



To Protect or to Intervene? Contesting R2P as a Norm in South Africa's Foreign Policy

ANTHONY BIZOS

EXECUTIVE SUMMARY

This policy insights paper contends that the 'reaction pillar' of the responsibility to protect (R2P) makes a specific statement about the residual responsibility of the international community to intervene when states are unable or unwilling to protect their citizens from genocide, war crimes, ethnic cleansing and crimes against humanity. Humanitarian intervention is contentious because it is widely considered to constitute a form of military intervention. Proponents of R2P thus go to great lengths to stress that the evolving norm considers intervention to be a last resort, and only when all other non-military options have been exhausted. Because intervention is also politically and morally divisive, proponents of R2P do not adequately problematise how states (which are expected to take the lead in humanitarian intervention efforts) are often influenced by the changing normative context in which intervention is expected to occur. This paper argues that the normative context is important, as it often shapes a state's

ABOUT THE AUTHOR

ANTHONY BIZOS is a DPhil candidate in the Department of Political Science and International Relations at the University of Pretoria. He holds an MA (with distinction) in International Relations from the University of the Witwatersrand and an MA in International Relations from the University of Sussex, England. He is currently a lecturer at the University of Pretoria.

perception of its interests. Hence it is unhelpful to exclude the notion of humanitarian intervention from the broader R2P debate. It is also argued that a more nuanced understanding of South Africa's foreign policy in relation to R2P needs to specifically consider how the country has been engaging with evolving norms of humanitarian intervention.

INTRODUCTION

The 'responsibility to react' pillar of R2P attaches a residual responsibility to the international community to respond appropriately to situations of compelling human need (which in extreme cases might also imply military intervention). Proponents of R2P argue that this evolving norm reflects the idea that sovereignty has never given states *carte blanche* to do as they please. Rather, R2P, while cognisant of the importance of traditional sovereignty (particularly as pertains to prohibiting the strong from meddling in the affairs of the weak), also re-conceptualises sovereignty as entailing 'responsibilities, and that a government's failure to fulfil those responsibilities might legitimise, indeed require, external interference in that sovereign's affairs'.¹

Proponents of R2P are also quick to stress that, in practice, the norm provides a 'toolkit' of diplomatic, humanitarian and other peaceful means, together with possible UN Chapter VII enforcement measures. Additionally, they argue that the language of R2P compels the international community to 'help', 'assist', 'support' and 'encourage' states to meet their R2P obligations. They therefore stress the preventative measures inherent in the norm, as well as the norm's commitment to enhancing and building state capacity.

HUMANITARIAN INTERVENTION AND R2P

Although the R2P lens might be a useful heuristic tool to examine the changes and continuity in South Africa's foreign policy, its potential shortcoming is that it does not problematise how the evolving norms of humanitarian intervention might also be capable of constituting (and thus explaining) South Africa's interests and identity. Despite the argument that R2P prioritises prevention, one might conversely suggest that the 2005 UN World Summit Outcome Document (WSOD) was in fact something of a watershed moment for humanitarian intervention, since 'it seemed to mark the worldwide acceptance of the responsibility to intervene in response to the mass violation of basic human rights'.²

Because the question of intervention inevitably entails moral hazard and political contestation, proponents of R2P fail to appreciate that the norm of humanitarian intervention (inherent in R2P) is itself contested and evolving. This is because 'shifts in intervention behaviour correspond with changes in normative standards articulated by states concerning appropriate ends and

means of military intervention. Specifically, normative understandings about which human beings merit military protection and about the way in which such protection must be implemented have changed, and state behaviour has changed accordingly.³

ACIRC – A SOUTH AFRICAN INTERVENTIONIST INITIATIVE

A clear example of the shifting nature of South Africa's interventional behaviour is indicated by President Jacob Zuma's hosting of a summit for African heads of state and government in Pretoria in November 2011, to discuss and confirm the pledges of participating and volunteering nations towards the African Capacity for Immediate Response to Crises (ACIRC). Zuma had personally championed the initiative earlier in the year in response to the succession of crises in the eastern Democratic Republic of the Congo, Mali and the Central African Republic. ACIRC is an African-owned initiative for military intervention to be employed as and when the need arises. ACIRC is comprised of volunteering nations, and its purpose is to rapidly respond to crisis situations on the continent. It is considered to be an interim measure and a building block of the yet-to-be operationalised African Standby Force's Rapid Deployment Capability.⁴

Various criticisms have been levelled at ACIRC. First, some argue that ACIRC is just another ad hoc initiative intended to demonstrate that the continent is committed to finding 'African solutions to African conflicts'. Second, it adds more bureaucracy to an already bloated, under-capacitated and yet-to-be operationalised continental peace and security architecture. Third, because it is a voluntary mechanism, it could undermine the notion of collective security on the continent by making intervention the responsibility of a 'coalition of the willing'. Fourth, critics make the case that ACIRC is South Africa's attempt to placate dissenting voices in Africa that argue that the country's earlier strong views on intervention have been compromised by its keen multilateralism. In this sense, African states question whether South Africa still remains their most legitimate unofficial representative in international forums, or whether the 2011 'Libya debacle' is further evidence of South Africa's colluding with external powers to protect its own interests.⁵

