The role of regional and sub-regional arrangements in implementing the Responsibility to Protect:
A critical outlook based on the Libyan case

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4th ECPR Graduate Conference
Jacobs University, Bremen
4–6 July 2012
Fostering more effective global-regional collaboration is a key plank of my strategy for realizing the promise embodied in the responsibility to protect.

Ban Ki-moon, 2011.

Abstract

The United Nations, in developing the responsibility to protect, has placed repeated emphasis on the need for a strong UN-ROs cooperation in implementing the principle. Referred to as an instance of R2P, the crisis in Libya and the subsequent international intervention deployed with the aim of ending mass atrocities perpetrated by the Libyan government provide an outstanding opportunity to gain new insight into the development of the principle within the UN framework and the role of regional organisations in its implementation. It specifically analyses the extent to which the regional organisations of interest – that is, the League of Arab States and the African Union – acted in conformity with the R2P’s three-strategy set out in the 2009 UN Secretary-General’s report and cooperated with the United Nations. The analysis contributes to demonstrate that reality is still far from what stands on paper and in declarations.

Keywords: United Nations (UN); responsibility to protect (R2P); regional organisations (ROs); African Union (AU); League of Arab States (LAS)

Introduction

Since its adoption of the Responsibility to Protect in 2005, the United Nations has expended efforts towards the conceptual and operational development of the principle. The United Nations has namely highlighted the significant contribution that regional organisations can make, and has emphasised the critical need for a strong partnership between the United Nations and relevant regional organisations in implementing the R2P principle.

The strong plea to strengthen the UN-ROs cooperation in the implementation of the R2P is the point of departure of this paper. It was initially formulated in the UN General Assembly’s 2005 World Summit Outcome Document, and reiterated in 2009, 2010 and 2011 through the UN Secretary-General’s reports on the responsibility to protect and the subsequent informal interactive debates held in the UN General Assembly. 2011 was especially important in this regard as the focus was on The role of regional and sub-regional arrangements in implementing the responsibility to protect.
Regional organisations and their comparative advantage

The late 20th century has witnessed a change in focus of regional activity from economic to security concerns (Buzan and Waever 2003), namely spurred by the emergence of new threats to global security in the post-Cold War era. Regional organisations have engaged in conflict prevention and resolution, and their potential to contribute to regional as well as to global peace and security has gradually been acknowledged by the international community.

The involvement of regional organisations in the peace and security field can indeed be justified, in theory, on the grounds of a couple of attributes. Their geographical proximity to the region prone to disorder implies a deep vested interest in curbing crises and managing conflicts, since adverse spill-over effects are likely to affect the region at large. Regional actors tend to have a comprehensive knowledge of their region’s history and culture, which offers them a more thorough understanding of the root causes of a conflict. Their experience in the region can in turn provide legitimacy to their action. This especially holds true when the peace process is headed by respected regional personalities. At the same time, regional organisations are likely to be efficient in swift deployments, which are required in situations of emergency, as they have resources and personnel based on the ground (Alagappa 1997, 422). Nevertheless, entrusting the sole regional organisations with the responsibility for their region’s peace and security would not be a viable option for a number of reasons. Most of the regional arrangements worldwide remain underdeveloped. They lack mandate and are under-resourced, be it in terms of organisational, human, material or financial capacity. Moreover, the downside of geographical closeness lies in the difficulty to remain impartial towards the actors at play, and to adopt a common stance at the regional level (Møller 2009a, 2). Regional organisations’ strengths and weaknesses therefore open the path to an effective task sharing with the United Nations, as the primary responsible for international peace and security, in which they are expected ease the burden on the UN by undertaking a number of interventions (Suominen 2005, 3).

