

R2P's Dimension and its Impact on China

Reporter: QIU Shengdong



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R2P is a set of international principles agreed at the international level that have fundamentally changed the way we think about sovereignty. China is going to come under pressure to use its power for the good of the international community.

Reporter: What is 'R2P'? Why the proposed 'responsibility to protect' is frequently couched in terms of a moral responsibility rather than (and sometimes as well as) a legal responsibility?

Toni Erskine: R2P refers to the responsibility to protect, and it is generally understood in terms of the consensus that was achieved at the 2005 World Summit, which marked the 60th anniversary of the United Nations. R2P, as it came out of this consensus in 2005 and was elaborated in the 2009 report by Ban Ki-Moon on *Implementing the Responsibility to Protect*, is presented as having three equal ‘pillars’:

- (1) The host state’s responsibility to protect its populations from genocide, war crimes, crimes against humanity, and ethnic cleansing.
- (2) The international community’s responsibility to assist the host state to fulfill its primary responsibility.
- (3) The international community’s responsibility to respond collectively in a ‘timely and decisive’ manner if the host state is ‘manifestly failing’ to protect its citizens (specifically from the four mass atrocities crimes just mentioned). There are both pacific and coercive means of responding; a coercive response is only to be considered if non-military responses have been exhausted, and, according to the 2005 consensus, must be authorized by the UN Security Council. In the 2009 elaboration of this consensus, both the coercive and pacific responses are articulated in terms of the language of responsibility.

Colin Wight: I would agree all of that, but I’ll give a slightly different answer. R2P is a set of international principles agreed at the international level that have fundamentally changed the way we think about sovereignty. Theoretically, it sets in place a set of responsibilities that states have towards their own citizens, but also that states within the system have towards other citizens in the event of home state or host state being unable to fulfill their own responsibility; in which case the international community bears the responsibility when states can’t or won’t. It is a problematic question as to whether the responsibility is a duty or not.

Toni Erskine: Let’s turn to the second question. Going back to all of the documents that have been central to understanding R2P, including the 2009 *Implementing the*

Responsibility to Protect, paragraphs 138 and 139 of the 2005 *World Summit Outcome Document*, and the seminal 2001 report by the International Commission on Intervention and State Sovereignty, there is a prevalent understanding that the members of the international community have a moral responsibility to act in the face of gross human rights violations. This responsibility is often seen, I think, as a necessary corollary to the idea of fundamental human rights. An underlying assumption for both is the idea of our common humanity. There are certain things that we can't allow to have happen to fellow human beings. In other words, there is a very strong moral cosmopolitan sentiment underlying these arguments. If you look to scholars including James Patterson, Jennifer Welsh and Edward Luck, they all talk about R2P as a moral responsibility. Indeed, Ban Ki-Moon has declared that R2P as set out in the 2005 consensus represents a 'moral imperative'.

Perhaps the difficulty with speaking in terms of a legal responsibility to protect is that there is no consensus on the legal standing of R2P. Some scholars (albeit controversially) argue for the legality of coercive intervention without UN Security Council authorization in certain cases of mass atrocity; others (at the opposite end of the spectrum) maintain that such military intervention is illegal even with Security Council authorization. The claim that R2P is a moral responsibility is grounded in how unthinkable it is to allow genocide, ethnic cleansing, war crimes and crimes against humanity to take place. The language of legal responsibility quickly gets into very difficult questions of how certain means of protecting vulnerable populations fit with contested views on right authority and sovereignty – and, indeed, questions of the status of international law itself.

Colin Wight: I think they are really good points and I agree with absolutely all of them. What I would just like to say is that although it starts as a moral problem it moves into the legal realm as a result of the involvement of the Security Council. Once the Security Council gets involved it enters into a more formal framework that goes beyond the moral imperative out of which it emerges. So you take this moral

problem, and you move it to a kind of more structural or procedural framework. The problem is that all SC resolutions can be contested legally. Law is not self evident. Even domestic law needs interpreting as well. There's no such thing as this is the law without interpretation. All judges interpret the law. All laws have their interpretation because the law is embedded in language. If you do get Security Council approval, it can determine that there is a legal obligation for the members of the Security Council to make sure that resolution is followed through. And if that doesn't happen, then you are really throwing out of the validity of the UN system.

Reporter: Professor Colin Wight, you mentioned that there is sovereignty problem involved. However, China is sticking to the non-intervention principle. What suggestions will you give to Chinese policy makers regarding this principle?

