Theory and Practice of Humanitarian Intervention: The Case of 2011 NATO Intervention in Libya

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Abstract

Decades of Colonel Gaddafi's rule in Libya came to an end after 2011 North Atlantic Treaty Organization (NATO) led military intervention. The intervention was propagated as a humanitarian mission intended to rescue Libyans' from illegitimate force of the regime and prevent the civilian suffering. On contrary the country went down to large scale collapse and devastation. It became divided among various armed groups, serving as one of the major routes of illegal migrants to Europe, safe haven for terrorists and fundamentalist Islamists such as the Islamic State and no truly capable and legitimate national government has been constituted in the country to this date. On this background, this article tries to examine the extent of compatibility of the 2011 NATO-led military intervention *viz-a-viz* the doctrine of humanitarian intervention. Specifically, how the uprising in Libya facilitated external intervention and whether the military intervention was humanitarian were discussed. In nutshell, NATO's intervention in Libya contradicts the basic tenets of the doctrine of humanitarian intervention and primarily represents the vested interests of the western countries.

Keywords: Humanitarian Intervention, NATO, Libya

Introduction

The modern international system, with sovereign states as its building block, was constituted following the end of thirty years war between Europeans at the treaty of Westphalia in 1648. Throughout its history to 21st century, the interaction between and among States have been characterized by both cooperation and conflict. In sphere of cooperation, establishment of international governmental organizations, like League of Nations and the United Nations, rapid evolvement of international non-governmental organizations and spread of regional integration schemes across the world can be mentioned as the major ones. On the other side, the world encountered numerous conflicts at different levels and time. Among the wars, the three world wars, the two hot and one 'cold', are recurrently mentioned both for their massive destruction and causalities and hitherto significant impact on the international system.

The end of cold war hasn't assured widespread stability of the international system. Rather, the post cold war period witnessed intensification of intra-State conflict, but decline in inter-State ones, causating greater loss of lives and widespread violation of human rights. For example, between 1989 and 2009 ninety-three intra-state conflicts took place as compared to only eight inter-state ones (Kegley and Blanton, 2011, p.237).

It is obvious that these widespread internal armed conflicts primarily affect the most vulnerable sections of society: women and children. As implied by the principle of sovereignty, "…the primary responsibility for the protection of its people lies with the state itself" (ICISS, 2001, p.xi). Thus, the principle of sovereignty entails that the state is obliged to respect fundamental human rights in the exercise of its authority and also prevent or alleviate human suffering in situations of internal armed conflict. But, whenever a state fails to provide protection to its citizens, state's responsibility to protect will be transferred to the international community. Therefore, in such a situation guaranteeing security to vulnerable individuals and groups becomes responsibility of the international community: state/s and the international organizations. Accordingly, humanitarian intervention is a mechanism by which the international community enshrines its responsibility of protecting individuals and groups vulnerable to conflicts and massive violation of fundamental rights when whose government is either not capable and/or not willing to do so.

External military intervention to protect victims of genocide or of massive violations of human rights remained debatable both when it has happened, as in Somalia, Bosnia and Kosovo, and also when it failed to happen, as in Rwanda and Darfur (Andreani and Hassner, 2008). The 2011 NATO's intervention in Libya can be taken as a new blood to the debate.

NATO's involvement in Libyan uprising is built up on the UN resolution 1973/2011 which calls for 'all necessary measures' against the regime of Gaddafi as 'to prevent civilian suffering'. Thus, assessing the extent of compatibility of NATO's intervention with the doctrine of humanitarian intervention remains important.

The analysis centers on argument that NATO's intervention in Libya represents vested interest of western powers than genuine humanitarian intervention. In this vein, internal developments in Libya which facilitated the intervention are assessed and the intervention is examined via the principle of humanitarian intervention. Thus, the central question is: Does the 2011 NATO's intervention in Libya be refereed as humanitarian intervention?

