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# Why Should Humanitarian NGOs avoid calling for military interventions?

*Abstract*

*This policy brief aims to highlight the relationship between Non-Governmental Organizations (NGOs), Responsibility to Protect (RtoP) and Military Interventions based on humanitarian grounds. After explaining RtoP and its relationship with humanitarian interventions, this paper discusses the future of the Responsibility to Protect doctrine in light of the Libyan and Syrian cases. The author argues that the legitimacy of NGOs is being put at risk internationally and locally due to their reliance on RtoP doctrine and their close association with military interventions. Finally, this paper provides some guidelines to improve the effectiveness of global NGOs, clarifying their position with respect to foreign interventions.*

Résumé

Cette note vise à éclairer les relations entre les Organisations Non-Gouvernementales, le concept de Responsabilité de Protéger et les interventions militaires basées sur des motifs humanitaires. Après avoir expliqué la nature de la relation entre la RtoP et les interventions humanitaires, cet article met en question le futur de la Responsabilité de Protéger après les cas syriens et libyens. L'auteur soutient l'idée que la légitimité des ONGs qui s'appuient sur la RtoP ou appellent directement à des déploiements militaires est mise à mal tant au niveau local qu'au niveau international. Enfin, cette note s'achève sur des recommandations aux ONGs multinationales, conseillant à celles-ci de clarifier leurs positions vis-à-vis des interventions humanitaires.

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The Libyan intervention seriously undermined the concept of Responsibility to Protect, and military interventions based on humanitarian grounds. The Syrian and Ukrainian cases show us that the Security Council is unable to resolve security challenges that would traditionally fall under the scope of RtoP. Some NGOs, which praised the adoption of RtoP as an operational concept, are also calling for foreign military interventions during humanitarian crises in order to secure the civilian population. This paper argues that NGOs should stop calling for military interventions and distance themselves from the RtoP doctrine.

## The responsibility to protect and military intervention based solely on humanitarian grounds

### RtoP, its third pillar and the 'systematic prevention of mass atrocities'

Founded in 2002 following the creation of the high level panel on International Commission on Intervention and State Sovereignty (ICISS), the Responsibility to Protect (RtoP) was meant to prevent mass atrocities. This initiative was designed as a result of, on the one hand, the failure of the international community to intervene militarily in several crises such as Rwanda, Bosnia and Somalia and, on the other hand, the legal vacuum that surrounded 1999's NATO intervention in Kosovo.

Unanimously endorsed in 2005 by 192 member states of the UN General Assembly, the Responsibility to Protect is composed of three pillars. The first one stands for a sovereignty-based approach towards humanitarianism in affirming that the state is responsible for protecting its own population. The second pillar stresses the importance of the cooperation of the 'international community' to help states fulfill their duties of RtoP. Lastly the third pillar argues that in case of a government failing to protect its population, the international community should, in accordance with the UN Charter, take collective action to protect populations[1].

1. a)"The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement;

b) The international community has a responsibility to encourage and assist States in fulfilling this responsibility;

c) The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the

If the two first pillars reach a broad consensus among powerful countries[2] and do not bring significant added value to the existing international legal framework, the third pillar is potentially a revolution as it seeks to make humanitarian intervention systematic, in cases in which a government fails to protect its population i.e. is letting happen or committing mass crimes or genocides[3].

However, RtoP does not work as a substitute for the use of force, which remains the prerogative of the Security Council under chapter VII[4]. Rather, it seeks to quicken and improve military actions when necessary and to harmonize the conditions in which they are undertaken. It is therefore a clear attempt to strengthen the international community on the premise that it could not let another human catastrophe happen: "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that affect every precept of our common humanity?"[5].

A number of academics and Non-governmental Organizations have praised this new doctrine as a significant advance for international relations. "The responsibility to protect is the most important and imaginative doctrine to emerge on the international scene for decades" said a former commissioner of

international community must be prepared to take collective action to protect populations, in accordance with the Charter of the United Nations.

