

WHEN IS IT RIGHT TO OUST A TYRANT?

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Even if in recent decades it has again become fashionable, the idea of a "right to intervene" is comparatively old. Without going back as far as the Crusades, history reminds us that for centuries colonising Europeans have intervened without scruple or qualms on every continent in the name of "the true faith" or of "civilisation" to take on what Rudyard Kipling called "the white man's burden". These interventions became routine in the 19th century, when the European powers shared out between themselves not only Africa, at the famous Congress of Berlin in 1885 but also large parts of Asia and the Middle East. It's a story as old as history itself: the intervention of the strong against the weak, the colonisers against the colonisable and, as it happens, of the Europeans against everyone else - "The West versus the Rest", as the phrase now goes. The drafters of the United Nations Charter adopted in San Francisco in 1945 - the winners of World War II, led by the United States - sought to contain such interventions and the use of force within the strict framework of the charter's Chapter 7. This can only be invoked by a majority decision of at least nine votes in the UN Security Council - and only if none of the five permanent members imposes its veto. Of course this was almost never the case during the Cold War, except in 1950 when the UN General Assembly, at the request of the United States, took advantage of the Soviet Union's unwise "empty chair" policy in the Security Council and legitimised the American-led "police action" in Korea against Russian and Chinese actions. In the second half of the 20th century, though, Chapter 7 failed to prevent plenty of unilateral interventions that contravened "international law" - by the United States, by the Soviet Union and then by the Russian Federation, by European powers trying to hang on to their colonies, by Israel, by China (in Vietnam), by Arab countries (Egypt in Yemen, Iraq in Kuwait) by several African countries in neighbouring states (Uganda in Rwanda, or Rwanda in the Democratic Republic of the Congo, to give recent examples). And there have been numerous vetoes by one or several permanent Security Council members against resolutions invoking Chapter 7. The UN Security Council nonetheless managed to reach consensus over using force to drive Iraq out of Kuwait in 1991 and to prevent a massacre in Benghazi in 2011. But such decisions are so rare that each is an event in itself. Curiously, it was during the Nigerian civil war in Biafra in the late 1960s - after the great wave of independence in Africa - that the interventionist doctrine of "sans-frontierisme" was proclaimed in France. It affirmed, ostensibly for humanitarian reasons but actually for more complicated reasons, the legitimacy of the supposedly new concept of the right to intervene, "le droit d'ingérence". It was as if Europe - and France in particular - wanted to take back through intervention the independence that it had earlier been forced to cede. This line of thinking became, with the help of Mario Bettati, a Sorbonne law professor, and Bernard Kouchner, the co-founder of Médecins Sans Frontières, a veritable French doctrine that one not only had a right to intervene, but also a duty to do so. It strongly resembled the duty to civilise so dear to Jules Ferry, leader during France's Third Republic of the progressive Left that supported colonisation. The same idea has enjoyed considerable popular support over the past 30 years, and Kouchner, its champion, was long the darling of public opinion in France. This Western, civilising vision of international relations was adopted by most of the French media and by many high-profile intellectuals. After a long period of more or less repentant Third Worldism (which has now completely disappeared, to be replaced by other kinds of repentance) the media adopted its exact opposite. The reality is that the right to intervene has proved difficult to implement, both politically and practically, even if it has sometimes been achieved. After the "Desert Storm" war against Iraq in 1991, Kouchner persuaded French President François Mitterand and his foreign minister, Roland Dumas, to provide assistance to the Kurds, and the UN Security Council then followed suit. But such interventions have set the leaders of France's major NGOs against one another, with argument raging over the risks of neo-colonialism, and been the cause of much dismay over the disproportionate level of the attacks they unleashed. The key questions must be: Who is intervening against whom? In whose name, and to achieve what? And if the promoters of these incursions can't convincingly answer them, and if Western governments are intervening under the pressure of a public traumatised by news reports - and so consider their actions justified by their own indignation - then there's not much difference to past incursions. Think of European interventions in the 19th century against the Ottoman empire, against Russia in the Near East, in the Balkans, in Asia to protect minorities or to put down rebellions. And no one could claim that these interventions advanced the cause of international law, even if they did occasionally prevent unpleasant situations from deteriorating further. So it should have come as no surprise that the Bush Administration was hailed by some French supporters of the right to intervene when President George W. Bush decided to invade Iraq, even though in doing so he would distort the whole idea while also dealing it a fatal blow. In any case, interventions have never been popular at the United Nations, whose founding charter it should never be forgotten affirms the fundamental