Meaning and Nature of Humanitarian Intervention

The doctrine of humanitarian intervention has several notion and long been a subject of controversy in international law and relations. This is because different scholars define it differently. For example, Hugo Grotius, a renowned 17th century international law scholar, defined it as the use of force by State/s to stop the maltreatment of citizens by their own government when that conduct is so brutal and large scale as to shock the conscience of community of the states (Harriss, 1995, p.61). This definition has two important constituents. First, the definition marks existence some limitations to the freedom/sovereignty of states enjoyed in dealing with their citizens. Second, it brought into picture arguments of whether state/s can use force on another State.

According to Ian Brownlie, a renowned British professor of international law, humanitarian intervention is a threat or actual use of force by a state/s with the intention of protecting fundamental human rights (Buergental, 1994, p.8). This definition begs the question of legality and stresses function or objective of intervention. Inaddtion, the definition takes into consideration not only the actual use of force but also threat to use force to protect citizens of the target state from large scale violations.

The above two definitions demonstrates us two major prerequisites for humanitarian intervention. First, there must be proven violation of human rights. And second, the violation must shock the conscience of mankind and be an affront to the international community. Regarding its purpose, humanitarian intervention should be primarily intended to improve human right situation of the citizens of the target state by halting grave violations of human rights.

The first and worth nothing regarding humanitarian intervention is that it is not designed to secure the overthrow of a government or for the establishment of another regime. The primary concern of humanitarian intervention is the protection and upholding of human rights (ICISS, 2001, p.xii). Another important point that should be understood is, for humanitarian intervention to take place, first there must be large scale abuse of human rights or it should be likely to occur though what amount it is meant is not clear under the international law (ibid). Therefore, the abuses of rights as one prerequisite must exist and it must be proven to exist.

Before the actual military intervention, all other forms of persuasion beneath have to be exhausted. That is "military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored…" (ibid). Therefore, discussions, government appeals and other possible forms of recourse should be exhaustively applied before resorting to humanitarian military intervention.

Once it is commenced, any use of force should be proportional and be limited for the shortest possible period. Thus, humanitarian forces should be small but sufficient enough and "the scale, duration and intensity of the…intervention should be the minimum necessary to secure the …objective" (ibid).

Humanitarian intervention also entails the responsibility to rebuild or for reconstruction after a military intervention. As the intervention takes place without the consent of the concerned state, it is more likely that the state will be in economic and political devastation as result of the intervention. Therefore, political as well as economic reconstruction will be very much needed in the post intervention period.

Uprising in Libya and the External Intervention

The revolution, commonly dubbed Arab-uprising or Arab-spring, erupted in quest of justice, dignity and democracy in Tunisia and Egypt gave a ring call to Libya. The success story of the revolution in neighboring countries in toppling down dictatorial regimes that grappled power for decades has in turn initiated spirit of change to the country ruled by iron fist for over four decades. The wind of change in Libya has escalated violence, protest, and riots first in some cities and later to the whole part of the country.

A turning point in Libyan uprising is Benghazi, where protesters on February 17, 2011, revealed their discontent with long lasted rule of Colonel Gaddafi. It was argued that riot was commenced by western backed rebellion (Engdahl, 2011, p.6). It is claimed that Gaddafi regime has used illegitimate force against 'civilians' who demanded political reform in peaceful manner and "there were rape, arbitrary arrests, torture and killings by security force" (The White House, 2011b, p.5). During the escalation of the protest various defections of government officials followed and the regime of Gaddafi has began to 'lose legitimacy' in the eyes of the Libyan people and 'the international community'.

Uprising in Libya has brought about a golden opportunity for western powers to reveal the face of the 'atrocity' to international community and consider a military act. Above all, Gaddafi's speech to overrun Benghazi with "no mercy" gave a ground for western powers to assume intervention. Given this United States, via president Obama, stressed that if the world waited one more day, Benghazi could suffer a massacre that would have reverberated across the region and stained the conscience of the world and the cost of inaction could be profound leading to slaughter of thousands of the civilians (ibid, p.7).

