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Was the UN-mandated, NATO-led operation in Libya a step forward or a setback for the norm? What implications - positive and/or negative - does the Libya operation carry for RtoP moving forward?

Resolutions 1970 and 1973 were watershed moments for RtoP—they demonstrated that the Security Council can act swiftly and decisively to follow through on its R2P commitment and on the numerous resolutions on the protection of civilians that pre-date the UN's endorsement of RtoP. Had the Security Council failed to act and Gaddafi followed through on his threat to kill opponents house by house, it would seem that RtoP had done little to change the global discourse on sovereign responsibility or Security Council response to intrastate crises.

That said, the 'success' of RtoP is not in a Security Council Resolution alone. It relies on how mandates are carried out. NATO's action in Libya raises tough questions about the role the Security Council ought to play in overseeing missions and ensuring that they do not exceed their mandate. The lasting impact on the normative development of RtoP can only be positive if the UN faces head on the critiques of the intervention--whether it was too hasty (what evidence is needed to establish credible threat of atrocities), whether NATO's action exceeded the UN mandate (how should the Security Council oversee its protection mandates to ensure that they are not a pretext for regime change), and whether there were grave breaches of international humanitarian law on both sides (particularly in relation to the death of Gaddafi). For the past decade, much energy has been devoted to ensuring that the Security Council will act when the alarm is sounded. In this respect Libya is a success, but now is the time to learn lessons from the challenging questions and dilemmas the intervention has posed to RtoP implementation.

Regarding the legality of the intervention, I think [Richard Falk](#) and [Eric Posner](#) are wrong. By virtue of a UNSC resolution, the action itself is legal. Arguments that suggest that the UN Charter relegates UNSC action to only international peace and security (narrowly defined) fail to account for resolutions on civilian protection (namely Resolution 1296 (2000)) in which the Council determined that the deliberate targeting of civilian populations and the committing of systematic, flagrant violations of international humanitarian law



could constitute a threat to international peace and security. In this respect, Falk and Posner's reading of the UN Charter fails to account for customary international law of POC resolutions. The issue is not whether the decision to intervene was legal (it was), but whether the conduct of operations aligned with Resolution 1973. The wording of the resolution was ambitious enough (necessary means to protect civilians and civilian populated areas) to permit NATO's actions. However, it's highly debatable that the spirit of the resolution was followed, considering the resistance from Russia and China (and most of the rest of the non-Western world) to offensive posturing and regime change.

Through an RtoP lens, what lessons can be learned from Libya for future cases where international action - whether non-coercive or coercive - is necessary to protect civilians?

In brief, lessons learned can be summed as:

- 1) It's important to engage regional organizations and regional leaders in RtoP implementation (it's unlikely that Resolution 1973 would have passed without the request of the Arab League). Much more effort is needed to ensure that regional support is not just grounded in a one-off request for international action, but is an ongoing process of dialogue and consultation to garner political and operation support of regional organizations and leaders
- 2) As Syria, Yemen, Bahrain, the Democratic Republic of the Congo (DRC), Sudan, Cote D'Ivoire and a number of other precarious situations suggest, Libya is not the test case for RtoP - it is one example of RtoP in action. The use of coercive force in Libya must be added to the number of other cases, past and (unfortunately) future, to learn lessons on what strategies work in which situations to avert imminent atrocities and lesson the risk of recurrence.
- 3) Any RtoP action must be open to scrutiny, and there should be a review of NATO's action to assess and respond to the critiques outlined above (in terms of mandate creep, breaches of international humanitarian law, etc.).

And one overarching lesson for state authorities that may threaten to massacre their populations to achieve a political end: It's getting riskier to do so, and it would be best to seek another policy.