The United Nations, as early as in 1945, foresaw the potential contribution of regional arrangements to international peace and security in Chapter VIII of the UN Charter, which sets out the terms of the UN-ROs cooperation (UN 1945). Over the years, this cooperation has been strengthened, through both formal agreements and field missions involving the UN and relevant ROs. More recently, the UN has re-emphasised the important role to be played by regional organisations in developing the R2P principle.
The role of Regional Organisations in Implementing the Responsibility to Protect

Libya as a test case for the three-pillar strategy

This section aims at assessing the extent to which the Libyan crisis has been considered through the R2P lens by the different stakeholders involved in its resolution. The analysis is based on the three-pillar structure developed by the UN Secretary-General in its 2009 report Implementing the responsibility to protect. In brief, it is based on (1) the **primary responsibility** of the state to protect its population; (2) the **assistance** to be provided to any state failing to discharge its responsibility; and (3) the **residual responsibility** of the international community, where assistance has proven inadequate, to protect civilians by resorting to peaceful means first, and to coercive measures as last resort (UNGA 2009).

Within the broader context of the Arab Spring, the Libyan people took to the streets of Benghazi and other cities located in the East of the country mid-February 2011. The initially peaceful protest was met with a forceful response from Gaddafi’s forces. The Libyan leader declared that he would not step down and exhorted his supporters to “cleanse Libya house by house” (Aljazeera 2011a). Rapidly, the situation deteriorated. International observers reported attacks on civilians perpetrated by aerial and mercenary forces (Ndifuna 2011), and fierce fighting started between the forces loyal to Gaddafi and opposition groups. In light of the situation, it became obvious that the Libyan government lacked either the capacity or the willingness to protect its population, as it was itself the perpetrator of the atrocities. The widespread use of violence by the Libyan government against Libyan civilians was widely recognised as amounting to crimes against humanity, which is among the four cases that can activate a R2P-type intervention. In terms of R2P, **pillar one** and the **Libyan state’s primary responsibility** to protect its population were disregarded, which calls upon the international community to enter the stage. The international intervention in the name of the responsibility to protect was further prompted by the UN special adviser on R2P, Edward Luck, who affirmed at the end of March that there was “good reason to believe that a bloodbath in Benghazi was imminent” and recalled that the R2P principle was based on prevention by declaring: “We don’t want to wait until dead bodies pile up and we can clinically prove exactly what happened, instead we seek to intervene soon enough to prevent mass violence” (Luck 2011).

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1 Within this paper, the report is further referred to as the 2009 SG report.

2 On 4 May 2011, the prosecutor of the ICC, Luis Moreno-Ocampo, formally acknowledged that crimes against humanity were committed in Libya (HRI Mark 2011).
A number of international players have variously stood up to fulfil the international community’s residual responsibility to protect. Among the meaningful contributions witnessed, this paper focuses on the United Nations as well as on two regional organisations in which Libya holds membership, namely the League of Arab States and the African Union.³

The most decisive response to the unfolding crisis was beyond doubt provided by the **United Nations**. In adopting resolutions 1970 and 1973 on the situation in Libya, UN Security Council, on behalf of the international community, delivered on its responsibility to step in where a state is failing to protect its population. Its stance in this regard strikingly fits into the R2P’s **pillar three** that embodies the international community’s residual responsibility to intervene by resorting to peaceful means first, and to coercive measures as last resort. These two steps are distinctively embodied in SC resolutions 1970 and 1973. Indeed, resolution 1970 took a number of **peaceful measures** as it imposed diplomatic, economic and military sanctions in the form of ICC referral, travel ban, asset freeze, arms embargo (UNSC 2011a). In accordance with pillar three, two conditions have to be met to enable the international community to resort to **coercive measures**, namely (i) peaceful means must prove inappropriate, and (ii) the state must manifest either its inability or unwillingness to discharge its responsibilities (UNGA 2009). In Libya, the sanctions imposed through resolution 1970, virtually three weeks before, did not help de-escalate the crisis, nor did they convince Gaddafi to stop violence and attacks on civilians. In view of the prevailing situation in Libya, resolution 1973 and the SC recourse to force through both its endorsement of a no-fly zone and authorisation to take “all necessary measures” were therefore a relevant response (UNSC 2011b). As raised by Luck (2011), the response of the UN Security Council to the Libyan crisis is a historic step in terms of R2P implementation. The no-fly zone is, indeed, the first Security Council-authorised military intervention in the name of the protection of civilians deployed without the consent of the concerned state. In legal terms, it is the first time that the Security Council resorted to the provisions related to enforcement measures, as enshrined in Chapter VII of the **UN Charter**.