This way the Libyan crisis has paved the way for external intervention from United States, United Nations Security Council, and North Atlantic Treaty Organization (NATO). United States, on its part, has played a decisive role through its military, economic and diplomatic clout. It backed NATO member States, and pressured government officials of Gaddafi to abandon the regime.

With its resolution of number 1970 and later 1973, the UN Security Council has cleared the way for the use of force 'to protect civilians' in Libya. Particularly, the later resolution, resolution number 1973, authorized use of force under chapter VII of the United Nations charter and mandated member countries to use 'all necessary measure to protect civilians'.

Under the guise of protecting civilians from looming threat NATO has intervened in Libya on March, 2011. The UN Security Council's authorization enabled NATO to carry out the mission consisting of three elements; arms embargo, no fly zone and actions to protect civilians from attack or threat of attack (Karon, 2011). Countries that were willing to support the "just cause" of military intervention in Libya have exerted every possible support to the NATO led coalition. In this regard, Arab League was manipulated by western powers to give the military act a humanitarian face calling for international action against Gaddafi given the majority of its members, such as Oman, Qatar and Lebanon, weren't in good mood with Colonel Gaddafi.

The Doctrine of Humanitarian Intervention and NATO in Libya

Humanitarian intervention came into being as a best way to serve humanity. It springs from the belief that as responsible agent in the modern international system states should stand for protection of human rights of their respective citizens. This has gained greater importance in 21st century though the common practice reveals that there exists incoherence between theory and practice of humanitarian intervention. Thus, it has remained the game of great powers and states with strong muscle are manipulating the doctrine of humanitarian intervention to their own terms.

Following the UN resolution number 1973-2011, NATO commenced military actions against Colonel Gaddafi's regime under the pretext of 'protecting civilians' from human right abuses. However, it could and should be argued that NATO's involvement has breached the original intent of humanitarian intervention.

The intervention emanates from the UNSC resolution 1973. The resolution, in paragraph four, stated that the council "… [a]uthorizes member states…acting nationally or through regional organization…to take all necessary measures…"(UNSC, 2011). This provision dwells on ambiguous and vague deliberations. First, it calls for member states, not the international community as a whole, for action opening the room to an arbitrary and arrogant exercise of power by interested state/s to act free from checks and balances. Furthermore, the provision encouraged member states to act as they please and allowed them to further their own national interests in the disguise of enforcing the decision of UN Security Council.

In addition, the clause 'to protect civilians' show policy of double standard, shaped by interest of the intervening states, as it hasn't been adopted for countries in comparable or even in worse situations (IPO, 2011, p.4). Thus, the delegation of unlimited authority via this provision opened the room for subjective interpretation according to the self-interest of the states and became source of unilateral action endangering the foundational basis of the United Nations: the principle of collective security.

Humanitarian intervention follows proven violation of human rights. So, to carry out military operation under the pretext of human rights, there should be arbitrary and persistently abusive treatment of citizens. In this case, the claim that crisis in Libya calls for the protection of civilians hence it was a looming threat for humanity raises the question of legality. Thus, it can be asked that does the situation sufficiently serious at the time intervention was launched? Regarding this issue, no independent international body has proven that the said massive human rights violation is on the verge of genocide and lethal crime. Even some allegations against the regime of Qaddafi regarding human rights weren't confirmed. For example, it was claimed that the regime has ordered mass rape and used foreign mercenaries (The Independent, 2011). But the Amnesty International come-up with the conclusion that those claims, used to justify the intervention, weren't evidence based or false at all (ibid).