Office of the Special Advisor on Prevention of Genocide, *The responsibility to protect*. Retrieved 3 Jan. 2015 from http://www.un.org/en/preventgenocide/adviser/responsibility.shtml

2. Oliver Stuenkel, *The BRICS and the future of R2P*. Global Responsibility To Protect, n° 6, 2014, pp. 3-28.

3. The second sentence of paragraph 139 underscores that a wider range of collective actions, either peaceful or non-peaceful, could be invoked by the international community if two conditions are met: (a) "should peaceful means be inadequate", and (b) "national authorities are manifestly failing to protect their populations" from the four specified crimes and violations. In those two cases, paragraph 139 affirms that "we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate". UN Secretary General report, *Implementing RtoP*, January 2009.

4. ICRtoP website, *Clarifying the Third Pillar of the Responsibility to Protect*, Retrieved 2 March 2015 from http://responsibilitytoprotect.org/Clarifying%20the%20Third%20Pillar.pdf

5. Kofi Annan (2001), Report of the ICISS, p. 6, Retrieved 2 Feb. 2015 from http://responsibilitytoprotect.org/ICISS%20Report.pdf

the United Nations for Human Rights[6].

It was also considered to be "the most important shift in our conception of sovereignty since the Treaty of Westphalia"[7] by a prominent scholar in International Relations.

At the institutional level, along with its endorsement by the General Assembly in 2005, the Security Council appealed to the RtoP in several resolutions, some of them endorsing the principle on legal grounds[8] while others endeavored to implement it[9].

## Humanitarian intervention through regime change?

As said previously, pillars I and II of RtoP require neither the use of force nor a breach of sovereignty, but in the minds of its conceptors, such as Evans or Annan, the third pillar must work as a tool that will unite the international community around an intervention undertaken with the purpose of stopping or preventing mass-murder.

RtoP has been frequently mentioned in the Security Council vocabulary to condemn or draw attention to issues where civilian populations are under threat. However, only two resolutions, those of Libya (S/RES/1973) and Côte d'Ivoire ((S/RES/1975) both issued in 2011, implicitly linked the authorization of the use of force under Chapter VII of the UN in accordance with the third pillar of the Responsibility to Protect[10].

The most controversial resolution that has invoked RtoP so far is the resolution 1973 (2011) authorizing UN member states to "take all necessary measures [...] to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya"[11]. Of note, China, Russia, Germany, India and Brazil all abstained from voting on this resolution. Supported by the League of Arab States, the operation, "Unified Protector", was conducted by an international military coalition led by the North Atlantic Treaty Organization (NATO). The conduct of this operation, NATO's broad interpretation of the Security Council mandate, and the role played by the coalition led to negative diplomatic reactions from governments, notably from those of China and Russia, particularly regarding the bombing campaign[12]. While other resolutions appealing to RtoP did not trigger regime change, Libya constituted a clear and successful attempt to depose a political authority based on its humanitarian threat to its own population.

## Did Operation Unified Protector threaten Humanitarian Interventions?

Regarding the use of RtoP in the Libyan crisis, one can note that the use of the concept was not a key factor in the decision to intervene. On previous occasions, such as in Iraq (1991) and Kosovo (1999), Western countries had justified their military actions with a broad interpretation of the Security Council mandate[13], before the theorization of such 'responsibility'.

However the military actions taken in February 2011 threatened to jeopardize not only RtoP as a concept but the very principle of military actions based solely on humanitarian grounds. The third pillar and its application were threatened by NATOs actions in Libya. As Igniatieff points out, there is now a division between great powers concerning humanitarian interventions[14].

As a result, we now face a sort of stalemate within the Security Council over crises such as

6. Gareth Evans *"The responsibility to protect – Ending mass atrocities once and for all"*, Retrieved 6 Jan. 2015 from http://gevans.org/r2pbook.html

7. Responsibility to protect, *Responsibility To Protect: The Global Moral Compact for the 21st Century*, Retrieved 6 jan. 2015 from http://r2pcoalition.org/content/view/76/1/

8. Security Council Resolution S/RES/1674 (2006) Protection of civilians in armed conflict and S/RES/1894 (2009) Protection of civilians in armed conflict.

