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Analysis of RtoP's Influence on the Intervention in Libya
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The Dog That Didn't Bark?: A Response to Dunne and Gelber's Analysis of RtoP's Influence on the Intervention in Libya

Introduction

Tim Dunne and Katherine Gelber's article, 'Arguing Matters: The Responsibility to Protect and the Case of Libya'¹ makes a number of claims regarding the role played by the Responsibility to Protect (RtoP) in the decision to intervene in Libya, via Security Council (SC) Resolution 1973, in March 2011. The authors take issue with my analysis² of the role played by RtoP concluding, 'This article has challenged the view by Hehir that RtoP played no causal role in the Libya action'.³ In this response, I argue that the evidence supplied by Dunne and Gelber to reject my analysis – and indeed that of others⁴ – is based on an unsustainable expansion of what constitutes RtoP language, fails to acknowledge the historical evolution of human rights-orientated discourse, and exaggerates the extent to which references were made to RtoP.

Dunne and Gelber's Claims

The authors construct their article around two primary claims; first, 'moral argumentation played a (but not necessarily the decisive) role in bringing about the intervention' and second, 'RtoP failed because those taking action did not maintain consistent argumentation in relation to RtoP'.⁵ The second claim relates to the manner in which the original aim of imposing a no-fly zone quickly expanded to regime change. The authors argue that as a consequence 'RtoP

¹ Tim Dunne and Katherine Gelber (2014) 'Arguing Matters: The Responsibility to Protect and the Case of Libya', *Global Responsibility to Protect*, 6, pp. 326-349

² Aidan Hehir (2013) 'The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect', *International Security*, 38:1, pp. 137-159

³ Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya', p. 348

⁴ Justin Morris (2013) 'Libya and Syria: RtoP and the Spectre of the Swinging Pendulum', *International Affairs*, 89:5, pp. 1265-1283

⁵ Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya', p. 328

has weakened its appeal among sections of the international community'⁶ and 'led to Russia's position on the Syrian conflict'.⁷ While some dispute this claim⁸ Dunne and Gelber's perspective is one with which I agree, as indeed does Garth Evans⁹ – and statements from Russian President Dmitry Medvedev and Foreign Minister Sergei Lavrov clearly attest to the fall-out from Libya.¹⁰ The focus of this response, therefore, is on the first claim made.

In my article I argued that while the intervention in Libya was understandably welcomed by RtoP advocates, there was no evidence that RtoP had influenced the decision to intervene. I based this claim on the fact that the international dimension of RtoP was not mentioned in either Resolution 1970 or 1973; that RtoP was hardly mentioned in the SC debates prior to the Resolution; that none of the key statements made by President Obama, President Sarkozy and Prime Minister Cameron justifying the intervention mentioned RtoP; and that all the key states involved cited the Arab League statement of the 12th March (which does not mention RtoP) as the key causal factor in their decision.¹¹

Dunne and Gelber, however, counter this by asserting two things; first, that even if the term "responsibility to protect" is not mentioned in a particular debate it can still be said to have had an influence by virtue of the fact that the use of other terms constitute evidence of the concept's influence on the debate; they state, '...people may couch arguments in terms that invoke RtoP but may not explicitly use those words...the absence of specific terms [cannot] be

⁶ Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya', p. 328

⁷ Ibid, p. 348

⁸ Alex Bellamy (2014) 'Libya Case a Red Herring in Syria Dilemma', *IPI Global Observatory*, January 13. <http://theglobalobservatory.org/2014/01/libyan-case-a-red-herring-in-syria-dilemma/>, accessed 21 November 2014

⁹ Gareth Evans (2012) 'RtoP and RWP after Libya and Syria'. *Keynote Address to Stanley Foundation*, Rio de Janeiro, 23 August, www.gevans.org/speeches/speech485.html, accessed 21 November 2014

