

INTERVENTION IN SYRIA IS A NECESSARY ASSAULT ON STATE SOVEREIGNTY

By Joumana King

The current crisis in Syria has been escalating since 2011, with the United Nations Independent International Commission of Inquiry reporting that “Syrian forces and their supporting Shabbiha fighters have committed ‘war crimes and gross violations of international human rights and humanitarian law.’”¹ Many international non-governmental sources have detailed the atrocities that have been committed against women and children, and the Syrian government reported that nearly 1.2 million people were displaced due to the conflict. Despite such gross crimes against humanity, the United Nations Security Council concluded in February 2012 that they would not intervene in the matter, with Russia and China withholding their votes and instead reminding the members that “it is not their place to intervene in another country’s domestic affairs.”² Russia and China were the only permanent Security Council members challenging the United Nation’s right to intervene in Syria on this basis.

The documented atrocities classify Syria as a clear case for which the Responsibility to Protect doctrine was intended. The Human Rights Council’s latest report published on August 15, 2012, concludes that the “intensity and duration of the conflict, combined with the increased organizational capabilities of anti-Government armed groups met the legal threshold for a non-international armed conflict.”³

Furthermore, a strong precedent for intervention exists that should apply to the current situation. The Security Council authorized the use of military intervention in Somalia, and in Resolution 929, the Security Council authorized the use of force to protect the victims of the Rwandan genocide. In terms of providing a legal precedent,

¹ DiLeonardo, R. (Aug. 15, 2012) “UN Report: Syria Government Has Committed Serious War Crimes.” *Jurist*. <http://jurist.org/paperchase/2012/08/un-official-urges-parties-of-syria-conflict-to-respect-international-law.php>.

² “Russia, China Veto UN Security Council Resolution on Syria.” (Feb. 4, 2012). *RT News*. <http://rt.com/news/syria-resolution-veto-russia-china-515/>.

³ Independent International Commission of Inquiry on the Syrian Arab Republic (2011). *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*. Geneva, Switzerland: United Nations Human Rights Council.

these two examples have much in common, particularly given the mass atrocities occurring in each region. There was an absence of state government in Somalia, and therefore the claim that the humanitarian intervention could be perceived as an assault on state sovereignty did not exist. But in Rwanda, an interim government with armed forces was present, yet the humanitarian intervention was viewed as taking priority over any infringement on state sovereignty.

Last year, by passing Resolution 1973 and authorizing the intervention in Libya, the Security Council made clear that it will not be inhibited from authorizing enforcement for protection purposes by the absence of the host state consent. If this is the direction the Security Council was heading in, then why did China and Russia veto the decision to enter Syria on grounds that a humanitarian intervention would result in an assault on state sovereignty?

We have also witnessed humanitarian interventions and the use of force without the Security Council’s consent. Most notably, NATO’s 1999 intervention into Kosovo was without the consent of the Security Council. It was seen as a “hard case” that required the actors to act outside the scope of the law.⁴ Nonetheless, NATO’s failed attempts to work within the legal schemes of the Security Council did not deter them from pursuing a humanitarian intervention. As in the case of Kosovo, the regional actors who have implored the Security Council to intervene in Syria should not be deterred from seeking humanitarian intervention by other means. Like Kosovo, Syria is a “hard case” that mandates working outside the scope of law, and it is only a matter of time before regional actors compose the argument for intervention in ameliorative political terms. Although establishing such precedents erodes the foundation of international law, abuse of power and dereliction by the permanent Security Council members also damages the international rule of law. The Security Council has failed to act on the matter of Syria. As such, it is appropriate for “the General Assembly, regional organizations, or coalitions of states to intervene.”⁵

The *Responsibility to Protect* doctrine holds that should a state “manifestly fail” to protect its populations from crimes against humanity, international society shall take a “timely and decisive” action through the various

⁴ Simma, B. (1999). *NATO, the UN and the use of force: legal aspects*. Washington, DC: Georgetown University. 21-22.

⁵ Evans, G. J., & Sahnoun, M. (2001). *The responsibility to protect report of the International Commission on Intervention and State Sovereignty*. Ottawa: International Development Research Centre. para. 2.3.

provisions of the UN Charter. The doctrine is an emerging concept that materialized over decades, and which has been reaffirmed by the Security Council time and again. When the Security Council fails to intervene, “hard cases” become the responsibility of the international community. As long as the permanent members of the Security Council vote according to politics, rather than a need to ensure human security, actors are left without choice but to ultimately move outside the legal scope of international law.

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