

STAGING THE MOTIONS OF 'RESPONSIBILITY TO PROTECT' IN SYRIA?



rganised by the Arab League and attended by around 70 countries, the Friends of Syria Conference in Tunis on 24 February 2012 was probably one of the last chances for the resolution of the Syrian crisis through diplomatic means or it may also be argued that it was actually staged to appear in that way. Both sides of the argument could come up with strong justifications whether the Tunis conference was a genuine attempt to resolve the conflict in Syria peacefully. In order to look at what is happening from a more objective perspective though, this article will adopt the principles of 'just war' theory as well as the criteria for Responsibility to Protect (R2P) in its analysis of how the international response to the Syrian crisis would likely to develop over the next few months. In order to contextualise the Syrian case

in a wider humanitarian interventions landscape, the analysis will focus on the two previous North Atlantic Treaty Organization (NATO) interventions in Kosovo (1999) and Libya (2011).

The political crisis of Syria which started around a year ago is now turning into one of the bloodiest chapters of the so called 'Arab Spring' with a death toll of over 8,000 people. After the popular revolts and regime changes in Tunisia and Egypt, the transformation in Libya presented itself as a full blown civil war from March to October 2011. The uprising in Bahrain was crushed violently by the state with the military intervention assistance of the neighbouring Saudi Arabia and the political instability in Yemen still continues. Therefore, since the end of the Libya conflict with the capture of Muammar Gaddafi on

20th October, Syria has been dominating the international agenda with an increasing level of pressure from the Western countries and their allies in the region. The Tunis Conference was an important episode in this process, as it clearly indicated that the ‘friends’ of Syria led by the United States (US), United Kingdom (UK), France and Turkey are in fact, no longer prepared to talk to President Bashar al-Assad of Syria and they would prefer to show a clear sign of support to the Syrian opposition. The Foreign Minister of Turkey, Ahmet Davutoğlu, when he was asked the question of why the Syrian government had not been invited to the Tunis Conference, said that it was now time to make a distinction between ‘victims’ and ‘instigators of the violence’. The same sentiment was then echoed by the Foreign Secretary William Hague. In other words, the Tunis conference underlined the gap between ‘friends’ of Syria and ‘supporters’ of the Assad regime such as Russia and China, which also did not take part at the Conference.

The ‘supporters’ of Syria have so far managed to block a United Nations Security Council (UNSC) Reso-

lution on Syria. This would sound very familiar for the students of international relations, as so many times before the international community has been at such an impasse, i.e. the 1999 Kosovo crisis, in deciding an appropriate response strategy for the protection of fundamental human rights in those countries affected by armed conflict and violence. As a veto by one of UNSC permanent members (China, France, Russia, UK and US) can block the process of passing a resolution, the following stages of international responses to violent political crises often turn into an exercise of circumventing such a diplomatic impasse in the UN system. Consequently, in such contexts the issues of legality and legitimacy often become fiercely debated issues. In the case of Libya for example, the UNSC Resolution 1970 and particularly, Resolution 1973 were pivotal for preparing the ground for the NATO’s military intervention as they asked to ‘establish and enforce a no-fly zone over Libya’ and ‘employ all means to protect civilians’. In other words, the military intervention in Libya was ‘legal’ from an international law perspective, which was not the case for the Kosovo intervention as NATO undertook that intervention without the permission of a UNSC resolution. ►



Ahmet Davutoğlu

William Hague

However, it was then argued that the military intervention was legitimate, therefore necessary, because of the humanitarian concerns to do with the well being of Albanian Kosovars in the hands of Serbian security forces. However, the legality aspect is only one of the key issues for military humanitarian interventions and for a better understanding of the Tunis Conference within the wider response process, it would be necessary to consider other criteria for re-voking R2P.

In brief, R2P is structured over the premise that sovereignty is not only a privilege for states but also responsibility that they need to face. For the protection of lives, R2P sets out responsibilities that states have to their own citizens as well as responsibilities that all states and certain international institutions such as UN have as members of the international community. In 2005, the Report by the International Commission on Intervention and State Sovereignty offered a set of six criteria that should be considered for any form of military intervention. First, there should be a 'just cause' for the military intervention. In both Kosovo and Libya cases this was a strong justification for the military response. With the worsening humanitarian situation in Syria, particularly in the city of Homs, the 'friends' of Syria would likely to argue that even without a UNSC Resolution there is a legitimate ground for a military intervention. In fact, if the humanitarian crisis starts to turn into a major disaster with mass casualties and displacement of civilians, then even Russia and China might start to find it too difficult to justify their position *vis a vis* their support to the Assad regime.

The second criterion, which is the 'right intention' for military interventions, may be the most difficult one to justify and validate by the 'friends' of Syria. Within the overall political complexities of the Middle East and a number of other pressing security issues and crises in the region such as the Iran's nuclear capabilities, protracted occupation of Palestine by Israel, Kurdish independence aspirations in Iraq and Turkey, and presence of a wide range of strong non-state armed groups such as the Hezbollah in Lebanon

would always pose question marks on the issue of intentions for such a military action. Both the 'friends' and 'supporters' of Syria have their own geo-political and economic interests in the region, which would bring their intentions into question, even if a possible military intervention would have been undertaken purely for humanitarian concerns. For example, in the case of Libya, although the military assistance was requested by the local rebel groups and there were serious humanitarian concerns, there was also a big question mark on whether the intervention was actually for the country's rich oil and gas reserves. Moreover, for opting to take no action in the case of Bahrain while thousands of Shia civilians were killed and tortured in the hands of security forces, but becoming highly concerned for the well being of civilians in Syria weakens the 'friends' of Syria's argument further that their intentions are purely humani-

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tarian. Even if that is the case then there is an important question to do with double standards to answer.