¹⁰ Thornhill J, Buckley N and Clover C (2011) 'Interview with President Dmitry Medvedev', *Financial Times*, 19 June, <http://www.ft.com/cms/s/0/4bfa1f38-9a90-11e0-bab2-00144feab49a.html#axzz3EJsLkMmH>, accessed 21 November 2014; Homsy Y (2012) 'Russia Rules Out Libyan Scenario in Syria'. *RIANovosti*, 9 December, [www://en.ria.ru/russia/20121209/178024186.html](http://en.ria.ru/russia/20121209/178024186.html), accessed 21 November 2014

¹¹ Hehir, 'The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect', pp. 137-159

taken to mean the absence of influence of the RtoP norm on decision making'.¹² They claim that use of terms like 'atrocities', 'war crimes', 'serious violations of humanitarian law' and 'unlawful killing' – all of which were used in the debate on Libya – constitute evidence of RtoP's influence.¹³ Elsewhere they argue the use of 'implicit signifiers such as the use of Chapter VII authority, and the description of events as atrocities and international crimes' also evidence RtoP's efficacy.¹⁴ On this understanding of RtoP's influence they claim, 'RtoP played a significant role in the public debate that occurred up to the passage of Res. 1970 and Res. 1973...RtoP provided legitimacy for Operation Odyssey Dawn'.¹⁵ Secondly, not only did people call for action by invoking these "implicit signifiers", they also claim that there is '...evidence of the use of explicit language of the responsibility to protect'.¹⁶ I argue below that the first claim constitutes an unsustainable stretching of "RtoP language" which overlooks the obvious fact that the terms they claim evidence RtoP's influence were used long before RtoP was even contrived. I dispute the second claim by demonstrating that the invocation of the term was only ever fleeting, extremely rare and often simply an afterthought. Additionally, the evidence supplied by Dunne and Gelber for "the use of explicit language" at times does not stand up to scrutiny.

"RtoP Language" Prior to RtoP

Many who called for action to halt Qaddafi's campaign certainly cited a humanitarian imperative to act and Dunne and Gelber give many examples.¹⁷ This was absolutely not, however, the first time such language had been employed and nor is it the case that such language has only ever been employed since the RtoP concept was established in 2001.

¹² Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya', p. 330

¹³ Ibid, p. 335

¹⁴ Ibid, p. 339

¹⁵ Ibid, p. 348

¹⁶ Ibid, p. 339

¹⁷ Ibid, pp. 335-338

Language related to the need to protect the lives of people in other countries has been employed by states – and indeed non-state actors – for centuries. Gary Bass provides many examples of this and notes; ‘...emotional pleas were a regular feature of international politics throughout much of the nineteenth century, resulting in several important military missions. The basic ideas go all the way back to Thucydides’.¹⁸ The idea of using force to protect others, many argue, can be seen in particular throughout the history of the just war tradition which goes back millennia.¹⁹

Leaving aside this long history of calls for military action to protect those suffering abroad, the modern era has witnessed a marked increase in human-rights-orientated rhetoric. As is well documented, in the immediate post-Cold War era human rights became one of the dominant international concerns and related issues were regularly discussed throughout the 1990s by the SC which came to increasingly express commitments to – and even at times act upon – humanitarian concerns.²⁰ Most obviously the wording of Resolution 688 in April 1991 includes phrases such as, ‘Gravely concerned by the repression of the Iraqi civilian population’, ‘Deeply disturbed by the magnitude of the human suffering involved’, ‘Condemns the repression of the Iraqi civilian population’ and ‘the plight of the Iraqi civilian population’. Likewise Resolution 794 on Somalia in 1992 refers to ‘the magnitude of the human suffering’, ‘the deterioration of the humanitarian situation’, and ‘widespread violations of international humanitarian law’. During the debate on Resolution 794 Russia claimed it had an ‘obligation’ to ‘put an end to the human tragedy’ in Somalia.²¹ These statements very definitely did not emerge as a result of RtoP given they predate the concept.