³ While the North Atlantic Treaty Organization played a crucial and dominant role in settling the Libyan crisis, it is excluded from the analysis owing to the ambivalence that prevails as to its status. Pursuant to Article 5 of the **North Atlantic Treaty** (1949), NATO gives itself the mandate to intervene in case of armed attacks on the basis of Article 51 of the UN Charter, which falls under Chapter VII of the Charter. As to the provision governing the actions of regional organisations, they fall under Chapter VIII of the Charter. Following this argument, the analysis does not consider NATO as a regional organisation per se. Moreover, since NATO deployed a no-fly zone over the Libyan territory as a response to the UNSC mandate, its action will be considered as falling under the umbrella of the UN response.
However pivotal and central to the settlement of the Libyan crisis, the UN response was not the unique reaction of the internal community. A mere week after the outburst of the Libyan crisis, the League of Arab States took a strong and timely stance with regard to the violence perpetrated by the Libyan government against its own population by suspending the membership of Libya. In terms of R2P, the League responded to the failure of the government to protect its peoples by a political sanction, which falls under the pillar three’s peaceful measures. It, however, did not elicit any significant response on the part of the Libyan authorities.

Mid-March, the League of Arab States, in the person of its Secretary-General, Amr Moussa, officially requested the UN Security Council to impose a no-fly zone in order to protect the Libyan people against military attacks (Aljazeera 2011b). The Arab League’s firm and unexpected move created high expectations about the role that it would play in the implementation of ensuing resolution 1973, in which UN Security Council promoted an active involvement of regional organisations in the resolution of the Libyan crisis. Specifically, it acknowledged the League of Arab States as a leading peace and security actor in the region and explicitly requested it to intervene under Chapter VIII of the UN Charter. It also predisposed the League’s Secretary-General to a key role by requesting member states to inform him when taking measures related to the implementation of the no-fly zone (UNSC 2011b). This initial promise for an active participation of the regional body was however disappointed in the course of further developments, despite the promptings from international actors. Yet, the League’s call for the implementation of a no-fly zone to protect Libyan civilians itself deserves a particular attention as it was an unambiguous appeal directed at the international community to intervene in order to prevent mass atrocities – that is, to activate its residual responsibility to protect. The League’s request provided the regional support, regarded by Western states as a pivotal factor in their decision to intervene (Cody 2011). This especially holds true for the United States that have become reluctant to intervene in the Middle East since their involvement in Iraq. NATO and the EU also emphasised the need for solid regional support among the necessary conditions for any action to take place (SC report staff 2011). Finally, China in abstaining during the vote of SC resolution 1973 declared that it “attached great importance to the requests of the Arab League and the African Union” (UNSC 2011c).

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4 The Obama administration namely pushed for an “Arab leadership and participation” (Clinton 2011) from the very beginning. After the passage of SC resolution 1973, the representative of Lebanon asserted that cooperation between the UN and the LAS would be required, and the United Kingdom affirmed that the League was ready to take action (UNSC 2011c).
The African Union has indeed also played a relevant role in Libya. Unlike the League of Arab States, it never backed the implementation of a no-fly zone over the Libyan territory. In light of the following considerations, the response of the African Union to the failure of the Libyan government to protect its citizens can be analysed as an application of pillar two of the R2P principle, which implies that the international community has to help the failing state meet its responsibilities by providing it with assistance.