It could also be argued that the third criterion of a military intervention needing to be the 'final resort' is perhaps the main driver for diplomatic attempts being undertaken by the 'friends' of Syria. In other words, if a military intervention against Syria is undertaken without the permission of UNSC, then there would be a strong argument for claiming that all have been done to resolve the issue peacefully and having exhausted all means of diplomacy, a military intervention was the only option left to protect civilians in Syria. The Tunis Conference demanded an immediate ceasefire and humanitarian assessment, and used the threat of sanctions as a possible lever- ▶

age against the Assad regime. The next Friends of Syria Conference will be held in Istanbul in May, and at that conference the tone of the threat is likely to be much stronger. In fact, it would not be completely unimaginable if the Istanbul Conference would also serve the purpose of a final warning before a military intervention. The international community seems to have made a lip service to the 'final resort' criterion in both Kosovo and Libya. At the Rambouillet peace talks the demands on the Milosević's regime in Serbia were so heavy handed that there were serious question marks over the international community's sincerity to resolve the Kosovo crisis peacefully. In the Libya case, there was only a month between the two UNSC resolutions and did not seem that the Western powers had much interest in talking to Gaddafi, as they suddenly remembered that he was a dictator and killed his own people for decades! Therefore, it would not be a total surprise if this turns out to be the case with Syria too and what is seen as a quest for finding a diplomatic solution is probably no more than a grand staging exercise for laying grounds for a military intervention.

Undertaking a military intervention on the basis of a decision made by a legitimate authority such as UNSC is the fourth criterion. In the case of Kosovo

such a legal authority was missing, hence the argument of legitimacy formed the backbone of justification for the military intervention. The Libya intervention was based on two UNSC resolutions but the backing of the Arab League was also imperative, especially for having a stronger moral support and justification. If 'friends' of Syria fail to pass a UNSC resolution for a military action, which is the most likely scenario, then the Arab League's blessing and support for such an intervention would become particularly important. At the Tunis Conference, Qatar which has been playing a leading role in the Arab League actions in recent years, particularly in the case of Libya, already suggested that the situation in Syria demands the deployment of military means for the provision of humanitarian assistance. The future developments with the Syrian opposition would also have some critical impacts on the issue of legitimate authority. At the moment it is polarized and fractured. Two of its main actors which are Syrian National Council (led by Burhan Ghalioun) and Free Syrian Army (led by Riyaad al-Assad and primarily supported by Turkey) are calling for a military intervention. Meanwhile, National Coordination Committee which is formed by left wing and Kurdish parties calls for the continuation of dialogue with the Assad regime and did not participate to the Tunis Conference. In fact, it was interesting to note that one of the key



points made by Burhan Ghalioun was a promise for the recognition of Kurdish identity in the post-Assad era.

The remaining two criteria which are the use of 'proportional means' and 'reasonable prospects' for meeting the humanitarian objectives of the military intervention would likely to be of a less concern for 'friends' of Syria for the time being. However, as was the case with Kosovo and Libya, the use of an air campaign, naval blockade and military assistance to rebels are likely to be the main means of a future military intervention in Syria. Therefore, it would be likely that such a military intervention would cause a high level of collateral damage in terms of civilian lives and infrastructure. However, having the support of internal opposition groups would likely to reduce the pressure over this issue. The neighbouring countries such as Turkey would also likely to be generous and open in providing assistance to Syrian refugees as a result of such a military campaign.

Whether such a military intervention would bring an end to the humanitarian crisis in Syria is the final question to be considered here. The key issue with this criterion is that the military intervention would need to present a convincing case for achieving its set objectives for the protection of civilians and delivery of humanitarian assistance. In other words, how realistic is it that a military intervention in Syria would bring the fighting to a halt and be able to deal with the humanitarian protection of civilians? The issue here is more than capability as it is important to remember that such military interventions could sometime worsen humanitarian crises further, as was the case in Kosovo. After the NATO's bombing started in March 1999, hundreds of thousands of civilians from Kosovo fled to the neighbouring countries of Albania and Macedonia. Moreover, such a military intervention could easily be entangled in the complexity of local and regional politics. The regional 'supporters' of Syria such as Iran and Lebanon (the Hezbollah) might also get involved in the conflict, which would create huge regional and international ramifications. Finally, how the exit strategy would

look like is another key consideration to be born in mind by such a military intervention. In the case of Libya, the intervention came to an end with the capture of Gaddafi and control of the country by the uprising leadership. If a similar scenario does not happen in Syria due to the complex ethnic, religious and sectarian structures of the country and the way the Ba'athist regime has kept a tight control over them since 1960s, the post-Assad period could also turn into an Iraq-type civil war.

In summary, there would be three possible scenarios based on the assumption that the Syrian crisis could only be resolved through fighting and intervention that would be unfolding over the next few months. First, the Syrian uprising would win the fighting against the Assad regime without needing an external military intervention. Second, 'friends' of Syria would manage to convince China and Russia to pass a UNSC resolution to undertake a military intervention (i.e. Libya). Third, the military intervention is undertaken without the permission

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of UNSC (i.e. Kosovo). As our preceding discussions indicated each of these three scenarios would mean significant differences for the above mentioned R2P criteria. A final possible scenario would obviously be in terms of the Assad regime gaining a full control of the country again and managing to eradicate any justification for a military intervention on humanitarian grounds. However, in relation to the other three scenarios this looks like the least likely one.

Note:

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