Two years prior to the ICISS report Kofi Annan gave a landmark speech outlining at length the emergence of this new pro-human rights disposition and its journey to the centre of

¹⁸ Gary Bass (2008) *Freedoms Battle* (New York: Vintage Books), p. 4

¹⁹ See, Alex Bellamy (2006) *Just Wars* (London: Polity), p. 24

²⁰ Julie Mertus (2009) *The United Nations and Human Rights* (London: Routledge), pp. 106-108

²¹ Hehir, ‘The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect’, p. 148

SC debates.²² The same year the UN SC passed Resolution 1265 which is replete with references to the role of the international community in civilian protection; in particular the following phrases stand out;

Expressing its deep concern at the erosion in respect for international humanitarian, human rights and refugee law and principles during armed conflict, in particular deliberate acts of violence against all those protected under such law...Mindful of the particular vulnerability of refugees and internally displaced persons, and reaffirming the primary responsibility of States to ensure their protection...Emphasizes the responsibility of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and serious violations of international humanitarian law...Expresses its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the Council's disposal in accordance with the Charter of the United Nations

If a resolution which included these phrases were passed today it would likely be heralded as evidence of RtoP's influence if we accept Dunne and Gelber's attempt to appropriate these terms as "implicit signifiers" of RtoP. The fact that this resolution was passed two years before the publication of *The Responsibility to Protect* and six years before the World Summit *Outcome Document* should give us some perspective on the history of the SC's – at least rhetorical – concern with human rights. Indeed, the term "responsibility to protect" had been employed by the UNSC before the concept was even recognised at the 2005 World Summit in Resolution 1427 passed in 2002.

RtoP's lack of rhetorical novelty has been widely noted; for example according to Justin Morris, '...the UNSC debated action to protect grievously endangered populations long before RtoP entered its lexicon'²³ while Simon Chesterman wrote, '...by the time RtoP was endorsed by the World Summit in 2005, its normative content had been emasculated to the point where

²² United Nations (1999) 'Secretary General presents his Annual report to the General Assembly', United Nations, <http://www.un.org/press/en/1999/19990920.sgsm7136.html>, accessed 21 November 2014

²³ Morris, 'Libya and Syria: RtoP and the Spectre of the Swinging Pendulum', p. 1267

it essentially provided that the SC could authorize, on a case-by-case basis, things that it had been authorizing for more than a decade'.²⁴

The rationale advanced by Dunne and Gelber – the near complete absence of any references to the term during the debate on Libya should not obscure us to RtoP's influence because the use of terms employed long before RtoP was established are evidence of its influence – is clearly dubious. This language may cohere with the spirit of RtoP but a causal link by definition – given the time-sequencing – cannot be established.

Additionally, while the use of terms related to human rights protection may have increased we should be careful not to conflate rhetorical usage with real policy change. States have, many times, articulated the most effusive commitments whilst actually behaving in very obviously contradictory ways. For example during the 2009 General Assembly debate on RtoP Sudan declared it supported

...the legal duties of a sovereign State to protect its citizens or population from genocide, war crimes, ethnic cleansing and crimes against humanity. These duties are conferred on the sovereign State by what is known in political philosophy jurisprudence as the social contract between the governed and the governor or between the crown and its subjects.²⁵

Yet, the government's actual treatment of its citizens in Darfur was described by the UN as a 'reign of terror' and widely recognised as one of the most egregious state-sponsored atrocities in the modern era.²⁶

Of direct relevance to the Libya case is the Arab League's statement on the 12th March which is widely recognised as having caused a dramatic 'sea-change' in thinking on how to respond.²⁷ Many of RtoP's most vocal proponents have accepted that the statement was the

²⁴ Simon Chesterman (2011) "'Leading from Behind": The Responsibility to Protect, the Obama Doctrine, and Humanitarian Intervention after Libya', *Ethics and International Affairs*, 25:3, p. 2

²⁵ Sudan (2009) 'Statement by the Mission of Sudan to the UN', 23 July, http://www.responsibilitytoprotect.org/Sudan_ENG.pdf, accessed 20 November 2014

²⁶ Aidan Hehir (2012) *The Responsibility to Protect* (Hampshire: Palgrave), pp. 219-220