principle of non-intervention. It was to escape this conceptual and practical impasse that Kofi Annan, when UN secretary-general - spurred by Canadian research - asked the Algerian diplomat Mohamed Sahnoun to define in consultation with member states the principle of a "responsibility to protect." Once this principle had been adopted in September 2005 by the UN General Assembly, any intervention it might lead to would be constrained by its premise, which is the opposite of a right to intervene. In the one case "we" decide arbitrarily to intervene in another country; in the other, the members of the UN cannot refuse to intervene in a country where the government is incapable of protecting its own citizens, notably when it is itself repressing them. Such a state of affairs must, though, be proved beyond doubt, with none of the permanent Security Council members imposing a veto. It is therefore worth setting out the exact text of this UN General Assembly resolution (60/1): Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity 138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means [...] 139. [...] In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, [...] should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The much more recent Security Council Resolution 1973 on Libya was adopted on this basis, and not in the name of any self-proclaimed right to intervene, and its text is also worth pondering: "The Security Council, [...] Deploring the failure of the Libyan authorities to comply with resolution 1970 (2011), [...] Expressing its determination to ensure the protection of civilians and civilian populated areas and the rapid and unimpeded passage of humanitarian assistance and the safety of humanitarian personnel, [...] Acting under Chapter VII of the Charter of the United Nations, 1. Demands the immediate establishment of a cease-fire and a complete end to violence and all attacks against, and abuses of, civilians; [...] 4. Authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in co-operation with the Secretary-General, to take all necessary measures [...] 6. Decides to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians; [...]" Did the adoption of this resolution mark a turning point? The circumstances were, we should remember, exceptional: • A rebellion in February in Benghazi, and the liberation of eastern Libya by the rebels. • Threats of violent retribution by Muammar Gaddafi and his son Saif (who promised "rivers of blood"). • A call for help from the National Transition Council. • A call from the Gulf Co-operation Council to protect civilians. • A request by the secretary general of the Arab League for a no-fly zone to protect Libyan civilians. Resolution 1973 in fact made reference to this request. This request was made easier by the fact that no other Arab country supported Gaddafi (except perhaps Algeria, silently, or certain of its forces). Without the convergence of these exceptional circumstances, France and Britain - which had been in the lead from the start - would not have obtained the nine votes needed for the adoption of Resolution 1973 by the Security Council on March 17, and Russia and China would certainly have vetoed any text mentioning Chapter 7. This UN voting record is rich in information. Even before military operations began, it revealed a profound rift between the common stance of London and Paris - who for once saw eye to eye - and that of Germany. In Berlin, foreign minister Guido Westerwelle's personal hostility (even if by the end of August he was compelled to express his "respect" for NATO) is not enough on its own to explain Germany's abstention. That reflected the more general opposition in Germany to the use of force, for Joschka Fischer's time as foreign minister has to be seen as atypical. And once military operations in Libya got under way, they confirmed that amongst Europeans, only France and Britain still had both the will and the capacity to respond militarily. But it also showed that their military capabilities are barely adequate. Military operations in support of the TNC rebels could not have been launched, or been effective, without U.S. assistance in the shape of air strikes at the beginning, intelligence throughout and drones at the end. By the same token, NATO's logistics and command systems, put into operation in complicated and costly conditions by a Canadian general, proved irreplaceable. On this occasion, "European defence," for 30 years the object of so many proclamations, especially in France, was shown up for the illusion that it is: a hope that has become an empty shell. Nor should we try to equate bi-lateral co-operation between two European countries in the framework of NATO, mainly of their air forces but also their navies, with "European" defence as it has been dreamed of and set down in declarations. On the occasion of the Libya intervention, a European military command built around France and Britain as the only countries capable of fighting would have been the logical solution. But even that would have meant going too far for London, despite good bi-lateral co-operation and last year's Anglo-French defence treaty. The major obstacle to European defence, though, is that the other European countries in favour of it in principle are spending less and less money on their defence budgets. The bottom line is that to a large extent those countries that are able to exert military muscle don't agree with each other politically, while those that are willing to co-operate fully on defence are unable to do so. So what, then, are the consequences of the Libyan intervention? If it had ended in a fiasco, it would have been seen quite straightforwardly as a mistake not to be repeated. Germany, and Guido Westerwelle in particular, would