9. R2P was mentioned in SC resolutions regarding Darfur, Sudan, South Sudan, Mali, Libya and CAR from 2006 to 2014.

10. The case of Cote d'Ivoire is not analyzed in this paper on purpose, since the legitimacy of the military intervention does not solely rely upon RtoP but is also related to the issue of enforcing a democratic process.

11. Security Council Resolution S/RES/1973 (2011) *Libya*.

12. Russia, for example, noted that NATO bombing had caused 'civilian casualties' and emphasized 'that any use of force by the coalition in Libya should be carried out in strict compliance with Resolution 1973 (2011). Any act going beyond the mandate established by that resolution in any way or any disproportionate use of force is unacceptable.' China also stated that it wanted to see an immediate ceasefire and was 'not in favour of any arbitrary interpretation of the Council's resolutions or of any actions going beyond those mandated by the Council', Alex J. Bellamy and Paul D. Williams, *The new politics of protection? Côte d'Ivoire, Libya and the responsibility to protect.* International Affairs 87:4 (2011) 825–850.

13. Christine Gray, *International Law and the Use of Force*, Third edition, Oxford University Press, 2008, pp. 264-270.

14. Michael Ignatieff (11 July 2012), *How Syria Divided the World*. Retrieved 10 Feb. 2015 from http://www.nybooks.com/blogs/nyrblog/2012/jul/11/syria-proxy-war-russia-china

Ukraine and Syria. While the first one can easily be explained by its proximity with the Russian border and might therefore be considered as an immediate threat to national security, the second one is a clear example of a clash of point of views concerning the way the international community should respond to humanitarian disasters.

### Syria

After vetoing the draft project of October 2011 that attempted to condemn the regime[15], the Russian ambassador stated: "The situation in Syria cannot be considered in the Council separately from the Libyan experience. The international community is alarmed by statements that compliance with Security Council resolutions on Libya in the NATO interpretation is a model for the future actions of NATO in implementing the responsibility to protect"[16]. In much more cautious wording, his Chinese counterpart stated: "The international community should provide constructive assistance to facilitate the achievement of the objectives I have mentioned. In the meantime, it should fully respect Syria's sovereignty, independence and territorial integrity. Whether the Security Council takes further action on the question of Syria should depend upon whether it would facilitate the easing of tension in Syria, help to defuse differences through political dialogue and contribute to the maintenance of peace and stability in the Middle East. Most important, it should depend upon whether it complies with the Charter of the United Nations and the principle of non-interference in the internal affairs of States — which has a bearing upon the security and survival of developing countries, in particular small and medium sized countries, as well as on world peace and stability"[17].

One could argue that we should balance this diplomatic position looking at authorizations of use of force adopted by the Security Council in resolutions 2085(2012) and 2127(2014), which both resorted to the use of force under chapter VII and referred to the concept of RtoP, in Mali and the Central African Republic (CAR) respectively. Both of them were approved by consensus and none of the BRICS countries present at the time of the vote made any particular declaration regarding the

legitimacy of these interventions[18]. However the situations in these two countries were and remain substantially different as there was no Kaddafi, Milosevic or Al-Assad to depose, i.e. the international community did not intervene to overthrow a long term established regime. The case of Mali rather relied on the call for assistance from the local authorities. As for CAR, the situation of the country at the time of the intervention might reasonably qualify it as a 'failed state'[19]. Furthermore, RtoP was used in both cases to underline the fact that, despite foreign humanitarian intervention, the responsibility to protect was primarily a prerogative of the local authorities and therefore relied on pillar I. This is a subtle but important distinction of the Security Council language, if we compare it with the Libyan case: in this case, RtoP was associated with Chapter VII whereas in Mali and CAR, it was applied to the local authorities, which had 'failed' to fulfill the responsibility to protect their populations.

