



Has Brazil's *Responsibility while Protecting* changed Venezuela's skepticism about the *Responsibility to Protect*?

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On October 22nd 2011, images of the murder of Muammar Kaddafi by rebel forces -posted on YouTube- reached the world stage. NATO's *Unified Protector Operation*, authorized by the Security Council (see UN Document S/Res/1973, 17 March 2011) to protect civilians on the ground had gone beyond its mandate by toppling the Libyan government. Though deeply concerned with the humanitarian situation in Libya, many Security Council members felt deceived by the way in which the operation had unfolded. In their view, they had not authorized an operation to carry out a regime change in Libya.

Since its adoption, Resolution 1973 had been received by important Member States of the Security Council with skepticism and suspicion. On 17 March 2011, Ambassador Viotti of Brazil, while explaining why

her country had decided to abstain from voting on Resolution 1973, stated that she was "... not convinced that the use of force as provided for in paragraph 4 of the resolution will [would] lead to the realization of our common objective - the immediate end to violence and the protection of civilians." Ambassador Viotti furthermore expressed concerns that "... such measures may have the unintended effect of exacerbating tensions on the ground and causing more harm than good to the very same civilians we are committed to protecting" (UN Document, S/PV.6498, 17 March 2011, p. 6).

China, Russia, India and Germany also abstained from voting on Resolution 1973, citing a lack of information on the real situation on the ground and on how the Resolution would be implemented. Ambassador Churkin of Russia had been prescient in saying that: "If this comes to pass, then not only the civilian population of Libya but also the cause of upholding peace and security throughout the entire region of North Africa and the Middle East will suffer" (Ibid, p. 8).

As NATO led *Operation Unified Protector* unfolded it became evident that its objectives were not restricted to protecting civilians and achieving a cease-fire among the warring factions in Libya, but included destroying the infrastructure and replacing the government of Muammar Kaddafi. As predicted by Brazil and Russia, the Operation exacerbated the precarious security and humanitarian situation both in Libya and in the Sahel region.

As Secretary General Ban Ki-Moon reported in January of 2012, "... large quantities of weapons and ammunition from Libyan stockpiles were smuggled into the Sahel region... rocket-propelled grenades, machine guns with anti-aircraft visors, automatic rifles, ammunition, grenades, explosives (Semtex), and light anti-aircraft artillery (light calibre bi-tubes) mounted on vehicles... surface-to-air-missiles and man-portable air defense systems..." (UN Document S/2012/42, 18 January 2012, p. 10) The Secretary General further reported that these weapons had been smuggled by former fighters who had been in the regular Libyan army or mercenaries during the conflict, and warned that they could be sold to terrorist groups like Al-Qaida or criminal organizations like Boko-Haram (ibid, p. 11-12).

A year later, in early 2013, heavily armed Tuaregs expelled from Libya -who had returned to their homeland-, would team up with jihadist groups such as Al Qaida, to topple the Government in Mali. This unleashed a new Security Council authorized intervention, this time in Mali (See UN Document S/RES/2085 of 20 December, 2012). The worst fears of countries like Russia and Brazil had indeed materialized.

The implementation of RtoP under Resolution 1973 of the Security Council had, in the view of many, gone far beyond its call to protect the Libyan population, and had exacerbated insecurity in both the country and the region. If RtoP was to work effectively, it needed to be revised.

It was in this light that Brazil introduced a new approach to the implementation of RtoP, labeled: the *Responsibility while Protecting*. As has been duly explained in the chapter by Alex Bellamy of this volume, this new approach is meant to regulate and monitor the implementation of the third pillar of RtoP (see the *use of force* in UN Document A/63/677, 12 January 2009, page 22-28), while making those in charge of the execution accountable for their actions.

By all accounts, Brazil's contribution has sparked a serious debate surrounding the implementation of the third pillar of RtoP, both among States and civil society. It is understood to be an attempt to refashion RtoP as a more focused tool that would avoid repeating the mistakes of Libya. It seems to pursue the double objective of reinforcing the convictions of those who are already committed to RtoP and also to win over those who have remained skeptics of RtoP all along.

The purpose of this paper is to evaluate whether Brazil's the *Responsibility while Protecting*, has been effective in achieving the second of these objectives: winning over the skeptics. Paramount among these skeptics has been the Bolivarian Republic of Venezuela, hereby referred to as Venezuela.