Another foundational basis of the humanitarian intervention is that the intervention should solely be intended to uphold human rights of individuals and groups under threat. So, external military intervention should not be motivated for example to bring regime change in another state. NATO-led coalition, in contrast to this notion, has pursued intervention aimed at bringing regime change in Libya. The rhetoric of several coalition leaders before the very beginning of the intervention attests to this fact. The first leader who openly called for regime change in Libya was France's President Nicholas Sarkozy. He emerged as very candid and outspoken proponent of regime change in Libya primarily to boost his low record domestic political popularity on the eve of 2012 presidential election (Willsher, 2011). He also went far to the extent of recognizing National Transition Council as legitimate government of Libya even before the adoption of the UN Security Council resolution. Similarly, the US president Barak Obama stressed that Gaddafi needs to step down from power (The White House, 2011a). Therefore, it is worthwhile to underline that NATO-led intervention from the outset had the intention of not genuine humanitarian case but removing Colonel Gaddafi from the power.

The third precautionary principle of humanitarian intervention which is important in analyzing NATO's involvement in Libya is the issue of last resort. That is, as per the doctrine of humanitarian intervention military action should come as a last resort. Thus, all other means to end citizens' suffering like diplomatic discussions

and targeted sanctions must be used before use of force or military intervention. But, in Libyan case military intervention has gained precedence over other options. It took 48 hours for NATO-led coalition to consider their option. And this is a rush decision that neglected the essence of humanitarian intervention.

Fourthly, the intervention can also be examined from moral standpoint. Morally speaking, humanitarian intervention is desirable way of rescuing innocent people from gross maltreatment by abusive authorities and the advent of genocide and massacres (Andreani and Hassner, 2008, p.4). But, this doesn't mean that states always behave this way in practice or their actions are always on this ground. Rather, states actions have mixed motives. Here it can be asked does NATO's operation in Libya morally unproblematic? It is problematic since it was selective intervention. That is NATO-led coalition of western powers failed to act in response to similar, even worse, situations in Rwanda (1994), Darfur, Bahrain and currently in Yemen and Syria. These failures show the inconsistency of moral standards of the western powers and the primacy of their own interest in deciding where and when to militarily intervene.

One of the precautionary principles of humanitarian intervention is the principle of right intention; the intervention must be intended to halt human suffering (ICISS, 2001, p.xii). But, in reality states abuse the optimal intent of humanitarian intervention for their own interest. In this regard, member states of NATO had at stake their vital national security concerns in the uprising of Libya. It is believed that Libya is a feeding market for European energy demand. Thus, opting for military intervention by European countries elucidates the implicit motives behind the intervention.

On the side of USA, the intervention was intended not only to halt human suffering but also "to limit the spread of violence and instability in a region pivotal to… [its] security interest…" and "to show the people of the middle east and northern Africa that America stands with them at a time of mementos transition" (The White House, 2011b, p.2-3). Thus, US joined the intervening countries not only on the humanitarian ground but also, may be most importantly, for its geopolitical interest and to build her image in the greater Middle East region.

As per the principle of humanitarian intervention, any action taken against the target must be proportional and of minimum destruction. But, the NATO's operation in Libya caused massive destruction of the basic infrastructures like roads and health centers. And in meantime, for example, the city of Sirte was reduced into the ruins due to the air strikes by NATO (Milne, 2011).

Humanitarian intervention also entails the responsibility to rebuild or reconstruction after military intervention (ICISS, 2001, p.xi). As the intervention takes place without the consent of the concerned state, it is more likely that the state will be in an economic and political devastation at the time of and after the intervention. Therefore, political as well as economic reconstruction is much needed. Contrary to this tenet of humanitarian intervention, NATO unequivocally attested that it will not participate in the post war Libya and help the country to revitalize from the crisis. In this vein Rasmussen, the then Secretary General of NATO, stated that "we do not see a lead role for NATO in Libya once this crisis is over" (Karon, 2011). If humanitarian intervention is all about saving humanity and responsibly treating wounds of the devastation, the failure of NATO in this regard shows that the intervention was primarily motivated by self-interest of the intervening states rather than reaching to the Libyan society. To this date, post war Libya requires assistance in its transition from the devastation and collapse but the overall response from NATO-led coalition is not satisfactory.