The vote by consensus over the resolutions that authorized the deployment of Western troops shows us that the rift between great powers vis-à-vis interventionism is a little more complicated that a mere clash between "a Western-led interventionist group and a 'sovereignty block' led by Moscow and Beijing"[20]. As Stuenkel shows[21], the BRICS have remained constant on their position regarding interventionism and have not necessarily advocated for a strict respect of the

15. Security Council Draft S/2011/612 (2011) Syria.

16. PV of Security Council Resolution S/PV.6627 (2011).

17. Ibid.

18. *"To support the Malian authorities in their primary responsibility to protect the population"* Security Council Resolution 2085 (2012) *Mali* and *"Recalling* that the Transitional Authorities have the primary responsibility to protect the civilian population." Resolution S/RES/2127 (2013*) Central African Republic.*

19. CAR is currently ranked third most fragile state in the world, after south Sudan and Somalia. The fund for peace*, Fragile state index 2014*, Retrieved 18 Feb. 2015 from http://ffp.statesindex.org/

20. David Bosco (17 March 2011), *Abstention games on the Security Council*, Retrieved 18 Feb. 2015 from http://bosco.foreignpolicy.com/posts/2011/03/17/abstention_games_on_the_security_council

21. "China has supported several UNSC resolutions refer-ring to R2P since the Libya controversy. Thus R2P can no longer easily be dealt with as a North-South issue. The Indian government has frequently used the concept of R2P in its rhetoric, such as when calling on the Sri Lankan govern-ment to protect its civilians. The Russian Foreign Minister Sergey Lavrov's deci-sion to refer explicitly to R2P in justifying an intervention in Georgia in August 2008 (though thereby clearly misinterpreting the concept) shows that Russia in principle agrees with the notion that violating another country's sovereignty may be justified if that country commits mass atrocities against its own citi-zens." Stuenkel, *op. cit.*

principle of non-interference. Rather, they have emphasized their disagreement about the modalities (the why, when and how) of military interventions. More precisely, Burke White shows that the emergence of the BRICS announces the end of a Western set of international rules and the emergence of a "multi-hub international legal order"[22], in which newly powerful states such as Russia and China are willing to impose their views on international crisis management. In this regard, the "NATO-ization"[23] of RtoP during the Libyan crisis announces difficulties for a future consensus over interventions that aim at protecting civilians.

## Humanitarian intervention, RtoP and NGOs: The Non Governmental framework surrounding the responsibility to protect

As Fabrice Weissman (Senior researcher at the Doctors Without Borders think tank) points out, RtoP did not emerge solely from states, but is instead the product of an intense lobbying made by legal experts, UN bodies and NGOs[24]. The growing nongovernmental sector surrounding RtoP and humanitarian intervention includes global organizations, such as Care, Oxfam, Human Right Watch and Refugees international[25]. This non-state nebula reflects on this doctrine and its implementation. N. Kikoler also states that: "R2P is broadly about the protection of civilians, drawing from international humanitarian, human rights, and refugee law for its legal foundation"[26]. Indeed, one way to look at this concept is to assume that global NGOs play a leading role in implementing and interpreting the Responsibility to Protect, from early warning assessment to state capacity-building after a humanitarian intervention.

In a press conference held by the UN in 2009

Gareth Evans, co-chair of the ICISS commission, pointed out that one cannot quantify a certain number of causalities that should trigger an RtoP response[27]. This statement also means that a primary role is left to humanitarian NGOs: they are the ones able to recognize which cases should be addressed by RtoP: **"Civil society** plays a significant advocacy role, sounds alarm bells when a crisis begins, investigates crimes, releases reports, and contributes to service delivery"[28].

Some NGOs, notably the global ones previously mentioned, also take the initiative to call directly for military actions[29]. However, those Non-Governmental Organizations usually remain vague on the tactical and operational aspects of the intervention. Furthermore, they call for intervention "to protect efficiently the civilian populations"[30] without specifically identifying the party that is threatening those populations. One of the biggest problems with this sort of declaration is that the NGOs previously quoted tend to treat the human rights variable as independent, neglecting other dynamics[31]. However, a number of questions arise: how to intervene? With how many troops? Against who? For how long? …

If these global NGOs do not get involved into operational and tactical aspects of humanitarian interventions, western militaries and scholars do. In a report published in 2009 reflecting upon the modalities of those operations, the Carr Center for Human Right Policy from Harvard sets scenarios for a military intervention seeking to protect sub-Saharan countries. They introduce three different scenarios: a massive civilian evacuation to a neighboring country, a partial military occupation, and the overthrowing of a

22. W. W. Burke White, *Crimea and the International Legal Order*. Faculty Scholarship. Paper 1360. UPenn, 2014, p. 3.

23. David Rieff (07 of December 2011), *R2P, R.I.P.*, The New York Time, Retrieved 20 Jan. 2015 from http://www.nytimes.com/2011/11/08/opinion/r2p-rip.html?pagewanted=all&_r=2&

24. Fabrice Weissman, *"Not In Our Name": Why Médecins Sans Frontières Does Not Support the "Responsibility to Protect",* Criminal Justice Ethics, 29: 2 2010, pp. 194-207.

