REVISITING THE RESPONSIBILITY TO PROTECT

James Steinberg, Panelist

Let me begin by paying tribute to Lloyd for all his work in this area. It really has been path-breaking, and it's rare to see, in a relatively short period of time, such an important and consequential set of ideas take hold and influence the international debate. Though there are many progenitors of this idea, Lloyd has clearly played a critical role in moving it forward.

I want to talk about this from the practitioner's perspective as somebody who was in government both during Kosovo and, now more recently, during Libya.

But I have to begin with what may seem as a slightly glib observation, prompted by Lloyd's literary references: the suggestion that humanitarian interventions are a little bit like Tolstoy's unhappy families — each one is different. I think it's important to keep in mind these differences and to look at the unique set of circumstances that have led, in the past, to humanitarian interventions, as we think about this going forward.

Lloyd did a very good and useful short paper here. I think one point that's critical to keep in mind as we think about this, the idea of the Responsibility to Protect and the limits on the unfettered discretion of a state, or leadership of a state, to act as it wants within its own borders, I think is broadly accepted, and it does color the great international debate.

But the big challenge is not so much the responsibility to protect and the kinds of obligations that accrue to a government, but rather the leap from responsibility to protect to obligation to intervene. I think this is where the challenge is, which is, in the face of the failure of a state to live up to its responsibility to protect, what are the choices that are available and how should they be exercised? And that's what I really want to focus on.

The reason why it's a much harder step to go from the responsibility to protect to the obligation, or the right, to intervene, has to do, both with the issues of legitimacy and efficacy. And a lot of what Allan pointed to are the efficacy issues, which I do want to talk about.

But even on the legitimacy front, the fact that we have an evolving international norm about the responsibilities of governments doesn't fully answer the questions of legitimacy of intervention, because, as both Allan and Lloyd have suggested, it's not just the bad doing of the government in question, but it's who's doing the intervening that matters a lot. Not just in a formal sense of, is the Security Council in favor of this, or what is the decision-making process that led to the intervention, but also how it's being seen by others. This is enormously consequential because the legitimacy of the intervention is very much connected to understandings about motives, intentions, and the like.

I think it's very clear in the post-Iraq world that, when countries from outside a region come in and intervene, the question of the predicate for their intervention is very much going to be an issue. There may have been broad agreement in many quarters that, for example, Saddam Hussein was an illegitimate ruler who gassed his people, et cetera, but for important audiences, whatever they thought about Saddam Hussein, there were equal questions about the motives and intentions of the intervention in Iraq.
This was enormously important surrounding the decision to intervene in Libya because, although the predicate for the intervention was, as it was earlier suggested, the threats that Gadaffi had issued against his own people, and the repression that he had already engaged in in the early stages of the democratic protests in Libya, the reality is, certainly from the perspective of the United States and I believe most of the other governments involved, that the critical moment was not the threat, it was a necessary but not sufficient condition, the critical moment was the decision by, first, the Gulf Cooperation Council and then the Arab League, to call for an intervention.

Why was that so important? Because it changed the legitimacy argument, because we would not be facing a situation where it seemed like Western powers were intervening in an Arab country for questionable motives, and therefore have resonance, not only in Libya, but elsewhere, about the purpose of the intervention. But having other Arab states basically not just endorsing, but actually motivating the intervention was the critical moment which allowed the diplomatic process leading to the two United Nations resolutions to take place. It's why Russia and China ultimately were not in a position to veto it because of the credibility and the legitimacy of the Arab states.

Now, of course, you can unpack that and look at why were the Saudis in favor of it? Well, in part because Gadaffi had tried to kill the king. If you get deep into, it becomes more complicated, but at a very important level, the legitimacy issue went beyond just simply the humanitarian issue and included the broader political context.

I think it's generally going to be true going forward that the responsibility to protect provides a reason to start the discussion, but it doesn't end the discussion about legitimacy.

Similarly, on the efficacy issue, Allan raised the important question about what are you going to do even if you get in?

Efficacy has two elements — one, what is the objective of the intervention, and two, what's the end state that it will ultimately produce? I think in both of those cases, it's a huge constraint on a decision to intervene because, if you're taking this seriously and being a responsible intervener, you have to think about what you are going to achieve through the intervention.

The other critical development in the discussion about the intervention in Libya was the movement from the initial impulse, which is a very familiar one in international relations these days, that there's a humanitarian crisis. Let's have a no-fly zone, which was the initial call by many outside actors, to, from our perspective in the U.S. government, the obvious question, well, he's not killing people with airplanes, he's killing people with tanks and soldiers and the like, and what good would a no-fly zone do?