Methodologically this paper will proceed to look into Venezuela's position regarding RtoP before and after the introduction of Brazil's *Responsibility while Protecting*. In this regard it will compare and contrast statements made by Venezuelan authorities in the framework of the United Nations from 2005 until 2013.

Venezuela's Position Regarding RtoP, Before the Introduction of the *Responsibility While Protecting*

In 2005, the United Nations General Assembly adopted the World Summit Outcome Document. Paragraphs 138 and 139 of the Document established a general working understanding of the *Responsibility to Protect* (RtoP). While recognizing the fundamental principles of equal sovereignty among States and non-interference in their internal affairs, it opened the possibility for the Security Council to intervene –under Chapter VII of the Charter– if a State manifestly failed to protect its population from genocide, war crimes, ethnic cleansing or crimes against humanity. Seven countries, among them Venezuela, opposed the inclusion of paragraphs 138 and 139 in the Outcome Document.

In the 2005 Summit negotiations, President Hugo Chávez Frías of Venezuela had expressed deep concern regarding RtoP, stating: "...Oh do they threaten us with that pre-emptive war! And what about the "Responsibility to Protect" doctrine? We need to ask ourselves: Who is going to protect us? How are they going to protect us? (...) these are very dangerous concepts that shape imperialism, interventionism as they try to legalize the violation of national sovereignty." President Chávez had further added that the, "... full respect towards the principles of International Law and the United Nations Charter must be, (...) the keystone for international relations in today's world and the base for the new order we are currently proposing." (<http://www.un.org/webcast/summit2005/statements.html>, 2013).

Later that day, Venezuela's Minister of Foreign Affairs, Ali Rodríguez Araque, would further delineate his country's position regarding RtoP. Speaking before the General Assembly he denounced the lack of transparency in the negotiation of the Summit's Outcome Document and underscored his country's fears about the potential political manipulation of RtoP for political reasons. In line with the statement made by President Chávez, he asked: "Who is in a position to 'protect' according to the terms of this document? Who is in a condition to send troops miles away from its country? Who has the financial resources, the armament and the logistics to undertake these actions to protect?" (UN Document, A/60/PV.8, September 16, p. 48)

President Chavez and Minister Rodriguez Araque had struck at the cord of the *Responsibility to Protect*, that is: which countries were both willing and able to protect populations that were victims of the four crimes typified in the 2005 Outcome Document? The fact is that due to the world's inaction in Rwanda many of the proponents of RtoP had intended to devise a doctrine that would compel major powers, the only ones capable of acting in faraway territories, to intervene consistently in every situation where one of the four crimes -previously cited- were being committed (see *The Responsibility to Protect*, supplementary volume to the Report of the International Commission on Intervention and State Sovereignty, 2005).

What the promoters of RtoP seemed to have missed was that those countries with the capacity to mobilize great military contingents across oceans, had been doing so for centuries for purposes that had nothing to do with the protection of populations. Thus, it seemed inevitable that a group of countries, among them Venezuela, would become skeptic of the real motives of those major powers.

Despite its strong criticism of RtoP, Venezuela's position should not be construed as indifferent to the crimes typified in paragraph 139 of the 2005 Outcome Document. It must be pointed out that Venezuela is a signatory of the Convention on the Prevention and Sanction of the Crime of Genocide, all Geneva Conventions of 12 August, 1949, and its additional protocols I and II, the Rome Statute and the Palermo Protocol, among others. In fact, Venezuela's representative before the United Nations, Jorge Valero, in a statement made on July 24, 2009, at the General Assembly Debate on the Secretary General's report on RtoP, asked the question: "Who can remain indifferent to such ignominious crimes as those which took place in Rwanda and other places of the world?" and went on to express that his country, "... condemned, without equivocation, the acts of genocide, crimes of war, crimes against humanity and ethnic cleansing, regardless of who commits them" (UN Document, A/63/PV.99, 24 July 2009, p.4).

