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Military Intervention and the Responsibility to Protect in Libya and Kosovo Thea Fisk

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Introduction: The purpose of this paper is to compare the interventions in Libya and Kosovo by four measures: intent, means, outcomes, and their effects on the Responsibility to Protect doctrine. The structure of this paper is split into five parts: background, intent, means, outcomes, and R2P. Within each section I describe how I will analyze each measure followed by a section on Libya and a section on Kosovo. The ultimate goal of this paper is the fourth measure: analyzing the effects of both interventions on the R2P doctrine. Comparing and analyzing intent, means, and outcomes is both to compare the interventions themselves but also to strengthen the analysis and comparison in the R2P section.

Background:

Libya: In February 2011 the Libyan people rose up in protest against their dictator Muammar Qaddafi. What initially started as peaceful protests quickly turned violent (Kuperman 107). Initial reports provided ample support for intervention: Qaddafi's forces responded to protests with lethal force causing thousands of innocent civilian deaths within the first few days. In response to this the protestors took up arms in self-defense and launched a rebellion which would initially progress well. Qaddafi's response to this rebellion was disproportionate, Qaddafi forces utilizing heavy weapons and indiscriminate force in residential areas and bombing civilians via air strikes (Kuperman 107).

<u>Kosovo</u>: Albanian Muslims (Kosovars) began losing their political autonomy after the collapse of communist rule. Conflict was ignited when both Serbs and Kosovars began simultaneously demanding political autonomy and sole political control of the same land (Amstutz 22). In order to advance Kosovar political interests, the Democratic League of Kosovo was established. When the DLK failed to restore some measure of political autonomy, Kosovars turned to the Kosovo Liberation Army. While the DLK pursued autonomy through non-

aggressive means, the KLA sought political self-determination through force beginning in 1995 (Amstutz 23). This led to violence on both sides and the endangerment of civilians.

Intent:

Measuring and Analyzing intent: Measuring intent or ascertaining what an actor's true intentions are can be difficult. This is no different in Libya or Kosovo. Though the decisions made by the Security Council members in the UN can be telling, there's only so much a 'Yes,' 'No,' or 'Abstain' can say. The intent of NATO can be even more difficult given that it is a multi-national organization and the intent of each individual nation is not as obvious or necessarily stated. As such, intent in this paper will be measured by the responses of countries voting on UN Resolution 1973 and by the explanation provided by NATO.

Libya: Intervention in Libya was authorized in March 2011 (Kuperman 108) when rebel forces were surrounded in Benghazi in order to protect the civilian population (Keeler). The intentions stated by Resolution 1973 were 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 (UN Resolution 1973)." The UN Security Council authorized a no-fly zone among other means to protect Libyan civilians from Qaddafi's forces (Kuperman 108). This was the first intervention the UN SC authorized in a non-consenting sovereign state (Glanville 325).

Of the 15 voting Security Council members, 10 voted in favor of Resolution 1973—Bosnia and Herzegovina, Colombia, France, Gabon, Lebanon, Nigeria, Portugal, South Africa, the United Kingdom, and the United States—and 5 abstained—Brazil, China, Germany, India, and Russia (un.org/press). By voting in favor of the resolution it can be assumed that the intents

of those countries, and the means by which they would agree to pursue those intents, aligned with the intents and means outlined in the resolution. The abstentions are not as clear. Perhaps the abstaining countries agreed that there was a need for intervention in Libya but disagreed with the resolution's means. Or perhaps the abstaining countries did not believe intervention was necessary or justifiable at all. UN representatives of China and Russia, like India, Germany, and Brazil all stressed their desire for a peaceful resolution rather than armed intervention. Russia expanded on this saying that the resolution lacked answers with regards to "how and by whom the measures would be enforced and what the limits of the engagement would be (un.org/press)." The Russian representative did, however, agree with the ceasefire which falls in line with their desire for peaceful resolution. China, though disagreeing with intervention, voted with consideration of the wishes of regional actors like the Arab League and the African Union who were calling for assistance (un.org/press). Given these explanations, the driving intent of the voting UN countries seems to align with the intentions outlined in Resolution 1973. Any disagreement with the resolution seems to lie with the means outlined, or lack thereof.