Colin Wight: I think China's concerns are valid. They are not just China's concerns. There are lots of states that have the same sorts of concerns. All states want to maintain their own autonomy, or the non-intervention principle. But there are specific instances in which states might be allowed to intervene in the affairs of another state to stop human right abuses. The problem is that the international system has developed over time, and the norm of non-intervention has been intrinsic to the development of international system and R2P seems to be a threat to that. It's not that much of a threat at this point, because it still relies on Security Council approval. Essentially, because the way the SC structured, states like China, if they want to, can maintain the principle of non-intervention, and exercise their veto. What concerns Toni, and me, is that if the international community has decided that there is a responsibility to protect, what if you can't identify an agent or a group of agents that is going to take ownership of that responsibility if the UN SC won't do it? I don't have a firm answer as to how you can deal with that problem. Take, for example, the Rwanda case. Most people look back at Rwanda and say the international community failed. It should have done something. R2P comes out of that failure. People want to

know why it happened and why the international community failed. People want to put in place a set of structures, processes and procedures that would stop that happening in the future. The problem of the international system is that if the UN says no, who is going to stop another Rwanda. Toni and I both think you go to the SC, if the SC says no, then legally you have not got the right to intervene, but you might have a moral right still.

Toni Erskine: Just to follow on from Colin's really good points: It's not just China that is wary of non-consensual military intervention. If we go back to the 2005 World Summit consensus that we were talking about a moment ago, it was actually the American representative, John Bolton, who, during the final stages of discussion, introduced additional demands to the negotiations and objected to using the language of 'responsibility' in relation to coercive means of responding when a host state is manifestly failing to protect its own populations. In a previous draft, the member states of the UN accepted a 'shared responsibility' to take collective action, including under Chapter VII, when the host state failed to discharge its responsibility to protect vulnerable populations from mass atrocity. However, due to Bolton's objections, the language of responsibility with respect to coercive intervention was diluted and became the international community's 'preparedness' to take collective action on a 'case-by-case basis'. So, my point is simply that China is by no means that only state to back away from the idea that there is a *responsibility* to engage in non-consensual military intervention.

Reporter: Is terrorism included in the discussion of R2P? Why?

Colin Wight: No. There is no clear definition of terrorism. There're currently about 122 definitions of terrorism in the international system. There is no consensus on the issue at all. It all depends on how you define terrorism. If you define it very narrowly as I do, it doesn't come under mass atrocities, genocide, war crimes or the other R2P criteria. If you ask someone how much terrorism there is in the world, you need to ask

him or her first what his or her definition is. There are some academics who define everything a state does as terrorism. In which case, there's an awful lot of terrorism in the world. I take a counter-view and think that we should very narrowly define terrorism. On my view, there's not much terrorism in the world. It is not something that has enough of a major impact human rights, or human well being, for us to deal with it under R2P. It is a minor problem for me. Smoking kills far more people than terrorism.

Reporter: In the past few years, Asia faced with several severe terrorism attacks, such as Chechnya's terrorism attack in Russia in 2004 and 2010, and the violent station attack in Yunnan, a southwest city in China, in 2014. For those cases, to what extent do you think do religion extremism and separatism contribute to those terrorism affairs?

Colin Wight: The problem with a lot of the debate on terrorism is that there is an attempt to boil it down to an essence. Scott Atran, for example, who is a senior anthropologist, argues that religion plays no role in contemporary terrorism. His argument is that what drives these people is not religion but sacred values. Basically, he says the Nazi had sacred values, the Soviets had sacred values, the west has sacred values (democracy and liberalism), and that what we fight over are sacred values. I think that's just a semantic distinction. I think religion clearly plays a role in much contemporary terrorism, but it's not the only thing. No social outcome is ever mono causal. It's not one cause. There has to be a reason why these people have been drawn towards radical forms of Islam. These have to do with political circumstances, economic circumstances and cultural circumstances. So I would say religion plays a role, but it's not the only factor. But it would be foolish to say it doesn't play a role.

Reporter: Do Asian regional organizations (such as Shanghai Cooperation Organization) outperform international intervention in terms of peacekeeping operations and security governance in Asia?

Toni Erskine: Regional organizations in general are incredibly important in the context of R2P, whether we are talking about the Arab League or the African Union, for example. There are two reasons for this:

1. Regional organizations tend to have a better understanding of the local context in which the crisis is occurring, including its history, politics and culture. They are therefore (often) better able to generate trust amongst the populations threatened with mass atrocity.
2. They also, as a second point, have more legitimacy vis-à-vis the international community. This is incredibly important when we are talking about R2P, whether we are referring to cases in which a regional organization is part of what I call in my work a ‘subcontracted coalition of the willing’ (one that is authorized by the UN Security Council), part of a ‘vigilante coalition for the willing’ (where it is acting without such authorization), or, indeed, where the regional organization is acting on its own.