HUMANITARIAN INTERVENTION AS AN EVOLVING NORM

It now seems obligatory for any analysis of South African foreign policy to try to explain initiatives such as ACIRC through an R2P lens. The country's status as a middle power presumably requires that South Africa be seen to be committed to R2P. As an important norm entrepreneur the country is perceived to be relevant to continued international efforts to give the R2P norm 'stickiness'. Practically, the question of 'who should intervene?' seems synonymous with the question of 'who has the responsibility to protect?'. Both questions seem to ask which

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international actor should be tasked with resolving a humanitarian crisis. An analysis of how South Africa responds to humanitarian crises therefore requires a more nuanced understanding of how South Africa engages with the evolving norms of humanitarian intervention. This would provide greater insight into how the country perceives the issues of 'right authority', moral justification and legitimacy, which are central to determining who should be the appropriate agent to undertake humanitarian intervention.

NORMS AS EXPLANATIONS FOR STATE INTEREST AND BEHAVIOUR

Generally, humanitarian intervention is understood to be the transboundary use of military force in order to halt or avert large-scale and grave human suffering. More specifically, however, humanitarian intervention is 'the use of offensive military force by a state or group of states, in the territory of another state, without its permission, for the purpose of halting or averting egregious abuse of people within that state that is being perpetrated or facilitated by the de facto authorities of that state'.⁶

At a very practical level, R2P is unclear on who in the international community should discharge the responsibility to protect when intervention is required. While, according to R2P, the primary responsibility to protect rests with the state suffering the humanitarian crisis, the dilemma arises when the responsibility transfers to the international community. Responsibility is transferred when the state is unable or unwilling to protect its citizens' human rights, or when measures short of force fail or are thought likely to fail. Whereas both the International Commission on Intervention and State Sovereignty report and the WSOD make it clear that irrespective of who intervenes, such action should be authorised by the UN Security Council, 'the requirement for Security Council authorisation identifies only a *procedure* that agents should follow when discharging the responsibility to protect. It does not identify which particular *agent* has this responsibility'.⁷ Secondly, the lack of clarity on who should undertake humanitarian intervention is exacerbated because currently there is no obvious or salient institution to execute humanitarian intervention.⁸

Because norms are collective expectations about proper behaviour for a given identity, one may argue that the logic of appropriateness is just as plausible a predictor of a country's foreign policy as a rationalist logic of consequences. The latter adopts a behavioural analysis based on utility maximisation and assumes that given a series of options, agents pick the option that best serves their objectives and interests. This typically takes the form of material gain. In this sense, agent knowledge of interests is assumed *a priori*, and norms and social structures are perceived to, at most, merely constrain the choices and behaviour of self-interested states. The logic of appropriateness, on the other hand, argues that the social context in which states interact provides them with a normative understanding of how to co-ordinate values, expectations and

behaviour. Norms make similar claims on dissimilar actors, so in many ways norms shape interests, and interests shape action. By interrogating the type of situation and the desired course of action, state action may be constituted by norms, since the latter help to develop a state's understanding of its interests.⁹

Regrettably, however, most universalistic explanations of norm diffusion suggest that through a process of socialisation, 'good' cosmopolitan values 'out there' somehow replace 'bad' local norms, policies and social environments 'down here'. These explanations ignore the possibility that the meaning inherent in norms is invariably contested. They also fail to recognise that norms evolve in 'patterned life cycles' and need to be framed by norm entrepreneurs so that they resonate with broader public perceptions. Norms also need to be negotiated in multiple institutional settings where they often compete with alternative norms and perceptions of appropriateness and interest. Finally, these explanations fail to appreciate that external norms often conflict with local beliefs and norms that are themselves constitutive of a legitimate normative order.

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SOUTH AFRICA'S ENGAGEMENT WITH NORMS OF HUMANITARIAN INTERVENTION

By exploring South Africa's foreign policy through a rigid R2P lens while ignoring the country's engagement with norms of humanitarian intervention, one fails to appreciate that R2P is not an entirely foreign norm in an African context. The end of the Cold War (and the relative decline in Africa's geopolitical and strategic importance) was a critical juncture that provided the normative context in which African states could re-imagine their notions of co-operation and collective security. At a practical level, Western disengagement from the continent also meant that African states now had to develop their own mechanisms for external intervention to protect populations from crimes perpetrated by their own governments. In this sense, African 'new thinkers' such as Francis Deng and Kofi Annan were already proposing 'new ideas' on human security, intervention and sovereignty as a responsibility, well before the Western epistemic community sought to incorporate these into a R2P framework.