²⁷ Hillary Clinton (2011) "There's 'No Way United States Will Take Unilateral Action in Libya,'" *CBS News*, March 16, , http://www.cbsnews.com/8301-503544_162-20043991-503544.html, accessed 20 November 2014

primary catalyst for the decision by the US – specifically President Obama – to take action, and for the Russian and Chinese decisions to abstain.²⁸ The Arab League statement declares;

Affirming the necessity to respect international humanitarian law and the call for an end to the crimes against the Libyan people...[We act] to ensure the right of the Libyan people to fulfil their demands and build their own future and institutions in a democratic framework'.²⁹

While this statement employs the language Dunne and Gelber credit to RtoP's influence, it is difficult not to find the sentiments jarring when one looks at the human rights records and totalitarian nature of the states in the Arab League.³⁰ Additionally, two days after issuing this effusive commitment to human rights and democracy, the Gulf Cooperation Council – whose six members are all in the Arab League – sent troops from Saudi Arabia and Qatar into Bahrain to help the Khalifa Monarchy crush protesters calling for democratic change.³¹ The crackdown was condemned by human rights organisations as brutally excessive³², yet the international community essentially ignored the situation; the SC has never mentioned Bahrain in either a resolution or a Presidential statement. According to The Bahrain Centre for Human Rights; 'the authorities in Bahrain, due to the lack of international consequences, have no incentive to stop the human rights violations' which they argue have continued for the past three years.³³ The Bahrain Centre for Human Rights are unlikely to consider the fact that human-rights-orientated language found its way into Arab League statements anything other than grossly hypocritical.

²⁸ Alex Bellamy and Paul Williams (2011) "The New Politics of Protection?", *International Affairs*, 82:7, p. 843; Gareth Evans (2011) 'The RtoP Balance Sheet After Libya',

www.gevans.org/speeches/speech448%20interview%20RtoP.html, accessed 25 August 2014, p. 41

²⁹ League of Arab States (2012) 'The Outcome of the Council of the League of Arab States Meeting at the Ministerial Level in its Extraordinary Session on the Implications of the Current Events in Libya and the Arab Position', Cairo 12 March,

<http://responsibilitytoprotect.org/Arab%20League%20Ministerial%20level%20statement%2012%20march%202011%20-%20english.pdf>, accessed 20 November 2014

³⁰ As I noted in my article, at the time of this statement 19 of the 22 members of the Arab League were listed as "Not Free" by Freedom House. Hehir, 'The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect', p. 154

³¹ Indeed, the Bahrain case is an interesting example of an RtoP black spot; it is not mentioned in Dunne and Gelber's article nor is it referred to in Alex Bellamy's 2014 book, *The Responsibility to Protect: A Defence*.

³² International Crisis Group (2011) 'Popular Protests in the Middle East and North Africa: Bahrain's Rocky Road to Reform', Middle East/North Africa Report 111, 28 July, p. 4, www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/bahrain/111-popular-protest-in-north-africa-and-the-middle-east-viii-bahrains-rocky-road-to-reform.aspx, accessed 20 November 2014

³³ Bahrain Centre for Human Rights (2012) 'No Peace No Progress', p. 7, www.bahrainrights.org, accessed 21 November 2014.

“Use of Explicit Language of the Responsibility to Protect”?

In addition to the “implicit signifiers” Dunne and Gelber argue the debate over Libya showed ‘evidence of the use of explicit language of the responsibility to protect’.³⁴ They conclude their article in fact by stating, ‘Given the extent of the use of explicit RtoP language in the statements and justifications of key-state and non-state based actors, it is difficult to agree with Hehir’.³⁵ During the debate which preceded Resolution 1973 some NGOs used the term “responsibility to protect”, as did UN High Commissioner for Human Rights Navi Pillay, but the authors fail to demonstrate a causal link between this usage and the actual decisions made beyond vague allusions to these utterances helping to ‘frame the debate’.³⁶ In the course of any crisis many actors will articulate a variety of views but to argue that one in particular – in this case that which called for action by explicitly invoking RtoP – framed the debate demands more than just evidence of its use; it requires proof in the form of statements made by the key states who pushed for the intervention attesting to their decision being “framed” by R2P; Dunne and Gelber do not provide any such evidence because it does not exist. China and Russia both explained that they abstained on the vote due to the statement made by the Arab League; neither cited RtoP.³⁷ Additionally the key architects of the intervention never once referred to RtoP in their public statements on why they were taking action.³⁸ Likewise, Morris’s analysis of the factors which influenced the UK to support the intervention against Libya found that RtoP played no significant role at all. He notes that the UK Defence Committee’s report on Libya