The critical moment for us, and ultimately for the intervention, was the ability to persuade, through the adoption of Resolution 1970 and 1973, that we needed an intervention that supported a broader set of military activities that were actually related to the threat on the ground. So the ability to go beyond a no-fly zone and to take military action that was more related to the threat was quite critical, thus going to the efficacy of the operation.

But even more important, in Libya as in Kosovo, although the military operation was nominally designed against stopping the immediate humanitarian crisis, in both cases there was a deeper political objective, exactly what Allan suggested, which was regime change, and in both cases it worked. That is, in both Kosovo and Libya, the NATO operation was not designed to get rid of the offending government. It was simply to stop, in the case of Kosovo, the ethnic cleansing that was taking place. In the case of Libya, the attack on Benghazi and Misrata, in fact, explicitly in both cases, there was a recognition that the game wouldn't be over until the political objective was achieved, which was the end of the Milosevic regime and the end of Gadaffi’s regime.
The reason that both of these were successful — in the case of Kosovo quite successful though there's still challenges, and hopefully successful in the case of Libya — will be because that political objective was also part of the strategy. It was understood that there was no way Libya could end with a cease-fire or an end of the humanitarian operation. Ultimately, it was going to require the departure, in some form or another, of Gadaffi.

That leads to my third observation, which is, again, the question that was foreshadowed here, which is, who are you intervening for?

In both Kosovo and Libya, a key to the success was that there was a significant organized force on whose side the intervention took place. In the case of Kosovo, it was the Kosovo Liberation Army and an organized indigenous movement that had political and military dimensions, and similarly in Libya with the TNC. The efficacy of the intervention in both cases was significantly enhanced because there was a force on the ground that could be the partner of the international intervention. It would have been hard to imagine, in either case, how this would have come out well had there not been some form of both political and ultimately military force that the interveners were intervening on behalf of.

My final observation is that, even though in both of these cases and in other cases the humanitarian dimension was a critical part of triggering international attention, ultimately the decision came down to much more than a humanitarian decision. In both cases, there were significant political stakes involved that helped bring countries over the threshold to make the intervention.

In the case of Kosovo, it was the fundamental question about whether NATO could actually deal with a conflict in its own backyard and whether Europe and the United States could work together to deal with the long-term consequence of the end of the Cold War playing out in the European space. The credibility of NATO, the credibility of European governments and the United States, was very much at stake in watching this take place in ways it might not have triggered the same intervention in other places.

Similarly, in the case of Libya, an important consideration for many of the governments and certainly for the U.S. government, was the concern that were Gadaffi able to get away with this kind of brutal repression of an element of the Arab Spring, what would that say to other governments? What kind of consequences would this have?

Now it doesn't mean that because people were aware of the consequences of failing to intervene in Libya that it requires us to intervene in Syria, and we can talk about why Syria is different in many respects, going both to the legitimacy and the efficacy issues, but it is certainly the case that, had there been no response, there would have been significant implications for other autocratic regimes in the region thinking about what freedom and flexibility they had to act as well.

Again, I’m pretty confident in the case of the United States that we took into account all of these factors — the risk of the significant humanitarian crisis in Benghazi, but also the opportunity to use force in an effective means; a political strategy linked to an indigenous force; and the broader set of political considerations that all came together to make this both a justifiable and a worthy intervention that, I think, has a good chance of playing out well.

When we talk about systemic frameworks, I understand and I’m an academic again, but I think at the end of the day the most we can hope for is a set of factors and considerations that policymakers are going to bring to the table.

There is no algorithm, you can't churn the crank and get an answer, which is not to say that we shouldn't be asking the question in each case, but I think it's too much to hope to think that we're going to be able to specify in an unambiguous way about precisely the circumstances that we're going to intervene and precisely the circumstances that we're not. Certainly the door that Lloyd opened at the end is a truly intriguing
one, about going beyond gross humanitarian violations to the sort we're talking about.

But as a cautionary note, imagine a crisis, for example, in Pakistan brought on as result of Pakistani suspicions about vaccines following what they perceived to be a US ploy in tracking down Bin Laden, that led them to curtail their vaccination programs. Imagine that we were then to decide because Pakistan stopped vaccinating its young people, that action posed a grave public health problem and therefore we should intervene in Pakistan to vaccinate Pakistani children — it’s not hard to see how this logic could lead to a slippery, slippery slope.

James Steinberg is dean of the Maxwell School, Syracuse University, and former U.S. deputy secretary of state.