have been proved right while Paris and London would have been weakened. Any ideas of European defence would have been killed off, and future foreign interventions discouraged other than in the classic and very limited framework of multi-lateral UN "peacekeeping" operations. European public opinion was in any case somewhat hesitant: polls showed 66% in favour of the Libyan intervention in March, down to only 51% by August, when the voices of a good many Cassandras were warning of a quagmire. From August 20 onwards, with the evident fall of the Gaddafi regime and the takeover of Tripoli by the Libyan rebel forces - albeit with much logistic assistance and effective "advice" - the operation represented a successful case of effectively implementing the "responsibility to protect". But can the Libyan operation justify other interventions? Here we have to be cautious, for many reasons. First, controversy could still flare up once more over the Libyan intervention. After the fall of a 42-year regime that was so autocratic and so tragically farcical (not forgetting the massacres of its final days), the road to a modern, democratic Libya - insofar as this will be possible in a country with no previous experience of democracy - will be long, and littered with obstacles. The National Transition Council seems well aware of this, and has made the best possible commitments. In any case, the Libyans will have to be helped to resume oil production, to access frozen funds and to organise elections. This was the aim of the September 1 Paris meeting of 63 countries at which it was decided to release \$15bn in frozen funds, to let the Libyans decide where Gaddafi will be tried, and to form a group of "friends of Libya". Russia, China, Brazil and South Africa continue to object to the way UN Resolution 1973 was implemented, judging NATO's military actions to have exceeded the simple no-fly zone intended to protect civilians. France and Britain, for their part, consider that the protection of civilians should not be hindered by too narrow or too passive a definition of the UN mandate. Until the end of August, South Africa had even waged a rearguard fight in the UN sanctions committee (which requires unanimity) against the release of the Libyan funds that were frozen under Resolution 1970. It reluctantly relented only in the face of a threat to take the issue to the Security Council, where it has no veto. The countries known as the BRICS - Brazil, Russia, India, China and South Africa - in effect built a common front to try and prevent the "responsibility to protect" from becoming the basis (or a pretext, as they would see it) for a new style of Western interventionism. This typifies the new world order in which the West no longer has a monopoly on power, and the subtle analysis and intellectual clarity of President Barack Obama, who clearly thinks constantly about the great multipolar game of the coming decades, is well worth studying. At the UN Security Council, the BRICS have opposed any resolution aimed at restraining Syria. Ever since 1971, Russia has had a military base in the Syrian port of Tartous, and its importance would become crucial if Moscow were to lose its warm water naval base at Sebastopol in the Crimea. Russia also continues to sell arms to Damascus, so it intends to abandon neither the Alawite regime of Syria's President Bashar al-Assad, nor what remains of its influence in the region, and will veto any Chapter 7 resolution. This is not the only difference between Syria and Libya. Despite the bloodshed and cruelty of Syria's repression, its neighbours, starting with Israel, have long feared the fall of the regime because that could destabilise the whole region. Syria's minorities - Christians, Kurds, Druze, and even Alawites not linked to the Assad family - are therefore hesitant despite their desire not to be caught by the fall of the regime. So far there has been no call from the Gulf Co-operation Council for outside intervention to halt the repression in Syria, still less from the Arab League, even though it has cut ties with the regime. And the Local Co-ordination Committees in Syria have for the moment excluded any internationalisation of their rebellion. Burham Ghalioun, a professor of political sociology at the University of Paris III, was designated head of a Syrian National Transition Council on August 29 and the following day declared: "A few voices are calling for a foreign military intervention. It's a complete illusion." Instead, the opposition is calling for a total boycott. At the Paris conference on Libya, President Nicolas Sarkozy stated: "France, with its allies, will do everything legally possible to help the Syrian people's aspirations for liberty and democracy to triumph." So, inexorably, pressure is mounting against the regime in Damascus. But even if we consider that the "responsibility to protect" was invoked wisely in the case of Libya, that it was acceptable for the resolution on protecting civilians to be interpreted loosely, that international action proved not only effective but also legitimate, and that we can safely use in this case that hackneyed term "the international community," the Libyan operation was so unique that it would be unwise to make a precedent of it. It would be even less wise to see it as a turning point in international relations. There will no doubt be other international interventions, here and there, in the name of the responsibility to protect, that are authorised by the UN Security Council, and so much the better. But the real geopolitical shift that has taken place - and that will endure - is the way the cards have been redistributed between the West and the world's emerging powers.



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