Identifying the intent of NATO as whole seems relatively simple at first glance. The actions taken by NATO leading up to and during Operation Unified Protect began with calls from the UN first for an arms embargo and then a no-fly zone with UN Resolution 1973. Additionally, one major component of their military action was to conduct strikes against military forces attacking or threatening Libyan civilians and civilian populated areas. This suggests their intent aligned with that of the UN: to protect civilians from harm (nato.int). Furthermore, in a meeting less than month after UN Resolution 1973 passed, NATO and non-NATO partners agreed to continue their operation

"until all attacks on civilians and civilian populated areas ended, the Qadhafi regime

withdrew all military and para-military forces to bases, and the regime permitted immediate, full, safe, and unhindered access to humanitarian aid for the Libyan people.

(nato.int)"

While the overall intent of NATO as a whole is relatively straightforward to identify, identifying the intentions of the individual nations within NATO is more difficult. NATO decision making is not as transparent as the United Nation's. However, all NATO allies did participate in the mission either directly or indirectly suggesting at least tacit agreement.

However, while the initially stated intent in Libyan intervention was to protect civilians from harm, NATO's actions following their initial strikes to protect Benghazi say otherwise. While NATO allies state that regime change was never their intent, their actions did assist in allowing it at the very least. This will be expanded upon in the means section, however it seems that while the initial intent may well have been protecting civilians it may have changed at some point during intervention, thus muddying the UN and NATO's good intentions.

<u>Kosovo</u>: Intervention in Kosovo was authorized in order to halt human rights abuses, including ethnic cleansing, and to lessen human suffering (Amstutz 25). China and Russia opposed using force against Serbia because they felt it was inappropriate when they considered the conflict to be a domestic political issue (Amstutz 25), and as such this intervention was not UN authorized.

NATO launched their air campaign in response to violence and fighting restarting in early 1999 after a short-lived ceasefire. Both Serbian and Kosovar forces engaged in violence and fighting. Serbian forces, however, engaged in excessive uses of force and broke prior agreements by increasing the intensity of their operations, including moving extra troops and

tanks into the region, causing tens of thousands of people to flee. With the failure of previous negotiations and agreements and all diplomatic avenues having been exhausted, NATO began their air campaign (nato.int).

Furthermore, in a statement issued at an April 1999 North Atlantic Council meeting, NATO would not stop their air strikes until President Milosevic acceded to the following demands:

- Halting all military action and ensuring an immediate end to all violence and repression
- The withdrawal of all military, paramilitary, and police forces from Kosovo
- Agreeing to the return of all refugees and unhindered access to them by humanitarian aid organizations;
- Assuring his willingness to work on the basis of the Rambouillet Accord

The statement also addresses the human suffering of people in Kosovo, sustaining and intensifying their refugee and humanitarian relief operations, and bringing to justice all those responsible for the "systematic campaign of violence and destruction against innocent Kosovar civilians and for the forced deportation of hundreds of thousands of refugees (nato.int/Kosovo)."

The emphasis on bringing an end to the violence and conflict, humanitarian aid, and justice for the innocent victims of the conflict suggests the driving intent in intervening was to protect civilians, end human suffering, and to end the conflict. There is, however, a secondary intent revealed by this statement with the mention of the Rambouillet Accords: preserving the political autonomy of Kosovo. The statement issued at this meeting says "willingness to work on the basis of the Rambouillet Accords in the establishment of a political framework agreement for Kosovo... (nato.int/docu)." The Rambouillet Accords specifically mentions restoring the

autonomous status of Kosovo, though still maintaining Serb sovereignty over it (Amstutz 23). This suggests that NATO also intended to intervene in the political affairs of Serbia and Kosovo. It was for this very reason that Russia and China were unwilling to allow UN military intervention because they felt it inappropriate to intervene in what they saw as a domestic political issue (Amstutz 25).