In the context of R2P, I think that having the participation of regional bodies is incredibly important for both of these reasons. (I should note that I understand that the SCO has explicitly opposed intervention into its member states justified in terms of protecting human rights – although can still play an important role in pillar 2 capacity-building and pillar three diplomacy, for example.)

Colin Wight: I think in the world today, whether you are talking about R2P or counter-terrorism, you need actions at all levels. You need actions at the local level, the regional level and the international level. It is impossible to just tackle these problems today domestically. Regional organizations are crucial. If you can get a local solution, that’s great. If you can’t, look to the regional and then look to the international. But it’s always specific to the nature of the regional solution. And this raises the issue of the relationship between the legality and capacity of the regional

organization. Sometimes, you need the legal framework embedded in the international level, but the regional level is where the capacity is.

Reporter: Therefore, you kind of agree on China's President XI Jinping's saying at the 2014 CICA (Conference on Interaction and Confidence-Building Measures in Asia) Shanghai Summit that Asia's safety needs to be protected by Asian people?

Toni Erskine: I would agree with that, but with a qualification. There must be a safety net. A strict principle that would have Asia protected exclusively by regional bodies leaves no room for outside help if and when it is needed. What of the possibility of people in the region (in any region) not being safeguarded in certain circumstances? One could make a compelling argument for regions having primary responsibility for safeguarding their respective populations. However, this can't be the end of the story. Regional cooperation is incredibly important, and, as I noted above, regional organizations tend to do well in terms of both effectiveness and external legitimacy when it comes to protecting vulnerable populations. However, if regional actors are unwilling or unable to provide this protection, then, in certain urgent circumstances, there must be the possibility of some help from outside.

For me it follows that strengthening regional organizations is extremely important. If we look to the African Union, for example, well before the 2005 World Summit consensus the Constitutive Act of the African Union set out in article 4(h) the possibility of military intervention in member states in cases of genocide, war crimes and crimes against humanity. What is important now is to promote capacity-building so that such regional organizations can actually act in these urgent circumstances.

Colin Wight: I was going to mention Africa on that issue. The issue for me is that you should always try solving the problem at the best level to solve it. The local is

preferable first, then the regional is preferable, and then the international, but they all have to work together. Regional solutions are certainly preferable, but sometimes you do face a capability issue. I do think the capability of Africa to solve its own problem is extremely limited by Africa's place in the international society. That's historical because of colonization etc.

Reporter: Professor Colin Wight, you mention in your speech China's R2P strategy is clever but not sustainable. Why? What recommendation will you offer to China's policy maker in terms of R2P as an emerging power?

Colin Wight: My concerns about the sustainability of China's current position arise out of the well-known phrase 'with great power comes great responsibility'. One of the things I think people misunderstand is that the US generally, as a society, is against military action. That seems to run counter to everything we see. America seems to be intervening in all parts of the world. But after Vietnam there was a marked reluctance on behalf of the US to get involved in major conflict abroad. 911 changed all that. After 911, I think any superpower that suffered that kind of attack would have done something. Afghanistan makes sense to me. Iraq was completely a mistake. I have studied this subject for a long time. I can make no sense out of Iraq: oil, personal relationships, Iraq makes no sense to me. The issue is that even after Iraq, the American public began to get very worried about American intervention abroad. The problem is when instances like Rwanda come up, the public, and this can be the global public, does put pressure on leaders to do something. So there's great pressure on America now, from Europeans, Canada, Australia and other countries that want America to take the lead when conflicts and human rights abuses emerge. America is reluctant to do that. I actually think Obama was very pleased when Russia and China said they would veto any actions of the chemical weapons in Syria. Having laid down the red line in sand he did not think Assad was going to cross it. To a great extent, Obama faced a dilemma. He said that there was a red line and this meant he should act when it was crossed. When Russia and China said that they weren't going to

support it, that let him off the hook. He didn't really want to act. He didn't want to send more American forces into situations where the US had no major interests. The problem China is going to face is that, as China rises, and when more of these cases arise, China is also going to come under pressure to use its power for the good of the international community. People across the world expect the great power to manage the system. Once China is fully recognized as a great power it will come under pressure to help sort out the problems of the system as they emerge. It's not always going to be possible I think, long term in the future, for China to opt out and say that we are going to hold to this notion of non-intervention. Part of the problem is that the notion of sovereignty is changing. I don't think states have become less important, but sovereignty is being eroded, and China is part of the change.