25. The full list of the NGOs members of the ICRtoP coalition can be find at http://www.responsibilitytoprotect.org/index.php/about-coalition/current-members

26. Naomi Kikoler, *Responsibility to protect*, Global Centre for the Responsibility to Protect, September 2009.

27. UN Press conference held by Miguel d'Escoto Brockmann on 23 July 2009. Retrieved 12 Jan. 2015 from http://www.un.org/webcast/2009.html

28. ICRtoP, *Clarifying the Third Pillar of the Responsibility to Protect*, Retrieved 19 Dec. 2014 from http://responsibilitytoprotect.org/Clarifying%20the%20Third%20Pillar.pdf

29. Oxfam France, *« C'est pourquoi l'Union européenne, qui détient elle la capacité militaire et opérationnelle pour agir rapidement, doit déployer une force qui pourrait dès aujourd'hui protéger efficacement les populations et ce jusqu'à l'arrivée des renforts de la MONUC ».* Joint statement of Oxfam France, CARE and Human Right Watch calling for a European military deployment in DRC. Retrieved 5 Jan. 2015 from http://www.oxfamfrance.org/communique-presse/rd-congo-conseil-europeen-france-doit-montrer-lexemple

30. Ibid.

31. Fabrice Weissman, *op. cit.*, p. 6.

regime[32]. In their conclusion, they claim that the most successful kind of operation is the complete removal of the political authorities.

Indeed, a military intervention, even for humanitarian purposes, never goes without consequences both for the internal political order and for regional stability. Evacuating any concern unrelated with the immediate threat on human rights, RtoP NGOs tend to underestimate this point.

In 2012, the Carr Center organized a conference that reflected upon the 2011 Libyan intervention. Regarding the implementation of the Security Council Resolution 1973 that legitimated the use of force, a US participant argued "that the absence of a requirement that the civilians be under "imminent" threat as well as the preamble's reference to the general notion of a responsibility to protect may have broadened the mandate beyond tactical protection"[33]. It was also left clear that the military operation had incorporated the political will that went way beyond RtoP: "U.S. participants emphasized the Obama Administration's distinction between political and military objectives in Libya. The United States sought the removal of Libyan leader Muammar Gaddafi as a matter of policy (and through an integrated strategy), while the military intervention – pursuant to UNSC Resolution 1973 – was authorized to protect civilians. [...] Nonetheless, participants agreed that the concept of using military force to protect civilians was not well defined and could be understood differently by diverse actors"[34].

As the Libyan scenario shows us, when it comes to a military deployment, a difference can arise between humanitarian and political goals, where intervening countries tend to incorporate their own political agenda into the 'protective' mandate.

Today, as evidenced by the Syrian and Ukrainian cases, the dynamic of the international system is evolving and a Libyan scenario seems hard to replicate. The reluctance of the BRICS to embrace the Western conception of RtoP, and, more broadly, a current clash in the Security Council between veto powers jeopar-

dizes military interventions based solely on humanitarian ground and the Responsibility to Protect.

The coalition of non-state actors surrounding RtoP (currently involving more than 80 NGOs[35] including global ones) identifies 21 areas where populations could fall under the Responsibility to Protect[36]. Apart from the CAR and Mali, the other areas are unlikely to be granted a mandate by the Security Council authorizing the use of force under responsibility to protect. This is especially relevant in countries with whom Great Powers have tight diplomatic and cooperation bonds. For example, Myanmar is a country where RtoP might apply but will not likely occur because of this country's relationship with China[37]. Indeed, although humanitarian NGOs might not be a direct focus of Chinese-Russian foreign policy they might become collateral damage of the current international order.