Means:

Measuring and Analyzing means: In this paper "means" will be defined as the methods used by the intervening actor(s) in pursuit of their objectives prior to and during military intervention. These methods will be separated into three categories: methods that do not use force, methods that threaten force, and methods that use force. Force will be defined as the use of military power. When analyzing force there are multiple factors to consider including but not limited to: the manner of engagement such as air or ground forces, targets attacked such as military targets or infrastructure, and the participating actors.

Libya: NATO used a combination of three different tactics to pursue their objectives: enforcing an arms embargo, enforcing a no-fly zone, and conducting air strikes against military forces attacking or threatening to attack Libyan civilians and civilian areas. UN resolution 1973 specifically excludes occupying force or ground forces (Zifcak 11). NATO, however, quickly went beyond the UN's mandate. NATO should have neutralized the Libyan air force, halted ground forces moving on Benghazi, and then confined its role to maintaining the no-fly zone and being prepared to attack when civilians or civilian areas were at risk. NATO also could have used its support to leverage rebel forces into negotiating a cease-fire and peace agreement (Kuperman 113-114).

Instead, while NATO did defend Benghazi, it also went far beyond that, taking actions that pursued regime change even at the cost of civilian life – the initial reason for intervention. Attacking retreating forces that were not a threat to civilians, bombing forces in Sirte where civilians supported the regime and thus were not in danger, failing to pursue a cease-fire, and aiding rebels that sought to overthrow Qaddafi are not actions expected in pursuit of the initial mandate (Kuperman 113-114). Rather they point toward NATO stretching their mandate far beyond its intent and actively pursuing regime change. This is especially apparent given that NATO did not leverage their aid to rebels in negotiations, even when Qaddafi was willing to agree to cease-fires and other peace negotiations while the rebels rejected them (Kuperman 115). Were NATO truly invested in carrying out only the UN mandate and nothing further they would have made their aid dependent on peace negotiations or leveraged their aid in some way to force as early an end to the conflict as possible.

In terms of means, measuring the arms embargo NATO enforced is somewhat difficult. In their final mission stats on Operation Unified Protector NATO recognizes having hailed over 3,100 vessels, boarding approximately 300, and preventing eleven ships from entering or leaving Libyan ports (nato.int/nato_static). However, not much more information is provided. The language, though, suggests that some amount of force was likely involved to board or deny transit. What kind of force or whether it was merely the threat of force is unclear. Measuring the targets of this embargo is also not very simple, though it seems that all vessels and ships moving through the area under surveillance were subject to inquiry.

Measuring the no-fly zone is easier: NATO's final mission stats record destroying artillery and rocket launchers and the use of over 260 air assets and 21 naval assets at the operation's peak. In addition, the UN Resolution banned all flights in Libya owned or operated

by Libyan nationals or companies unless approved in advance by the committee or if it is an emergency landing. The means of enforcing this ban on flights, however, were not described and it is unclear how this was done. This suggests a definite use of force in enforcing the no-fly zone, though to what extent is unclear. The targets of the no-fly zone not explicitly defined, like the embargo, however, it seems to be all flights in Libya were targeted unless specified otherwise.

Measuring the means used in protecting civilians is relatively simple as NATO outright states conducting air and naval strikes against military targets. Additionally, UN Resolution 1973 specifically excluded ground forces thus narrowing the use of force to only air power. The targets were military: military forces attacking or threatening to attack Libyan civilians or even retreating military forces or forces not threatening any civilians and military targets such as weapons, tanks, or armored vehicles.