From the outbreak of the crisis, the African Union has been committed to bring about a peaceful solution in Libya. Its mediation efforts to broker a peace agreement between the conflicting parties square with the provision of assistance, in the sense that it has namely been intended to get Gaddafi back on the straight and narrow and make him meet his responsibilities. A week before the adoption of SC resolution 1973, the African Union held the 265th meeting of the AU Peace and Security Council (PSC) where it established the AU high-level ad hoc committee on Libya with the aim to engage the different Libyan parties and the international partners in comprehensive negotiations toward a political resolution of the conflict. SC resolution 1973, in its paragraph 2, recognised the high-level ad hoc committee and encouraged the African Union to pursue its efforts (UNSC 2011b). Without delay, the five-man committee met and developed a peace proposal. The AU roadmap implied four requirements: (a) the immediate end of the fighting, (b) the collaboration of the Libyan administration to enable a prompt and efficient delivery of humanitarian assistance, (c) the assurance of safety for foreign nationals and migrants in Libya, and (d) the endorsement and implementation of reforms aimed at tackling the roots of the present crisis (AU high-level committee 2011a). Following the meeting, the AU ad hoc committee planned to travel to Libya and to meet the Libyan parties with the hope to engage dialogue. In accordance with resolution 1973’s paragraph 17 on the ban on flights, the AU committee requested the approval of the Security Council’s sanctions committee to land in Libyan territory (UNSC 2011b), which was turned down by the latter for security reasons (AU high-level committee 2011a). The consultations were cancelled, and the AU committee decided to resume its mission once the international coalition would have totally disabled Gaddafi’s air defences (Mulondo 2011).

At the beginning of April, the AU high-level ad hoc committee met for the second time to assess the evolution of the situation since its first meeting. It reaffirmed its willingness to devote extensive efforts to fulfilling its mission and reiterated its four-point roadmap (AU high-level committee 2011b). The next day, the AU ad hoc committee started a two-day visit in Tripoli. On day one, it met the Libyan leader,
Colonel Gaddafi, who approved the AU roadmap in its entirety and lent its unwavering support to the committee’s endeavour to enforce an effective ceasefire (AU 2011a). On day two, the AU committee met the Transitional National Council (TNC) in Benghazi, which, in contrast with the government’s stance, refused to engage in negotiations with the Colonel with a view to collegially reach a political solution to the crisis and reiterated its inflexible stance on Gaddafi having to resign from power (Aljazeera 2011c).

Later in April, the AU high-level committee convened consultations with the AU PSC, representatives of the Libyan regime and opposition, neighbouring countries, and international organisations, namely the UN, the EU, the LAS and the OIC, where it informed the international partners about its efforts. The partners acknowledged that a political solution was the only means to achieve durable peace and stability and committed to supporting the AU’s endeavour. The AU ad hoc committee requested the Libyan parties to produce a document explicitly stating their respective position and requirements regarding the aspects contained in the roadmap and promised to pursue its interactions with regional and international partners in order to coordinate their actions (AU 2011b). The description of the AU mediation mission, although it could be further developed, is not extended beyond April as the above elements provide ample ground for the analysis of the AU high-level ad hoc committee’s endeavour and challenges met.

The mediation mission undertaken by the African Union, although characterised as a weak response to the Libyan crisis (ICRtoP 2011), is regarded as a deliberate choice. From the beginning, the AU committed to a political settlement of the crisis as being the sole way that could bring about a durable and sustained peace in Libya. Its mission was guided by the principles of impartiality and inclusion. The AU high-level ad hoc committee therefore engaged in negotiations with the two Libyan parties, the neighbouring countries and the international partners. In line with the AU’s stated objective to “promote democratic principles and institutions, popular participation and good governance” (OAU 2000), it emphasised the need for a democratic process led and supported by the Libyans themselves in order to reach sustained solutions. The AU mission was directed toward paving the way for transition and democratic reforms. Its view was that the determination of the leaders considered as legitimate to rule the country eventually belongs to the Libyan people (AU high-level committee 2011c).
Strict adherence to the R2P strategy in Libya?

The above analysis of the different stakeholder’s interventions through the R2P spectrum demonstrates that the three pillars of the R2P principle did materialise in Libya. Yet, it highlights the very rambling pattern of their implementation. Indeed, in response to the Libyan state’s inability or unwillingness to fulfil its pillar one’s responsibility, the African Union provided it with assistance, pursuant to the pillar two’s provisions, whilst the United Nations deployed an array of measures ranging from diplomatic, political and economic sanctions to a more drastic military response, which fits into a pillar three logic. The question therefore arises as to the conformity of the UN approach with the three-pillar strategy described by the UN Secretary-General as it overlooked the supposedly second step. Two important remarks are worth being formulated in this regard. First, as stated in the 2009 SG report, the three-pillar approach is not to be understood as a sequence, and the different pillars are equal in importance and value. Pillar two is accordingly not a prerequisite to pillar three. Second, the 2009 report emphasises the need for any response to be tailored to the particular context. Of particular relevance to the Libyan case is paragraph 29, which points out that, where the government is deliberately perpetrating atrocities and violating its R2P duty, the assistance provided under the second pillar is of little help. In such cases, the international community is enjoined to prepare to intervene rapidly and decisively. Having considered the quickly deteriorating situation in Libya, the United Nations manifestly focused on the need to provide a prompt and firm response, as it is called for under paragraph 50 of the report. The latter further declares that, in situation of emergency, results must take precedence over process, and the focus must shift from the strict observance of procedural rules to the delivery of a timely response (UNGA 2009).