Williams contends that the emergence of R2P is closely connected to African politics. He argues that it is not possible to think of African society as a set of 'homogenous local beliefs' that are somehow changing some completely 'foreign idea'.¹⁰ Bellamy also asserts that whereas many states were wary of endorsing R2P for fear of providing licence for Western intervention, 'a significant shift in attitudes was afoot in Africa. Indeed, in some respects, concepts of sovereignty as responsibility and R2P emerged from Africa.'¹¹

Even more importantly, the R2P lens fails to recognise that post-apartheid South Africa's foreign policy was intricately connected to reconciling humanitarian norms with new patterns of humanitarian military intervention. The use of military force by the apartheid regime (and the West's sanctioning of it) served

to destabilise the region and perpetuate atrocities. This experience continues to influence South Africa's genuine concern with the question of 'who should intervene and why?'

South Africa's desire to localise its own humanitarian interventionist logic was a response to Western Afro-pessimism about the continent's inability to resolve its own problems. It was also the result of a shared African experience of foreign powers using humanitarian motives to justify more coercive and sinister interventions. Thus it is not R2P but rather South Africa's leadership in prompting similar African revisionist states to reconstruct norms of humanitarian intervention that can best account for the 'right to intervene' in the AU's Constitutive Act – the notion that non-interference should not imply non-indifference – as well as for the subsequent principle of finding 'African solutions to African conflicts'.

CONCLUSION

The suggestion by R2P's proponents that the norm has a decidedly UN flavour ignores the fact that the social context in which South Africa perceives its interests and understands humanitarian intervention is linked to the country's leadership in the consolidation and advocacy of the African agenda. The latter is closely associated with South Africa's own self-identification. It is important to recognise that identities and interests are intimately connected.

In other words, what we take ourselves to be determines which interests we take ourselves to have. As both an African state and leader on the continent, South Africa perceives pan-African intervention and continental security as a function of its interests. It also recognises that it cannot flourish on a continent characterised by conflict, underdevelopment and misrule. Most importantly, since humanitarian intervention requires agency, South Africa is sensitive to questions of its reputation, legitimacy and agent-justifiability in an African context.

The ACIRC initiative, together with South Africa's handling of the Libyan debacle, should therefore be examined through South Africa's engagement with the evolving norm of humanitarian intervention, and not through the lens of R2P. One might argue that¹²

the main purpose of R2P was to articulate a policy agenda specifically for humanitarian intervention. However, the authors couched this agenda within a broader strategy about preventing and averting gross human suffering, and reconceptualised the debate about 'intervention' as a discussion of 'responsibility' in order to make it more palatable to states that have an aversion to limitations imposed on their sovereignty.

It is therefore unhelpful to exclude analyses of humanitarian intervention from the broader R2P debate. Despite claims to the contrary, R2P has not settled the question of 'who should intervene and why?'

South Africa perceives pan-African intervention and continental security as a function of its interests

ENDNOTES

- 1 Bellamy AJ, *Responsibility to Protect: The Global Effort to End Mass Atrocities*. Cambridge, UK: Polity Press, 2009, p. 15.
- 2 Pattison J, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?*. Oxford: Oxford University Press, 2010, p. 4.
- 3 Finnemore M, 'Constructing norms of humanitarian intervention', in Katzenstein PJ (ed.), *The Culture of National Security: Norms and Identity in World Politics*. New York: Columbia University Press, 1996, p. 154.
- 4 Department of International Relations and Cooperation, website, <http://www.dfa.gov.za/docs/2014/pq42.html>, accessed 25 March 2015.
- 5 South Africa voted in favour of UN Security Council Resolution 1973, approving a no-fly zone over Libya and calling for 'all necessary measures' to protect civilians. This resolution was the first time that the UN Security Council had invoked R2P, and authorised the use of military force for human protection purposes against the wishes of a functioning state. Many African states felt that South Africa's decision went contrary to the AU's proposed road map for a negotiated and peaceful solution to the Libyan crisis. The subsequent heavy-handed NATO intervention in Libya also prompted many African states to accuse South Africa of being complicit in regime change in that country.
- 6 Heinze EA, Humanitarian Intervention, the Responsibility to Protect, and Confused Legitimacy, *Human Rights and Human Welfare*, 11, 2011, p. 17.
- 7 Pattison J, *op. cit.*, p. 4.
- 8 *Ibid.*
- 9 Finnemore M, *op. cit.*, pp. 155–156.
- 10 Williams PD, 'The "responsibility to protect", norm localisation, and African international society', *Global Responsibility to Protect*, 1, 2009, p. 397.
- 11 Bellamy AJ, *Global Politics and the Responsibility to Protect: From Words to Deeds*. New York: Routledge, 2011, p. 13.
- 12 Heinze EA, *op. cit.*, p. 22.

ACKNOWLEDGEMENT

This policy insights paper is funded by the Global Public Policy Institute (GPPi) and Humanity United. SAIIA gratefully acknowledges this support.

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Jan Smuts House, East Campus,
University of the Witwatersrand
PO Box 31596, Braamfontein
2017, Johannesburg, South Africa
Tel +27 (0)11 339-202
Fax +27 (0)11 339-2154
www.saiia.org.za
info@saiia.org.za