Kosovo: Initially the US negotiated a Serb cease-fire in 1998. However, the KLA was not apart of those negotiations and used the break to resupply and prepare to resume guerilla operations and terror attacks. This led the fighting resuming in 1999. Following this the Contact Group, a US led group of the US and other leading powers, agreed to impose a settlement on Serbs and Albanians in Kosovo (Amstutz 23). This settlement came in the form of the Rambouillet accord, the terms of which were: maintain Serb sovereignty over Kosovo, restore autonomous status of Kosovo, a cease-fire between the KLA and Serb forces, Serbian withdrawal of army and reduced police force, allow NATO peacekeeping force to ensure order, and the KLA would demilitarize. Despite US warning Serbian President Milosevic that rejecting the accord would mean NATO initiating war, Serbia rejected the accord. Initially Kosovo also rejected the accord, however, they eventually accept knowing that if they refused NATO would not protect them from further ethnic cleansing (Amstutz 23).

Following the Rambouillet accord, NATO began an air war against Serbia and Kosovo, engaging in a bombing campaign but no ground forces. This campaign, however, suffered a few shortcomings which would largely undermine the original objective of intervention: lack of ground operations, "pursuit of risk-free war," and devising a plan too weak to force early cooperation. Rather than breaking Serbian resolve the bombing campaign seemed to only strengthen Serb nationalism and resolve to maintain control of the contested land. It also ignited a systematic ethnic cleansing campaign by the Serbian military: Operation Horseshoe. Within a week of the campaign beginning 300,000 Kosovars fled the country (Amstutz 25). Combined, these shortcomings did not alleviate human suffering or halt ethnic cleansing and other human rights abuses. Only when the bombing campaign escalated to targeting crucial infrastructure of Serbia combined with the threat of a ground invasion and Russia's unwillingness to support Serbia did Milosevic finally cooperate. Had intervention escalated in this manner earlier on the suffering may have been better limited (Amstutz 26).

Measuring the means utilized in Kosovo is relatively straightforward. NATO started with non-forceful means: encouraging a cease-fire and negotiations. This quickly changed to a threat of force against Serbia and a threat of abandonment of Kosovars if they did not agree to the Rambouillet Accords. The Serbs did not agree to the Accords and thus NATO began their air campaign, and thus use of force, to force Serbian cooperation. NATO exclusively utilized an air campaign, though late in the intervention the threat of ground forces did begin to materialize. Targets were military and NATO made great efforts to minimize the risk of striking civilians and civilian strikes. This was not perfect, though, given they were flying these missions at or above 15,000 feet. Air strikes also expanded to include important infrastructure. As in measuring intent, measuring the NATO countries that participated in using force is difficult due to NATO's nature.

However, given that all NATO countries contribute either financially or by providing troops and weapons, all were technically participants in this intervention.

Outcome:

<u>Analyzing outcomes:</u> Outcomes will be measured by both immediate consequences—did the intervention achieve its objectives?—and delayed consequences—is the intervened state stable? Is it better or worse off after intervention?

Libya: The immediate consequences of intervention were positive to an extent. Benghazi and its civilian population were protected and a democratically elected government was elected in 2012 as a direct result of overthrowing the Qaddafi regime. But there were negative consequences too: the first elected prime minister was removed in less than a month by a no confidence vote and almost immediately after victory rebels were engaging in reprisal killings among other human rights abuses against suspected Qaddafi supporters (Kuperman 125). The delayed consequence is that Libya is currently unstable and unsecure, not necessarily any better off than before intervention. The government is weak, militias are still armed and active and radical Islamic militants are rising, and regional rivalries are dividing the country. And not only did intervening fail to put Libya in a better position, intervention also likely extended the war, increasing suffering and harm to civilians (Kuperman 121-122), the opposite of what was initially intended.