However, reflecting on the interventions made by a group of panelists that day, Ambassador Valero of Venezuela restated the skepticism previously expressed by President Chavez and Minister Rodriguez Araque about the real intentions of major powers. Valero argued that the panelists had put forward two different visions of RtoP:

One, very enthusiastic, calls upon us to have faith and to forget the oppression exercised by stronger countries against weaker ones; the other one offers us an analysis based on irrefutable historical facts and invites us to reflect on the structural causes and the hegemonic imperial domination exercised throughout history, by imperial Western powers, as the elements determining the most grievous conflicts that humanity has suffered and suffers today (Ibid, p.4).

While reinforcing the position previously expressed by Venezuela's highest authorities in 2005, Ambassador Valero went further in his statement by introducing a whole range of new questions on the implementation of RtoP. Some went counter to the agreements reached in the 2005 Outcome Document by challenging the Security Council's prerogative to decide when to intervene: "Will the 192 States that comprise this Organization have the same right to participate and classify a situation as an emergency [requiring intervention]?" The Venezuelan representative went on to answer his own question: "Some argue that the Security Council is the most adequate body to implement an armed or coercive action when the need arises to implement, as a last resort, the responsibility to protect. In this point my delegation wants to make clear our strong disagreement" (Ibid, p.5).

A second set of questions introduced by the Venezuelan representative, partly related to his country's skepticism about the good intentions of Western powers, dealt with the potential political manipulation of RtoP. For example, he asked: "Who can guarantee that intervention will not be carried out for political reasons? (...) Who can guarantee that the 'responsibility to protect' cannot become a pretext for imperialistic countries to intervene, in weaker countries, for political motivations?" (Ibid, p. 5) These set of questions helped to reinforce the apparently ingrained distrust towards major Western powers, while introducing the idea of potential political manipulation.

An additional question introduced by Ambassador Valero of Venezuela had to do with the possibility that RtoP would be implemented following double standards. Thus he asked: "Who can guarantee that there will not be a selective implementation of this approach [RtoP]?" (Ibid, p. 5)

All these questions could only lead towards a request for more time to study and reflect on the viability of RtoP, and so the Venezuelan representative asked for a, "... frank and good faith discussion of the 'Responsibility to Protect' in the General Assembly", as a way to move forward (Ibid, p.5).

The position of the Venezuelan government on RtoP before the events in Libya unfolded, and before Brazil had introduced the concept of the *Responsibility while Protecting*, can be summarized as follows:

First, there was a strong skepticism on the real motivations of Western powers to implement RtoP, including the fear of political manipulation.

Second, there was a strong disagreement with the decision to bestow upon the Security Council the power to determine when a situation had reached the level of emergency requiring an intervention under RtoP. Additionally, there was a strong preference for a more democratic decision making process in the framework of the General Assembly.

Third, it feared that RtoP could be used selectively, by intervening in some cases but not others, depending on the interests of the major powers.

Fourth, it expressed an interest in continuing to discuss the concept of RtoP in the framework of the General Assembly.

The Introduction of *the Responsibility While Protecting*

On November 9, 2011, in the framework of an Open Debate of the Security Council on the Protection of Civilians, Ambassador Viotti of Brazil presented the concept of the *Responsibility while Protecting* (<http://www.responsibilitytoprotect.org>, July 2013). As expressed before, this new concept, which was emerging in the midst of growing international frustration with the implementation of Security Council resolution 1973 on the situation in Libya, was meant to regulate, monitor and make RtoP more accountable. A discussion of the new approach soon followed in the context of the United Nations.

In an informal debate in the United Nations chaired by Brazil's Minister of Foreign Affairs, Antonio de Aguiar Patriota, on February 21st, 2012, participating Member States were asked to voice their opinion on the viability of the *Responsibility while Protecting*.

The remarks made by Gert Rosenthal, Permanent Representative of Guatemala to the United Nations, in the context of the informal debate, rightly captured the spirit of the Brazilian proposal. Referring to the Security Council's intervention in Libya, he pointed out:

For some countries, the execution of resolution 1973 (2011) has been traumatic, and it must be recognized that its implementation has poisoned the environment regarding the 'responsibility to protect', to the point that it is compromising the important progress achieved regarding the acceptance and implementation between 2005 and the present (<http://www.responsibilitytoprotect.org>, 2013).