³⁴ Dunne and Gelber, ‘Arguing Matters: The Responsibility to Protect and the Case of Libya’, p. 339

³⁵ Ibid, p. 343

³⁶ Ibid, p. 339

³⁷ Hehir, ‘The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect’, p. 153

³⁸ Ibid, p. 148

affords no importance to RtoP in the decision to act and references to the term were added to the report, according to the Chair of the Committee, 'as an afterthought'.³⁹

There is some truth to Dunne and Gelber's claim that certain states explicitly used the term during the debates on Resolutions 1970 and 1973; regarding Resolution 1970 both the French and Colombian representatives used variants of the term but these were the only two states to do so. Dunne and Gelber claim, however, 'The UK's representative...made it clear that the package of sanctions agreed in Res. 1970 evidenced that the Council was standing by the Libyan people and in so doing, exercising its international responsibility to protect'.⁴⁰ In fact the UK representative does not at any point in his statement mention RtoP.

With respect to Resolution 1973 Dunne and Gelber assert;

In their statements to the Council both those who voted in favour of the resolution and those who abstained invoked the responsibility to protect civilians, thus demonstrating a broad consensus that this was the overriding purpose of Res. 1973.⁴¹

In fact only three states "invoked" RtoP; France and Colombia simply reiterated that Resolution 1970 had reminded the Libyan authorities that they had a responsibility to protect, while South Africa stated the resolution demonstrated the SC was 'acting responsibly to protect' people in Libya. No other references to the term occurred; the claim "both those who voted in favour of the resolution and those who abstained invoked the responsibility to protect" is simply not true.

If anything the Chinese statement is quite an explicit rejection of the basic idea underpinning RtoP; while initially expressing its desire to 'halt acts of violence against citizens' the statement continues,

China has always emphasized that, in its relevant actions, the Security Council should follow the United Nations Charter and the norms governing international law, respect the sovereignty, independence, unity and territorial integrity of Libya

³⁹ Morris, 'Libya and Syria: RtoP and the Spectre of the Swinging Pendulum', p. 1274

⁴⁰ Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya', p. 338

⁴¹ Ibid, p. 342

and resolve the current crisis in Libya through peaceful means. China is always against the use of force in international relations'.⁴²

Dunne and Gelber's claim that those who abstained 'chose to couch their reasoning in terminology that reflected the mandate of RtoP'⁴³ has scant basis in the actual statement China issued. The authors quote the Russian statement which claims that Russia is 'a consistent and firm advocate...of the protection of the civilian population'.⁴⁴ This description of Russia – a state whose internal human rights record, active support for oppressive regimes, and aggressive disposition towards its neighbours – strains credulity, though the SC is not a forum renowned for the honest self-appraisal of its members. That Russia would present itself in such terms may induce derision but it's hardly surprising; that Dunne and Gelber would proffer this as evidence to back up their case that language matters is, however, somewhat extraordinary. Arguing matters of course, but in the course of analysing arguments and debates we surely cannot be expected to believe blatant lies.

With respects to the US they claim, 'In a detailed first-hand account, Obama is said to have invoked the US' endorsement of an international responsibility to protect'.⁴⁵ The source cited for this "detailed first-hand account" is an article in *Vanity Fair* by Michael Lewis. At no point in the article, however, does the author mention RtoP and there is certainly no reference to the President having "invoked the US's endorsement of an international responsibility to protect".

There is, therefore, scant basis for the claim that the debates on Resolutions 1970 and 1973 demonstrate 'evidence of the use of explicit language of the responsibility to protect'.⁴⁶ This is also reflected in Paul Williams' analysis of the key issues which informed the debates

⁴² UNSC, 'Security Council 6498th Meeting', S/PV.6498, 17 March 2011, p. 10.