In this set of rules, calling for a military deployment with the purpose of protecting human rights might not garner as much support in Western countries as it used to. Observing how the dynamics of international relations have changed, with the relative decline of Western powers and the rise of the BRICS, one could question the legitimacy of RtoP NGOs.

## Is the legitimacy of RtoP NGOs at risk?

Along with the current complications between great powers, we can identify two direct threats that could seriously undermine the future of global NGOs involved in huma-

32. MARO Project Sample User's Guide, Scenario Number 1, Mass Atrocity in Country X, A Land-Locked Country in Sub-Saharan Africa Carr center, Harvard University 2009.

33. *Learning from Air Operations in Libya: Operationalizing the "Civilian Protection" Mandate,* Retrieved 5 Jan. 2015 from http://www.hks.harvard.edu/index.php/content/download/70259/1253846/version/1/file/Libya+Conference+Quick+Look_29June2012.pdf

34. Ibid.

35. *Current members of the ICRtoP coalition International Coalition for the Responsibility to Protect.* Retrieved 5 Jan. 2015 from http://responsibilitytoprotect.org/index.php/about-coalition/current-members

36. Global Center for the Responsibility to Protect: *Population at risk.* Retrieved 07 Jan. 2015 from http://www.globalr2p.org/regions/

37. "In September 2006, the United Nations Security Council (UNSC) held its first meeting on the situation in Burma, and, in January 2007, it proposed a Resolution calling for the cessation of grave violations of human rights. However, China and Russia both used their veto to block this resolution, claiming that Burma was not a threat to international peace and security... [...] Kachin, which is located in northern Burma, borders the People's Republic of China. As such, economic interests on behalf of both the Burmese and Chinese governments have led to several issues in the State. [...] The gas from this pipeline is transported and sold to China."

*The Crisis in Burma* Retrieved 7 Jan 2015 from http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-burma

nitarian relief: they risk being directly expelled from the country in which they are working, and one of their traditional forms of leverage, consisting of cutting international aid and FDI, may be threatened by the Chinese foreign policy toward developing countries.

## Some regimes are starting to adopt harsh measures against NGOs

- Governments from developing countries are starting to adopt harsh measures against NGOs and UN agencies. Egypt has started to expel pro-democracy and pro human rights NGOs[38] as well as to forbid its citizens from cooperating with them[39]. Pakistan has taken similar actions with the NGO 'Save the Children'[40]. More recently, Scott Campbell, director of the United Nations Joint Human Rights Office (UNJHRO) in Congo was expelled from the country by the government shortly after the publication of a report condemning the national police force[41]... Though these examples do not constitute a trend, they should still be noted.

- The official position of governments in the DRC and Egypt is that NGOs present in their countries are destabilizing their institutions[42]. They are expelled either because they are seen as Western spies or Western-biased or because they call for "humanitarian intervention" on the soil they are working on. Another explanation is that working on the soil of a sovereign state, helping its local populations and calling at the same time for the destitution of the same regime that authorized your work, might not always please governments.

- Making public declarations and calling for

actions without any means of enforcement can potentially lead to dire consequences. In the case of Sudan in 2009, the sanctions taken against Khartoum's regime (such as the ICC mandate against Omar al-Bashir) resulted in the expulsion of ten NGOs including Doctor Without Borders, Oxfam and Save the Children[43], and substantially undermined the living conditions of the populations located in Darfur.

## The West is no longer the only region in the 'development' business

- There are countless papers explaining that China has to be taken as a serious competitor in the investment sector of developing countries, especially in Africa. A relevant report of the Brookings Institutions published in 2014 indicates that "in 2012, U.S. total trade with Africa was only $99.8 billion, approximately 50 percent of Sino-African trade that same year"[44] which removes a traditional leverage of pressure of humanitarian NGOs: the call for diplomatic and economic sanctions against human rights-violating countries. Beijing's foreign policy does not prioritize Western views on governments and human right issues[45] and is becoming an alternative for cooperation and development.