Concluding Remarks

Humanitarian intervention is an opportunity for all mankind. It is a means to protect the right of individuals and groups if a state which is supposed to protect fails to do so. With authorization of the United Nations, states could use force to halt human catastrophe in another state. They have to base their act on intent and the principle of humanitarian intervention. The prerequisite for this is that there must be proven violation of human rights shocking the conscience of international community. And also, it should be noted that humanitarian intervention is not designed to secure regime change or be employed as a first line option in its military aspect. It is also concerned about the future of the intervened state. Against this background, however, states are being seen manipulating the notion of humanitarian intervention to fulfill their self-interest.

The need for change which has turned to protest, riots and uprising in Libya had invited external players to meddle in the crisis. In this regard, the NATO-led coalition has intervened in Libya under the guise of protecting civilians. NATO's intervention in Libya has represented vested interest of western powers. The aspiration and future of Libyan people was left aside.

In light of the doctrine of humanitarian intervention, NATO's involvement in Libya has breached the tenets of the doctrine. First, the intervention lacked legal ground in that there was no independent verification of large scale human rights abuse in Gaddafi's Libya. Moreover, the intervention was aimed at regime change. This has been attested by the rhetoric of the coalition leaders who openly called for Gaddafi's departure even before the intervention. The intervention has also revealed moral drawbacks. The 2011 military intervention in Libya was launched on the basis of selectivity not genuine and demanding humanity cause.

In similar vein, the intervention was launched in scramble to benefit out of the crisis. The States which

have participated in the military intervention have kept aside the precautionary principle of last resort. This candidly demonstrates the motives behind the intervention. Member States within the coalition had their national interest at stake in the Libyan uprising. Thus, they have opted for intervention to secure their demand for power and security.

Generally, it can be concluded that the practice of states under the pretext of protecting human rights lacks consistency with the doctrine of humanitarian intervention. This discrepancy between the theory and practice can be primarily attributed to prevailing interest of the great powers. Nowadays, humanitarian intervention has turned into a tool in service of western interests. It is not being applied to improve human dignity as it was intended from the very outset. Thus, the doctrine of humanitarian intervention begs its genuine implementation on the international community.

The intervention in Libya also further signaled the importance of restructuring the Security Council. The uneven representation at United Nations Security Council remained source of discrimination with some governments protected by their allies and others, like Libya, more exposed to international sanctions and external intervention.

References

Andreani, Gilles and Pierre Hassner (2008) "Introduction" in their (eds.) *Justifying War? From Humanitarian Intervention to Counterterrorism*. New York: Palgrave

Buergental, Thomas (1994) *International Human Rights in a Nutshell*. Second Edition. Minnesota: West Publishing Co.

Engdahl, William, "Libya in Washington's Greater Middle East Project", **Global Research**, 26 March 2011

Harriss, John (1995) *The Politics of Humanitarian Intervention*. London and New York: Pinter Publishers.

ICISS (2001) *The Responsibility To Protect*. Canada: International Development Research Center.

IPO, "Memorandum on Security Council Resolution 1973(2011)", 26 March 2011, Geneva Switzerland

Karon, Tony, "NATO hope to pass the buck in Libya, but may not be able to handoff responsibility", **Time Magazine**, 8 June 2011.

Kegley, Charles W. and Shannon L. Blanton (2011) *World Politics: Trends and Transformation*. USA: Cengage Learning.

Milne, Seumas, "If the Libyan war was about saving lives, it was a Catastrophic failure", **The Guardian**, 26 October 2011.

The Independent, "Amnesty Questions that Gaddafi ordered rape as weapon of war", 24 June 2011.

The White House, "Remark by the President in Address to the Nation on Libya", 28 March 2011a.

_____, "United States Activity in Libya", 15 June 2011b

UN (1945) 'The Charter of United Nations'

UNSC (2011) 'Resolution 1973(2011)'

Willsher, Kim, "As France takes the reins on Libya, Sarkozy triumphs", **The Los Angeles Times**, 20 March 2011.