⁴³ Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya', p. 344

⁴⁴ Ibid, p. 343

⁴⁵ Ibid, p. 341

⁴⁶ Ibid, p. 339

at the SC which does not include RtoP.⁴⁷ Likewise Morris' analysis of the debates uncovers negligible evidence of the terms invocation. Importantly, Morris – like Dunne and Gelber – adopts a methodological approach which accepts that phrases linked to the 2005 World Summit *Outcome Document* – such as “mass atrocity prevention/response” – should also be taken as evidence of RtoP's use. Yet, even with this generous approach he concludes ‘no UNSC members actually resorted to such language’.⁴⁸ He highlights that during the ten publicly recorded meetings between February 2011 and May 2013 at which the Council discussed Libya, explicit or clear references to RtoP were made by only six Council members and concludes, ‘Having been clearly reminded of their obligations, the majority of UNSC member states chose not to draw on such language in justifying their approaches to the crisis in Libya’.⁴⁹

In the conclusion the authors claim, ‘Even if this argumentation [about RtoP] was used to hide other unspecified reasons for the use of force, it is still the case that once deployed into the public sphere it mattered’.⁵⁰ This, therefore, suggests that even if we can conclusively determine that the use of RtoP language – however generously one interprets this – was actually a cynical ploy, this does not undermine the influence of RtoP; this is essentially an admission that RtoP can constitute an effective ruse.

Dunne and Gelber argue that since the 2005 World Summit ‘RtoP has increasingly informed responses to humanitarian crises around the world’.⁵¹ The evidence to back up this claim – as per their analysis of Libya – is instances when the term, and derivatives ostensibly indicative of it, have been employed. This argument coheres with a more pervasive trend in the literature supportive of RtoP whereby the efficacy of the concept is deemed to stem from the

⁴⁷ Paul Williams (2011) ‘The Road to Humanitarian War in Libya’, *Global Responsibility to Protect*, 3:2, pp. 256–258.

⁴⁸ Morris, ‘Libya and Syria: RtoP and the Spectre of the Swinging Pendulum’, p. 1267

⁴⁹ *Ibid*, pp. 1272-1273

⁵⁰ Dunne and Gelber, ‘Arguing Matters: The Responsibility to Protect and the Case of Libya’, p. 348

⁵¹ *Ibid*, p. 329

frequency with which the term is used.⁵² Indicatively, in September 2014 the Global Centre for R2P triumphantly published a list of every SC Resolution which mentions “responsibility to protect”.⁵³ Yet, just counting references to a concept tells us very little; how many resolutions have, for example, included references to “peace”, “equality”, “justice”, “human dignity”, “disarmament” etc. which have actually been motivated by a genuine commitment to these principles and/or led to actual action undertaken to uphold them? There is a need, surely, for analysis, comparative reflection and evidence that these references to RtoP are more than just ‘high sounding tokenism’.⁵⁴ For example, the 26 SC resolutions which mention RtoP evidence a very clear trend; 22 refer exclusively to the host state’s responsibility. Though the other four at least acknowledge the existence of the external responsibility – only, it must be said, insofar as they mention paragraphs 138 *and* 139 – none explains what this entails, how it is collectively understood, or the circumstances under which it can be operationalized. Does this suggest then that RtoP is being employed exclusively in terms of Pillar I and thus a means by which the international “responsibility to protect” is obscured/avoided? In which case the use of the term in SC resolutions could well signify a negative trend for those who wish to see greater SC engagement with intra-state atrocities.