As far as the action of regional organisations is concerned, it is worth mentioning that SC resolution 1973 promoted an active involvement of regional organisations in the resolution of the Libyan crisis. As enshrined in paragraphs 4 and 8 of the resolution, member states were encouraged to take “all necessary measures“, individually or through regional arrangements, to protect civilians and to enforce the no-fly zone. This provision amounts to the approval of the UN Security Council, which is required for enforcement actions to be undertaken by regional arrangements, as enshrined in Chapter VIII of the UN Charter. As regional organisations, the LAS and the AU

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5 The allegation of equality of the pillars would deserve closer scrutiny as it is questionable whether the so-called primary responsibility of the state embodied in pillar one is indeed equal to the international community’s residual responsibility to assist and intervene. Paragraph 11 of the 2009 itself mentions that the responsibility to protect “lies first and foremost with the State”. Analysing this question is however not the purpose of the present paper.
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therefore had the legal mandate to undertake enforcement actions. While it may be argued that they lacked the necessary material, human and operational capacity to deploy the kind of large-scale operation that was required in Libya, one may query why they did not engage alongside the UN-mandated intervention. The next section therefore investigates the extent to which the UN and the relevant ROs cooperated and coordinated their responses to the Libyan crisis.

The reality of UN-ROs cooperation in Libya

Since its adoption of the Responsibility to Protect in 2005, the United Nations has emphasised the critical need for a strong partnership between the UN and relevant regional organisations in implementing the principle. As an instance of R2P that involved regional organisations, the Libyan case offers new insight as to the reality of UN-ROs cooperation on the ground.

Assessing the cooperation between the UN and the LAS may prove to be a difficult exercise as the Arab League was mostly inactive in the settlement of the Libyan crisis. Its response after the passage of resolution 1973 remained circumscribed to its participation in international conferences held in Paris and London and in the monthly meetings of the contact group on Libya. The main contribution of the League to the resolution of the crisis is undoubtedly its outstanding request for the no-fly zone addressed to the UN Security Council. The UN and the LAS have spoken with one voice regarding the need to respond timely and decisively to the violence perpetrated against Libyan civilians. Their approaches have mainly been driven by shared views, according to which Gaddafi’s regime was illegitimate and had to be countered. Their similar perception of the situation would have been a promising point of departure for further cooperation. If the latter did not materialise in Libya, the convergent approaches and community of views of the two organisations provide fertile ground for cooperative efforts.

On the ground that the absence of effective action on the part of the League of Arab States following the adoption of resolution 1973 does not enable to draw conclusions on the extent of its cooperation with the United Nations on the ground, the analysis further focuses on the cooperation between the United Nations and the African Union. In light of the previous section, it becomes clear that the UN and the AU adopted different approaches to answer to the Libyan crisis. Additionally, their respective responses were conducted in a non-concerted and uncoordinated way. It is, indeed, quite telling that first meeting on Libya between the UN Security Council and the AU high-level ad hoc committee only took place on 15 June, four months after the outburst of the crisis, at the
request of the AU Assembly. From the outset of the meeting, the Mauritanian Minister of foreign affairs, on behalf of the AU ad hoc committee, recalled that efforts had to be directed towards an inclusive political solution, based on a significant contribution of Africa and collaboration among the relevant stakeholders (AU high-level ad hoc committee 2011c). Unlike the diplomatic contribution of Mauritania, the tough statement of Uganda’s permanent representative to the UN, Ruhakana Rugunda, voiced concerns that unambiguously reflected the discontent about the absence of any consultation between the UN and the AU and more fundamentally, the conflicting approaches of the two organisations. As he took the floor during the meeting, Rugunda declared that “[i]gnoring the AU for three months and going on with the bombings of the sacred land of Africa has been high-handed, arrogant and provocative”. At the same time, the Ugandan representative criticised the unconcealed partiality of the UN and cautioned against interfering in domestic affairs of African countries (Rugunda 2011). Earlier, and under a more politically correct formulation, the AU Assembly, at the close of its extraordinary session on Libya held on 25 May, expressed its discontent regarding the lack of proper consideration given to African efforts to manage the Libyan crisis, despite the recognition of the AU high-level ad hoc committee in resolution 1973 and the international partners’ promises of support (AU 2011c).

