

Liberalism, between War and Peace, Part 2

An interview with Michael Doyle

By Marieke Louis

The second part of the interview with Michael Doyle is devoted to foreign armed intervention, which is particularly controversial in the Syrian context, and the doctrine of “Responsibility to Protect”, that was implemented for the first time in Libya in 2011 under the supervision of the United Nations

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- *Ways of War and Peace: Realism, Liberalism, and Socialism*, W.W. Norton, 1997.
- *Striking First: Preemption and Prevention of International Conflict*, Princeton University Press, 2008.
- *Liberal Peace: Selected Essays*, Routledge, 2012.
- *The Question of Intervention: John Stuart Mill and the Responsibility to Protect*, Yale University Press, 2015.

Second part: When democracies go to war

Books & Ideas: For a long time national sovereignty meant that no State could interfere within one another's domestic affairs. In 2001, the United Nations authorized the UN Security Council to call for external intervention if a state fails to protect its own population. It was called "Responsibility to Protect" (RtoP). What's fundamentally new in this doctrine?

M.D. : The big breakthrough in RtoP was solving a couple of problems. On the one hand, a narrow reading of Chapter VII, Article 39, of the Charter of the United Nations precludes intervention in a country, unless it's to prevent an "international" cross-border threat to another country. A narrow reading of the Charter doesn't include genocide as something that has to be stopped by an authorized intervention. This leaves the UN and the international community without an ethically adequate doctrine for when to intervene. On the other hand, the practice of many States, historically and in our present time, is incredibly interventionist. States think they should intervene to promote national interests or to expand democracy, to protect human rights or to stop atrocities (without defining what they are). These doctrines: the Blair-Clinton doctrine for Kosovo, the Bush doctrine for the Middle East, the Putin doctrine, allow far too much intervention. The virtue of RtoP was to provide both a license to intervene that goes beyond a narrow reading of article 2 and chapter 7 of the UN Charter (see table below) limiting the use of force in the case of self-defense, either individual or collective.

The UN Charter and Intervention¹

Article 2.4: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Article 2.7: Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Chapter VII: Action with respect to threats to the peace, breaches of the peace, and acts of aggression.

¹ <http://www.un.org/en/charter-united-nations/index.html>

Article 39: The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

The narrow reading of the Charter doesn't allow intervention for genocide for example, such as occurred in Rwanda, or to stop the atrocity crimes that occurred in the former Yugoslavia and Cambodia. We need a license for when to intervene to stop the most horrible crimes. And on the other hand we need a leash against all the unilateral declarations of Blair, Clinton, Bush Putin and so on who propose intervention much too easily. We need both a leash against the second and a license to empower the first.

The first version of R2P emerged right after Kosovo. But at the time it was too broad, invoking almost any violation of human rights as grounds for intervention. That created panic, especially in the developing world where States' leaders feared losing their sovereignty. Then, the International Commission on International Intervention and State Sovereignty (ICISS) came along to refine the doctrine, by narrowing it to extreme violations in order to address some of those concerns. They also said that states should go to the UN Security Council for authorization. If the Security Council said no, then States could step in unilaterally. In 2001, Gareth Evans (Australia) and Mohamed Sahnoun (Algeria) published the document. Kofi Annan thought we should organize a big public meeting with the UN Security Council and the General Assembly, so we could begin to discuss and build support for this new idea. Mr Annan asked me – I was his special adviser at the time – to see whether the doctrine could be launched in a UN conference room. After consultation with the president of the General Assembly's chief of staff (Ban Ki Moon at the time), it turns out that no room could be made available. The G77 (the group of developing countries at the UN) was frankly hostile and regarded it as unacceptable and a threat to their sovereignty. What happened next? Evans and Sahnoun spent the next three years going around the world, to capitals, making the case for RtoP. They did such an excellent sales job that, in 2005, Kofi Annan was able to win unanimous General Assembly endorsement for a reformulated RtoP doctrine that was limited to the four atrocity crimes - genocide, ethnic cleansing, war crimes and crimes against humanity – and required Security Council approval. These four crimes were defined in the Rome Statute (1998) (the constitutive treaty of the International Criminal Court). In Annan's refinement, RtoP is first a responsibility of States to protect their own population, second a responsibility to ask for and receive help from the international community, and then, third, only if the perpetrator refuses help or continues to victimize its population, should the international community step in through the Security Council. That is the deal Kofi Annan put together which eventually produced the Outcome Document, the unanimous General Assembly resolution that makes RtoP now a UN doctrine. It is still not international law, a treaty or a revision of the Charter. But it arguably now authorizes the Security Council to use its discretion under article 39 to intervene to stop the four atrocities, and do so with the support of the rest of the membership of the United Nations. It was a big

step forward, filling a significant gap in the UN Charter, while providing a corrective to the excessive interventionism of many states in both the Cold War and post-Cold War periods.

Books & Ideas: In your book you wrote: “the experience of Libya and now Syria will prove decisive in strengthening or weakening the doctrine”. As we speak, has the RtoP doctrine been weakened or strengthened?