If the lack of stability post-intervention were not damning enough, initial reports that Qaddafi's forces initiated the violence and used indiscriminate and lethal force were found to be false or over exaggerated. Rather, Qaddafi's forces initially responded to protests with nonlethal force and that protestors initiated the violence. Only once protestor violence escalated and spread did Qaddafi's forces escalate their own use of force to match (Kuperman 109-110). Furthermore,

there is evidence that Qaddafi's forces, even while using live ammunition, still sought to limit casualties: aiming to wound rather than kill (Kuperman 110). There is also strong evidence suggesting that Qaddafi's forces intended targets were only combatants: in the first seven weeks of fighting in Misurata, less than 3 percent of the wounded were female rather than the approximate 50 percent that would be expected were they targeting noncombatants or using indiscriminate force (Kuperman 110-111).

Kosovo: Milosevic eventually did cooperate and Kosovar autonomy was restored, bringing an end to the conflict and human rights abuses, including saving the Kosovars from further ethnic cleansing. It is, however, unclear whether intervention really prevented further human suffering and harm. The bombing campaign initially cause more harm than good before eventually escalating appropriately and ending the conflict. And in the aftermath, despite KFOR, the return of Kosovars resulted in ethnic cleansing of Kosovo Serbs – 150,000 Serbs fled the province, leaving Pristina (capital of Kosovo) with only 200 Serbs out of pop of 500,000 (Amstutz 26). However, Kosovo did eventually stabilize. It is now administered by a UN interim government authority and KFOR maintains security and peace.

R2P:

Analyzing R2P: In this section I will relate the previously analyzed intents, measures, and outcomes to the Responsibility to Protect doctrine. I will analyze how the intents, measures, and outcomes may affect the legitimacy of the Responsibility to Protect doctrine and the willingness of international actors to trust the doctrine and intervention in the future.

<u>Libya</u>: Because intervention in Libya was UN authorized and was not a unilateral intervention executed against UN wishes, it does provide legitimacy for R2P: that the UN SC can

agree that there is a responsibility to prevent human suffering when able. It also does not antagonize members of the UN SC in ways that the Kosovo intervention did by subverting the power and decisions of the UN and its members. However, the mission creep in the Libya intervention is an often attacked aspect of the intervention (Zifcak 11). It likely damaged the trust of some UN SC members in the ability to execute such interventions and they may well be less likely to agree to future interventions because of this. According to an un-named UN official, Libya did not kill R2P but it has raised new and complex questions (Zifcak 14).

Also damaging to the legitimacy of intervention in Libya, and by extension the R2P doctrine, is the combination of the over-exaggerated or false initial reports and the possibility that intervening may not have done anything in protecting civilians from harm. If the initial reports that UN and NATO saw and used to decide to intervene were over-exaggerated or false, that means that intervention was engaged on false information and without real reason. And since the intent provided for intervening was to protect civilian life, the suggestion that intervention did more harm than good for civilians further damns the decision made to intervene. Not only did the UN and NATO intervene on false information with the intent to protect civilian life, they may have done more damage to civilians than civilians were ever in danger of. This presents another reason to be more cautious and less hasty in the future. It may even deter some countries from participating in another intervention like it.

<u>Kosovo</u>: Intervention was not authorized but, while ambiguous, the eventually outcome of the intervention was better than Libya. The region is stable and secure (Amstutz 26) since intervention meanwhile Libya is not. This legitimizes the responsibility to protect as it can be successful and the affected region can come out of it better. However, the reasons for R2P can be manipulated. A Russian Insider article argues that if R2P intervention in Kosovo is considered

valid then Russian intervention in Ukraine by R2P reasoning should also be considered valid. While this argument isn't very strong it does show that perhaps the language of the R2P doctrine may be vulnerable to manipulation.

"R2P was intended to provide the space wherein humanitarian action and inaction would be justified. But it also allows states to abuse the concept by applying it selectively wherever they see fit (Kersten 2014)."

If we take this as the true nature of Responsibility to Protect that would severely weaken the legitimacy of the doctrine and additionally damage the legitimacy of any action taken under the guise of it. For instance, analyzing intervention in Libya through this lens, with this understanding of Responsibility to Protect, would call into question the true intent behind the intervention and cast doubt on its legitimacy. While the stated intent in Libya was to protect civilians the means tell a different story. Did NATO and its allies use Responsibility to Protect and defending civilians to create an opportunity to pursue an otherwise illegitimate agenda?