If the absence of early consultation between the different stakeholders involved in the settlement of the Libyan crisis led to various efforts expended in a terribly uncoordinated way, of deeper concern is that these efforts reflected divergent approaches and hindered each other. Whereas the UN-mandated and NATO-led no-fly zone, which is obviously the most forceful response, was not particularly hampered by smaller-scale actions, this does not hold true for the AU mediation mission. A relevant illustration in this regard is provided by the rejection, by the Security Council’s sanctions committee, of the AU request to fly to Libya in order to engage in negotiations with the Libyan parties. This decision considerably impeded the early efforts of the AU high-level ad hoc committee. The concern was unambiguously voiced by the AU Assembly on 25 May, as it forthright declared that the air operations led by NATO impeded the AU attempts to settle the crisis and engage in a democratic transition (AU 2011e). Furthermore, in his harsh speech in June, Ugandan Rugunda supported the view that the intransigent stance of the rebellion, which resolutely refused to engage in negotiations with Colonel Gaddafi, was partly accountable to the considerable external support it enjoyed (Rugunda 2011). Following the same idea, the early referral of Colonel Gaddafi to the International Criminal Court (ICC), as enshrined in SC resolution 1970, was diametrically opposed to the AU inclusive approach. Concerns
were raised that the ICC referral would make Gaddafi unlikely to engage in negotiations and hamper AU mediation efforts.

**Reconciling the diverging views through a holistic approach**

In light of the inconsistencies between the responses of the UN and the AU, and the negative impact that it had on their efforts aimed at solving the crisis, the potential of early consultations and dialogue to reconcile the views and lead to the adoption of a concerted approach is advanced. A coherent UN-AU response based on effective cooperation between the two organisations would have been beneficial to the whole peace process.

If it makes no doubt that the UN and the AU have perceived the situation and the kind of action required in a very different way, it is argued that cooperation between the two organisations could have led them to combine their approaches in a complementary way. At the 15 June meeting between the AU high-level ad hoc committee and the UN Security Council in New York, the representative of the Islamic Republic of Mauritania declared, quite rightly, that a holistic solution was required to address the array of key priorities. He stressed the need to treat urgent issues in the short term, while contemplating the long-term perspective and build sustainable and lasting solutions (AU 2011c). To some extent, the division of role in Libya has been such that the United Nations has answered to the urging requirement to protect the Libyan population, through economic, military and diplomatic sanctions, and through the implementation of a no-fly zone; whereas the African Union has engaged on the longer-term issue, which is to bring about a political and durable solution to the conflict, by drawing on the support of the Libyan actors. If the approaches of the UN and the AU are therefore not conflicting as such, the tensions arises from the inconsistent way in which their actions were implemented. It is therefore argued that early consultations between the UN and the relevant stakeholders would have helped undertake a collective approach. Involving relevant regional organisations and neighbouring countries in such an early dialogue would have enabled a genuine exchange of views as to the best way to respond to the emerging crisis. The hope is that it would have led to a joint decision as to the mandate and further course of action in Libya.