## How should NGOs adapt to this current situation?

Considering all these issues, NGOs should take actions, starting with a review of their communication policy, as well as the legal ground on which they are basing the legitimacy of their actions: human rights law or humanitarian law.

### Communication strategy

One of the roles of humanitarian NGOs is to bring attention to situations that are not normally noticed by the media and by governments. This should remain a priority

38. Jenny O'connor   "NGO": The Guise of Innocence, Irish Foreign Affairs, March 2012.

39. Natalya Dzhanpoladova and Claire Bigg, New Russian Bill Aims to Brand NGOs as "Foreign Agents" retrieved on 4 March 2015 from https://www.globalpolicy.org/ngos/role-of-ngos-in-the-international-arena/ngos-and-states/51728-new-russian-bill-aims-to-brand-ngos-as-qforeign-agentsq.html?itemid=id#32115

40. Le Monde (06/09/2012), "Le Pakistan ordonne l'expulsion des employés expatriés de l'ONG Save the Children" Retrieved 07 Jan. 2015 from http://www.lemonde.fr/asie-pacifique/article/2012/09/06/le-pakistan-ordonne-l-expulsion-des-employes-expatries-de-l-ong-save-the-children_1756683_3216.html

41. Al Jazeera (17/10/2014) "DRC expels top UN official over abuse report". Retrieved 07 Jan. 2015 from http://www.aljazeera.com/news/africa/2014/10/drc-expels-top-un-official-over-abuse-report-2014101715514620128.html

42. Op. cit., Al-Jazeera.

43. Amnesty International (5 March 2009), Conséquence de l'expulsion d'ONG humanitaires hors du Darfour : des millions de personnes exposées à la famine et à la maladie Retrieved 07 Jan. 2015 from http://www.amnesty.org/fr/news-and-updates/millions-face-starvation-and-disease-aid-agencies-are-expelled-darfur-20090305

44. Africa in China's Foreign Policy, The Brookings Institutions, April 2014.

45. Laura Caniglia, "Western ostracism and China's presence in Africa", China Information, 2011, p. 66.

and NGOs should continue to try to report conflict in the most systematic and objective way as possible. However, given the sensitive areas where NGOs are dedicating their work (Sudan, DRC, etc.), they must have good situational awareness and assess whether it is wise to publicly denounce a local government that violates human rights. This may put the local population and NGO workers on the ground at risk. Shadow lobbying within the international community could be considered as a good alternative.

Secondly, given the problematic evolution that the RtoP concept has endured over the years (as showed in Libya), NGOs should refrain from using this concept. This will allow them to appear as a neutral actor with respect to western political and strategic agendas.

### Legal ground

The debate between *droit d'ingérence, NGOs and military intervention is older than the existence of RtoP. Back in 1994, when the Security Council authorized the military operation in Somalia for humanitarian purposes, the ICRC published a clarification on the justification of the action: it stated that the action was taken under chapter VII of the UN Charter and therefore strictly concerned with the breach of peace and act of aggression. Indeed, the action* "[couldn't] **be derived** from any rule or provision of **international humanitarian law**. [...] Enforcement measures would therefore **fall outside** the scope of international humanitarian law"[46].

Hence, the debate here lies in whether NGOs should choose to ground their actions under the concept of RtoP, lobbying the 'International Community' that will act in enforcing human rights all over the world, or stick to their primary role of Non-State actors willing to assist endangered populations while relying on the traditional international humanitarian law, disregarding the military aspects. As was said previously, the recent stalemate in the Security Council over crises such as Ukraine and Syria ought not to be interpreted as the end of military interventions but as the expression of the principle that the decision to intervene militarily in a humanitarian crisis should remain the exclusive prerogative of the state.

In order to provide effective humanitarian assistance and to be accepted in the countries where NGOs are willing to get involved, they might soon consider redirecting their advocacy away from military grounds and adhering to their humanitarian goals.◊

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46. Ulmesh Palwankar, "Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law*", International Review of the Red Cross*, n° 298, 28-02-1994.

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### Recently published

- Yulia Tyshchenko, « The Ukrainian Crisis: between the identity Policy and Confrontation to the 'Russian World' », note n° 05/15, 13 February 2015

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