The "traumatic" implementation of resolution 1973 (2011) on the situation on Libya seems, in fact, to have inspired Brazil—a Security Council Member during the time- to devise a new approach to RtoP. Yet, as Ambassador Rosenthal rightly suggested, Brazil's proposal was not meant to restrain the development of RtoP, but to move it forward:

Far from pursuing substituting the original conception for something new, it builds on the that concept (...) Brazil is providing constructive ideas (...) its initiative (...) aims at a more nuanced and careful management of the responsibility to protect, but at no time does it back off from what was agreed in paragraphs 138 and 139 of the 2005 Summit Outcome Document (Ibid).

Brazil would most likely agree with Ambassador Rosenthal's characterization of the *Responsibility while Protecting*, as a way of moving RtoP forward, rather than a tactic to stall its path towards broader acceptance by UN Member States.

Venezuela's Position Regarding *the Responsibility While Protecting*

The adoption of Security Council's resolution 1973 on the situation on Libya seemed to have confirmed some of Venezuela's worst fears on the implementation of the third pillar of RtoP. In his statement, in the framework of the informal debate chaired by Brazil's Minister of Foreign Affairs, Antonio de Aguiar Patriota, on February 21st, 2012, Venezuela's Permanent Representative to the UN, Jorge Valero, while recognizing the initiative promoted by the "brother country of Brazil", went on to reiterate some of the same points made in his July 24, 2009 statement:

... But who guarantees that there will not be a selective implementation of the 'responsibility to protect'? (...) Why isn't the 'responsibility to protect' mentioned when the Palestinians people are slaughtered? Why isn't the 'responsibility to protect' mentioned when imperial powers assassinate, with impunity, Iraqis, Afghans, and Pakistanis? (...) Who guarantees that the 'responsibility to protect' will not be used as an excuse by imperial powers to conduct interventions in weaker countries, for political and economic reasons? (Ibid)

Venezuela continued to insist on the perils of the selective implementation of RtoP and its political manipulation by major powers. The Libyan experience had, to some degree, substance some of those criticisms. Venezuela might have felt emboldened to insist on its long held view that, "the mandate from the Final Document of the 2005 World Summit is that the 'General Assembly continues examining the responsibility to protect ...'" (Ibid). In Venezuela's view, if the *Responsibility while Protecting* was to be considered, it would have to take place through intergovernmental negotiations in the framework of the General Assembly of the United Nations and with the participation of the 193 Members States.

A year after the introduction of the *Responsibility while Protecting*, Venezuela's skepticism regarding RtoP remained unchanged. In a statement dated September 5th 2012, Venezuela insisted that the events in Libya had fatally wounded RtoP:

We should bear in mind that Resolution 1973 did not authorize the overthrow of Kaddafi, much less his murder. NATO went far beyond the mandate of the Security Council of the United Nations (...) The traits of good intentions and dignity that once could have been attributed to the 'responsibility to protect' have been muddled by the crimes and the media manipulation that occurred in Libya (<http://www.responsibilitytoprotect.org>, 2013) (translated by the author)

A year later, on 11 September 2013, in the framework of the informal interactive dialogue that takes place every year at the United Nations, the Venezuelan delegation insisted, once again, on the “establishment of an intergovernmental process within the General Assembly for this issue to be formally discussed”, while expressing its concern “that UN authorities may be moving ahead, using resources from the Organization for implementing measures that have not been agreed by Member States” (<http://www.responsibilitytoprotect.org>, 2013).

As Venezuela's latest statements show, it is unlikely that it will fully engage in a debate on the *Responsibility while Protecting*, as long as the concept of RtoP is not fully reassessed through intergovernmental negotiations in the framework of the General Assembly. This leads to the conclusion that there has not been any substantive change in Venezuela's official position regarding RtoP, as a consequence of Brazil's introduction of the initiative: the responsibility while protecting.

For Venezuela, RtoP remains a work in progress and intergovernmental negotiations are a prerequisite to reach a common basis for its implementation in the framework of the United Nations.

If these negotiations were to take place, Venezuela would likely continue to contest the selective application of the third pillar of RtoP, including the impunity enjoyed by major powers, the risk of political manipulation, and the discriminatory decision making process when choosing when to intervene. Merging these concerns with the precepts of the *Responsibility while Protecting*, is the challenge posed to those political and diplomatic entrepreneurs who want to make of RtoP a universal tool.

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