As stated earlier, Libya has not necessarily destroyed the legitimacy of the Responsibility to Protect, but it has called into question the capability of international actors to adequately enact a mandate without being tempted to overstep its bounds. It also draws into question how easily the doctrine can be abused for nefarious ends and whether there is any way to stop such actions. Intervention in Kosovo, while it does not have the legitimacy of UN authorization, ultimately succeeded at its goals and overall reinforces the legitimacy of the Responsibility to Protect doctrine. But like Libya, Kosovo reveals vulnerabilities in the doctrine.

For the United States, these issues do not seem to deter their commitment to the doctrine. In a statement by the US delegation at the 20th Human Rights Council session the US affirmed their support for the doctrine. Additionally, in 2011 President Obama created the "Atrocity

Prevention Board" to direct internal efforts in pursuit of mass atrocities and genocide, which he affirmed as core national interests and moral responsibilities of the US (Geneva.usmission.gov).

Conclusion:

In both interventions the intent to protect civilians was present. In Kosovo, however, there was the additional intent to restore political autonomy. And while Libya may not have started with the intent to interfere in Libyan political affairs and cause regime change, it is possible that this intent manifested at some point during intervention.

Intervention in both Libya and Kosovo were conducted via bombing campaigns. This does not, however, mean that such a tactic was fitting for both. The bombing campaign was better fit for intervention in Libya, especially if NATO had backed off after achieving its initial goal of protecting Benghazi. In Kosovo, however, the bombing campaign as it was conducted was not as befitting of the situation. In Libya civilians were initially protected, however, NATO's decision to continue bombing rather than backing off arguably extended the conflict and increased civilian harm. Had NATO confined its role after defending Benghazi to enforcing the no-fly zone and staying on stand-by to protect civilians or civilian areas the intervention is likely to have been far more successful in protecting civilians from harm. Kosovo also could have been more successful if not for strategic failures. By being too soft early in the conflict they may have unintentionally extended the conflict and by extension human suffering, whereas had they been more intense in the early stages they could have ended the conflict much faster.

If measuring only by outcomes, intervention in Kosovo comes off as far more successful than intervention in Libya. Where Libya is unstable, weak, and unsecure, Kosovo is the opposite. This is not necessarily due to the nature or the means of intervention but rather more likely due to the

post-conflict efforts. After ending the conflict in Kosovo, NATO and the UN made strong efforts to secure and maintain order and peace in Kosovo. Libya, however, has largely been left to its own devices following the overthrow Qaddafi and little effort has been made to assist in ensuring its security and stability.

Both of these interventions affirm and support the legitimacy of the Responsibility to Protect doctrine in some way. Libya shows that the international community is capable of agreeing they have a responsibility to take action and Kosovo displays the success possible in when pursuing the responsibility to protect. However, these interventions also negate the legitimacy of the doctrine. Despite intervening on the basis of the Responsibility to Protect doctrine, NATO in Libya went far beyond what they should have, damaging the legitimacy of actually engaging the doctrine. If interveners will use the doctrine as an excuse to take actions beyond what they are meant to, it will likely discourage future use for fear of another overstep of power. Furthermore, the current instability in Libya also bodes poorly for the doctrine. Despite intervening to protect, Libya and its people are no better off. And in the case of Kosovo, that allies of NATO and other actors ignored the UN's decision to not intervene and instead subverted their authority and intervened of their own accord also damages the legitimacy of the doctrine. It suggests that anyone may disregard the international community's decision and use the doctrine on their own terms without any supervision or constraints. Ultimately these interventions, though they may have been well-intentioned or had beneficial outcomes, are flawed. And their effects on the Responsibility to Protect doctrine are both positive and negative. This does not mean the doctrine should be wholly discarded, however, as the doctrine certainly has potential and has shown some success, it merely means the doctrine requires more consideration and modification.

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