, from different regions and with universal interests under social, political and economic contexts.

13. **Equal representation of all stakeholders to the conflict to avoid negligence of local interest :** Competition and reputation amongst the international community, tend to force states to trade off the interests and needs of the victim population to the global race of power and recognition. This leads to exploitation and drastically lowers the efficiency of R2P. Therefore, the international community must act with common consensus to mediate, with equal representation of all stakeholders to the conflict in finding a solution to the conflict.

14. **Mediation through international platforms :** States are in many instances obligated to react to a conflict, because of the fear of negative externality, such as the refugee crisis, etc. States, therefore, intervene with the obligation on self interests to protect their own population from the externalities of the victim population. This must be evaded, through efficient use of international platforms, forums such as the UN for mediation and negotiation. Incase of failure of mediation, the secondary resort must intervene multilaterally from different regions of the world selflessly.

15. **Military measures :** R2P operations, when using military measures predominantly, quickly prevent loss of lives and violation of human rights from the state or non state actors responsible for the atrocities. However, they seem to last long, due to the lack of

institutions which had established positive peace. This leads to re-eruption of conflict and mass atrocities. Therefore, R2P must take into consideration the use of necessary non military measures to institutionalise peace, by helping the victim population build their democratic institutions capable enough to protect their own population.

16. **Non Military measures :** R2P operations, in many instances, have focused on the scope of non military measures. This has been inefficient, in immediately reacting to the safety of the civilians due to various operational challenges and stronger military based violations of the state or non state actors, committing the crime. Therefore, R2P measures must make sure they take appropriate measures to resolve violence and the need for protecting lives immediately by using adequate military measures. R2P operations must take both scopes of military and non military measures to efficiently protect human lives immediately and institutionalise peace for a longer run.

Conclusion

Responsibility to protect was born under the adversities of contradicting stances of Humanitarian intervention amongst mass violation of Human rights. It is structured to prevent the four mass attoricites at grave situations. However, R2P needs more clarification and approach models. Looking through R2P, simply through the procedural legitimacy of the UNSC or the operational strategies the power blocks in the UN have for efficiency is very singular in approach, neglecting other possibilities of better legitimacy and efficiency. This can be understood by the nature of anarchic global society, where every state is an individual player. States tend to possess different self interests, motives, preferences, biases, capacities and ideologies in global affairs. Academicians and UN experts promoting recommendations on the basis of a neoliberal order is unfortunately not parallel to the realistic interests of global dynamics. Understanding the growth in defining human rights and sovereignty, the international community have brilliantly made sure that the liberal nature exists in the doctrine through the vagueness in R2P meanwhile strongly prioritising realistic practicality on the basis of their interests. R2P needs clarity in defining its approach, models and structure for intervention, along with which it needs adequate alternatives in multiple levels and intensities. The restrictions of sourcing legitimacy and efficiency simply

through the UN system, might not be very practical in acting for mass atrocities, which involves a higher scale of destruction required to even authorise R2P. On the same hand, with the current force in the trend of globalisation, the factors of universality and optimally utilising global resources to the right scope of measures is evidently necessary. R2P should operationalise prevention mechanisms and create models of early intervention for easier legitimacy and higher efficiency.

Political interests and motives are inevitable in global dynamics, therefore R2P must involve minimum thresholds of multiple stakeholders committing to protect through intervention for a conflict from different regions and interests. More technical and classified scope of measures are necessary to prevent misuse of the power of R2P. Models of consent, coerced consent and non-consensual intervention must be defined clearly to maximise legitimacy. R2P must be incorporated in other tools of protection such as the UNHRC, Special Rapporteurs, Peace-building commission, etc at the early stage for protection and prevention of mass atrocities to maximise efficiency.

Overall, R2P has done a brilliant job creating stronger support for the need for humanitarian intervention. However, we need to understand that it is a very risky tool, if in the wrong hands. Therefore R2P needs to be rationally realistic to the global dynamics and interests, prioritise early operations on the basis of indivisibility, create mechanisms to evade bias on the basis of universality and establish models with clarity.

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