Furthermore, the adoption of a collective and cooperative approach, being key to the success of a mediation process in various respects, would have bolstered the AU endeavour. Drawing from the 2008 mediation experience in Kenya, the importance of a single mediation process supported by external actors is stressed if successful results
are to be achieved. Concerted efforts towards the attainments of a political solution are both more effective and legitimated. Likewise, in Libya, a strong backing of the international community for the AU high-level ad hoc committee’s mediation efforts would have pressured the parties around the negotiation table to accept the ceasefire and enter dialogue in order to find a solution to the crisis. The conflicting views at hand in the Libyan case did however not allow such development, as the rebels and the TNC enjoying the support of many external actors did not have any interest in engaging in peace talks around the same table as Gaddafi.

**Recommendations**

In light of the above analysis of the various contributions made by the various actors with the common aim of ending mass atrocities perpetrated against civilians by the Libyan authorities themselves, important lapses can be identified as regard the way in which the crisis was handled. Major challenges exist as to the achievement of an effective UN-ROs partnership in implementing the R2P principle consistently. In this regard, *clarifying the issue of ownership* and *strengthening the cooperation between the UN and relevant ROs* are key prerequisites.

First, a conceptual clarification of the issue of ownership is needed. Indeed, the R2P doctrine unambiguously and unanimously endows the international community with the responsibility to protect populations in cases where the concerned state is unable or unwilling to discharge its primary responsibility to protect its citizens. It however falls short of specifying the actors that make up the international community and their respective duties in terms of R2P. While the UN Security Council is acknowledged as the most appropriate body to exert the residual R2P and entrusted with a leadership role in this regard (UNGA 2009), questions arise as to the range of other actors that have a role to play in executing the responsibility to protect, including third states, regional and international organisations. The Libyan case is a particularly relevant illustration of the confusion that prevails regarding the ownership issue. Several actors, be they at the national, regional or global level, acted in the name of the international community, but provided differing answers to the crisis. This demonstrates the imperative need for the relevant stakeholders to agree on a division of labour based on their comparative advantage and a clear specification of their respective role in implementing the R2P. Such a momentous agreement on the terms of cooperation between the UN and regional organisations, but also with other international organisations and third countries, will only be achieved through an inclusive dialogue bringing these various actors around the same table. In terms of R2P implementation, this also applies to the
formulation of the mandate for R2P-motivated interventions. Early dialogue on the mandate would contribute to enabling actors to agree on the most appropriate action to undertake in response to unfolding crises. In the case of Libya, the ambiguous and vague mandate provided in SC resolution 1973 authorised any “Member States […], acting nationally or through regional organisations or arrangements, […], to take all necessary measures” to protect civilians and enforce the no-fly zone (UNSC 2011b). As mentioned earlier, it led to various actors undertaking different and incompatible actions to solving the conflict. Early consultations among the relevant stakeholders would have helped prevent from the core issue that occurred in Libya, namely the missed opportunity to reconcile diverging perceptions of the situation and inconsistent stances towards the conflicting parties and the role that they should play in the settlement of the conflict.

The absence of timely dialogue following the outbreak of the Libyan crisis can partly be accounted for by the lack of well-established channels of communication between the concerned actors, which calls for a strengthening of their ties. Focusing on the UN and regional organisations specifically, the benefits that would ensue from an effective global-regional cooperation are widely acknowledged, and the need to foster UN-RO partnerships has repeatedly been emphasised by both actors. Nevertheless, cooperation in practice remains underdeveloped. Bolstering the UN-ROs relationship begins with the establishment of regular consultations between the UN and each regional organisation as well as between their respective Secretaries-General in a way that would allow open dialogue and hold the potential to generate common understandings and shared views. Furthermore, these communication and exchange practices should be part of a broader strategy aimed at fostering institutional ties between the UN and regional organisations.