As I have argued elsewhere⁵⁵, if the solution to improving the international response to intra-state humanitarian crises was getting states and the SC to use terms related to the protection of human rights and express their commitment to coordinated international efforts to prevent or halt egregious violations of human rights, then this would have been solved through both the 1948 Genocide Convention and the routine iteration of “never again” thereafter. The Genocide Convention, however, became, according to Kofi Anna, ‘a dead

⁵² Bellamy, *The Responsibility to Protect: A Defence*, pp. 1-2

⁵³ Global Center for R2P (2014) R2P References in UN Security Council Resolutions and Presidential Statements, www.s156658.gridserver.com/media/files/unsc-resolutions-and-statements-with-r2p-table-as-of-august-2014-1.pdf, accessed 20 November 2014

⁵⁴ Sir Arthur Watts (2001) ‘The Importance of International law’ in Michael Byers (ed.) *The Role of International Law in International Politics* (Oxford: Oxford University Press), p. 8

⁵⁵ Hehir, *The Responsibility to Protect*

letter'⁵⁶ while “never again” has arguably become one of the most degraded terms in international political discourse, one which, when uttered, catalyses infinitely more cynicism than it does action.

Conclusion

The idea that the intervention in Libya was ‘consistent with “the responsibility to protect” framework’⁵⁷ is not really controversial. My point is not that the intervention was not - to some extent - inspired or justified by a desire to halt or prevent crimes against humanity. The intervention coheres with the spirit of RtoP, but also with, for example, Biblical scripture; the fact that an action coheres with a theory, doctrine or prescription does not in itself constitute evidence of any causal link. Rather, my argument is that RtoP did not play a causal role in the decision to intervene. This is a potentially crucial finding as if it is the case that the manner in which the international community – and specifically the SC – responds to intra-state humanitarian crises is the same post-RtoP as it was pre-RtoP then the concept’s efficacy is obviously compromised. The language that is cited as evidence of RtoP’s influence on the discourse is language that was used long before RtoP was even conceived. Pre-RtoP there were a number of SC Resolutions and indeed interventions which cohered with the ethos underpinning RtoP, but they were erratically invoked.⁵⁸ It was precisely this inconsistent record in the 1990s which led to RtoP.

Dunne and Gelber’s argument is replete with concessions and caveats which when combined produce a convoluted defence comprising a succession of elaborate explanations based on tenuous assumptions which is increasingly distant from the actual facts. These include;

⁵⁶ Kofi Annan (2001) ‘Message Honouring Raphael Lemkin’, Press Release SG/SM/7842, 13 June, <http://www.un.org/News/Press/docs/2001/sgsm7842.doc.htm>, accessed 20 November 2014

⁵⁷ Dunne and Gelber, ‘Arguing Matters: The Responsibility to Protect and the Case of Libya’, p. 327

⁵⁸ Simon Chesterman (2002) *Just War of Just Peace?* (Oxford: Oxford University Press), p. 5

- RtoP had an influence on the debate but you won't identify it if you just look for instances of the terms use.⁵⁹
- The use of terms - "implicit signifiers" - which have been used long before RtoP was conceived are evidence of RtoP's influence.⁶⁰
- It may be that those using the term and its associated "implicit signifiers" don't understand these terms.⁶¹
- It may be that those using the term and its associated "implicit signifiers" don't have a shared understanding of these terms.⁶²
- It may be that use the term and its associated "implicit signifiers" are employed purely as rhetorical cover for nefarious intentions.⁶³
- It can't be determined whether the use of the term and its associated "implicit signifiers" had a causal role on the decision to intervene.⁶⁴

The net result, surely, is a defence of RtoP's influence which is inherently tenuous.

The principle of 'Occam's Razor' holds that among competing hypotheses the one with the least number of assumptions should be deemed most likely to be true; this is often simplified to "the simplest explanation is invariably the most accurate". The SC debate on Libya included paltry references to RtoP and even the "implicit signifiers"; surely the simplest explanation then is that RtoP was not a factor in the decision-making process? With respects to Libya RtoP is, therefore, the "dog that didn't bark"; an expected fact absent from the record.

⁵⁹ Dunne and Gelber, 'Arguing Matters: The Responsibility to Protect and the Case of Libya' p. 330

⁶⁰ Ibid, p. 339

⁶¹ Ibid, p. 329

⁶² Ibid, p. 329

⁶³ Ibid, p. 348

⁶⁴ Ibid, p. 330