M.D. : To my mind there is no question but that RtoP has been weakened by both of them, quite significantly. The hope for Libya was for it to be part of a new practical jurisprudence of the Security Council, and to provide guidance on how to operationalize the doctrine. What happened was that Security Council Resolution 1970 (February 2011)² authorized sanctions with referral to the ICC, in order to stop Gaddafi, who was shooting hundreds of its own citizens and threatening to do even more. Significantly, 1970 was an unanimous resolution: even China and Russia voted for it. Then, as Gaddafi’s forces surged across Libya toward Benghazi, dominating the battlefield with artillery, tanks, and aircraft, Gaddafi and his sons made vicious and wild threats. In Paris and London, it looked like a looming massacre. The US was skeptical at the time, stung by the stalemates in Afghanistan and Iraq, and didn’t want to intervene. But eventually a group within the US government called “the Valkyries” because they were all female – Hillary Clinton (Secretary of State), Samantha Power (Senior Director for Multilateral Affairs), Susan Rice (UN Ambassador) – persuaded Obama to intervene. The US then escalated beyond the UK and France by sponsoring Security Council Resolution 1973 (March 2011)³ authorizing “all necessary means” (the UN code word for the use of force), provided that there would be “no boots on the grounds” and that only air forces would be used to protect civilians. Russia and China agreed to abstain. That produced the first enforcement of RtoP, using military means.

Regrettably, the intervenors violated the mandate by sending operators in on the ground, offering the excuse that, from the standpoint of military necessity, one needed to have spotters on the ground to avoid bombing mistakes. In the end, the intervening air forces practically became the tactical air force of the rebels. This went beyond protecting civilians to regime change, overthrowing Gaddafi. The view in Washington, London and Paris was that it was better to end the conflict than to let it last and transform into a protracted civil war. The allies had come to believe that neither Gaddafi nor the rebels wanted to negotiate. The immaculate and surgical intervention proved impossible. The anarchy that followed has discredited RtoP. The other situation that has discredited the RtoP doctrine is Syria and the fact the Russians and the Chinese will not allow pressure to be put on Assad. With the exception of the humanitarian corridor (which was not very effective), Assad’s war crimes have enjoyed impunity.

² http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1970%20%282011%29

³ <https://www.un.org/sc/suborg/en/s/res/1973-%282011%29>

Yet, the language and discourse of RtoP is still operative in many other conflicting areas such as the Central African Republic and Somalia, sometimes even with the support of Russia. The specific language now is “protection of civilians” but the humanitarian intent is the same. One effort to “repair” RtoP was made by Brazil, with something called “responsibility while protecting”⁴ designed to put more emphasis on prevention, introduce more accountability in the course of operations, and secure a more genuine multilateral, UN monitoring so operations would not be hijacked by individual States.

Books & Ideas: The UN has been criticized lately for its passivity in Syria, primarily due to the blockade of the UN Security Council. Do you think that only an intervention led under the auspices of the UN would be legitimate? Isn't it possible for a coalition of states to engage in “just war”, especially if we consider that the UN can sometimes be paralyzed by the national interest of big powers?

M.D. : This is a very difficult proposition which I tackle in my book on preventive wars. Preventive wars for instance are completely legal if approved by the UN Security Council and completely illegal unless the SC approves. I think that we need to make clear that the UN Security Council should be the first stop, in order to incentivize a diplomatic effort to mobilize a coalition within the Security Council. And it's therefore essential that the UN Security Council has a new procedural rule that puts on the record votes on this questions and requires explanations. The explanation can be good or bad, but there has to be an explanation that is transparent. In other words, we have to make it clear that you have to start there, and that you have to try to have real deliberation there. Then if you fail, such as happened in the case of Syria, with Russia and China persistently opposing, and something must be done to avert or stop a massacre and provided that you have a coalition that is prepared to take the lead on an intervention, states can claim a legitimate intervention without Security Council approval. This option must remain open. Is it legal? Not necessarily, depending on the interpretation you can draw from the 1948 UN Convention on genocide for instance. But it can be legitimate, and it means that you could have a “just war” outside of the UN.

I'm not sure if Syria is a good case for legitimate intervention, despite its manifest atrocities. First of all, because there is neither the political will nor the international coalition to assure an effective intervention. Even if there were, it remains a deeply complicated case. Thirty percent of the Syrian population still supports Assad because they are terrified of the Sunni radicals in the opposition. Syria requires concerted pressure to bring Assad and the legitimate rebels to the negotiating table, not an armed intervention to topple Assad.

Books & Ideas : Have you been involved as an academic to advise the UN in these different situations?

⁴ http://globalpolicy.columbia.edu/sites/default/files/responsibility_while_protecting_cgpi_report_2015.pdf

M.D. : I was not involved in either of those incidents, either with Libya or Syria. I was a special adviser to Kofi Annan at the time and he and his team worked assiduously to try to slow down the march to war, trying to convince the US government that it would be very difficult to get rid of Saddam Hussein. Ironically, despite my long interest in peacekeeping, I was more involved on topics on which I hadn't necessarily a large amount of expertise: development, the private sector and the Global Compact, migration. Yet, being an academic is good preparation for policy making because you know how to work with ideas and mobilize a team, but they don't necessarily assign you for your expertise on a particular topic.

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