In order to make the most of their respective comparative advantage and learn from each other’s experience and expertise, the UN and regional organisations would benefit from engaging in joint endeavours directed towards capacity-building and capacity-sharing. An outstanding step in that direction is the Framework for the ten-year capacity-building programme for the African Union initiated in 2006, which accommodates African requirements with UN comparative advantage into a common agreement (UNGA 2006). The ten-year capacity-building programme has led to a considerable intensification of the exchanges between the UN and the AU. Consultation mechanisms have been instituted between the UN Security Council and the AU Peace and Security Council as well as between the Secretaries-General of the two organisations. Following from the primary emphasis placed on the areas of peace and security, initial cooperative efforts
were mainly directed towards mediation support, electoral assistance and gender mainstreaming. Preliminary activities were also undertaken in other areas of cooperation, including social, cultural, economic and human development (UNGA 2011). Be it a coincidence of not, the AU has developed a robust mediation capacity and undertook a number of mediation missions in the past few years. It was again the approach adopted in response to the conflict in Libya. Whereas efforts in this direction should be continued, the UN-AU cooperative framework would benefit from a wider understanding of peace and security-related activities as to include assistance to the development of the AU capacity to deploy and support military operations. The willingness to provide “African solutions to African problems” (Møller 2009b) has been among the AU’s drivers since its establishment in 2000. In 2002, the AU adopted the Protocol relating to the establishment of the Peace and Security Council (AU 2002), which namely made provision for an African Standby Force (AU 2002: Art. 13). Although further steps were taken to develop and operationalise these ready-to-deploy contingents (AU chiefs of defense staff 2003; AU meeting of experts 2005), the development of a fully operational African Standby Force is proving to be a slow process. African sub-regional organisations involved are either not making significant progress or setting up their brigades without supervision from the AU (Tavares 2010, 28). Support from the UN could therefore contribute to the effective operationalisation of this African centralised force. Securing a partner based on the African continent that has the necessary capacity for rapid deployments of troops would in turn be of great value to the overburdened UN.

If efforts towards capacity-building and experience-sharing in the framework of the UN-AU ten-year capacity-building programme need to be continued, the UN is urged to engage in capacity-building and experience-sharing programmes with other regional organisations, namely with the League of Arab States as it sent a positive signal in Libya. While its involvement in the settlement of the Libyan crisis turned out to be very limited, the Arab League demonstrated its willingness to make itself heard on the international scene by calling for a no fly-zone. On top of the consistency of its priorities with the approach eventually adopted by the United Nations, the LAS unexpected move should be welcomed by the UN as an opportunity to push their cooperation further. Closer collaboration could take the form of a UN-LAS capacity-building programme inspired from the existing ten-year capacity-building programme for the African Union. The Arab League would arguably greatly benefit from such a programme since it is still characterised by weak institutional, material, human and organisational capacities and needs to be strengthened in order to be able to play a significant role as regional actor. In view of the complex security situation prevailing in the Middle East,
the League’s acquaintance with and accurate understanding of the region represents a considerable asset to the UN. A fortified and capable Arab League therefore holds great potential to become a reliable interlocutor to the UN in the Middle East.

Conclusion

As for any concept, the worth of the responsibility to protect will eventually be determined in practice. The credibility of the R2P is at particular stake today, as it is in its early stages of developments. The understanding of the concept is evolving over the years, based on lessons learned from R2P cases, be they successful or not. The recent Libyan intervention has been depicted as an historical step in terms of R2P, as it is the first military intervention to protect civilians deployed without the consent of the concerned state. In hindsight and as part of a broader lessons learning exercise, the failure of the various stakeholders involved in the settlement of the conflict to jointly agree on a common course of action is pointed out as a pitfall for the future of the R2P.

Although the need for an effective global-regional partnership in implementing the responsibility to protect principle is widely acknowledged and has repeatedly been emphasised by the United Nations, which is sparing no effort to further develop the principle conceptually and operationalise it, UN-ROs cooperation in implementing the R2P did not clearly materialise in Libya. This demonstrates that, despite the efforts expended towards fostering UN-ROs ties, effective collaboration between these organisations whenever a crisis arises can still prove problematic. This calls for further promotion of UN-ROs cooperation, namely through the establishment of capacity-building programmes inspired by the UN-AU Framework for each RO specifically. By providing an institutional framework to UN-RO relationships, such programmes would promote sustained collaborative efforts. This is likely to hold positive implications in the various areas of cooperation, including in the joint implementation of the responsibility to protect. Ultimately, the enduring endeavour towards effective cooperation between the UN and ROs and the efforts towards a global-regional implementation of the R2P are expected to complement and bolster each other.
References


The role of Regional Organisations in Implementing the Responsibility to Protect


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