HOW DOES THE R2P AFFECT THE STATE-BUILDING IN FRAGILE STATES?

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1.   INTRODUCTION

The purpose of this analysis consists of investigating how the Responsibility to Protect (R2P) has been affecting and changing the state-building process. Indeed, the international community has been growingly involved in this exercise, even thus its formalisation and consecration occurred only with the arrival of the above-mentioned R2P. Before that moment, there was considerable emphasis on the concept of 'humanitarian intervention', which can be considered as the forerunner of the R2P and from which the latter has emerged and developed (Williams et. al, 2012, 447). The scrutiny of this topic is relevant for several reasons.

Firstly, there are realpolitik reasons that push states to intervene in conflict-affected countries (Chandler, 2004, 59), as we can notice by the emphasis given by the UN when inaugurating the *Agenda for Peace* in 1992. Furthermore, after the Cold War, there has been widespread consensus on the necessity to intervene in fragile states to prevent domestic problems from spreading beyond the borders and undermining the stability of neighbours (Belloni, 2020, 4).

Secondly, sometimes these interventions are feasible only if suitable with the interests of the most powerful countries (Knuters, 2015, 5). Finally, this branch of studies is deeply linked with the priority and urgency posed by the US on the promotion of democracy, which, for reasons that I will treat in the paragraph of state-building, is regarded as a vector of prosperity and peace (NSS, 2002, Sect. 1).

This paper also aims to research the roots of the R2P to understand how the conceptual evolutions within the international community on the protection of human rights, but also its failures in protecting populations (Bellamy, 2015, 37), have influenced the efforts to formalise such a responsibility. Furthermore, I am going to focus on the structure of the R2P, with particular attention to the third pillar, i.e., the responsibility to rebuild.

Additionally, my examination is to cover the concept of state-building to grasp how it developed in the international political discourse, to what extent it can be effective, and what are its implications. The final step will be the exploration of how state-building has evolved after the introduction of the R2P and whether it has been strengthened or weakened. For the purposes of the analysis, I am going to consider the case of Libya after

the international intervention of 2011 that resulted in the collapse of the Gaddafi regime, and that of Ivory Coast.

2.   THE RESPONSIBILITY TO PROTECT

The Responsibility to Protect is a principle recognised by the UN and formally adopted as a norm by the World Summit of 2005 (Williams et. al, 2012, 483-484). First and foremost, it can be seen as a reconceptualisation of the humanitarian intervention (Thakur, 2016, 416) as it represents the outcome of a long process, started in the immediate aftermath of World War II. The first step occurred after the atrocities of the Holocaust, when the then-infant UN General Assembly backed the Genocide Convention (1947) to ban genocide, creating in this way an *international responsibility to prevent* that atrocity (Bellamy, 2015, 36).

An additional step occurred in 1949 on the occasion of the signing of the four Geneva Conventions, which prevented states from using force against all non-combatants in national or international conflicts (Ibid.). Even in this case, the Conventions and relative Protocols (1977) assigned to states the *responsibility to protect* civilians and to cooperate to enforce such provisions. Thereafter, the responsibility of states has been enlarged following the approval of the Rome Statute of the International Criminal Court (1998).

The above-mentioned Treaty obliged states to *protect* civilians from brutalities, defined as 'crimes against humanity' (Ibid.). This growing sense of responsibility has been confirmed by the International Court of Justice which, in the dispute Bosnia vs. Serbia (2007), clarified that states have the *legal obligation to prevent and punish* the crime of genocide, by all the means reasonably available to them (ICJ, 2007, 219). The urgency for an effective humanitarian intervention turned dramatically explicit in the 1990s when a disappointing number of genocides and atrocities occurred.

All these humanitarian catastrophes, most notably those in Bosnia, Darfur, Somalia, Rwanda, and Zaire, summed with the inaction of the UN peacekeepers, and the apparent unwillingness of the Security Council (Bellamy, 2015, 36) to intervene, made it clear that the obligations of the international community have been considerably neglected, and that it was necessary a new approach. Another element contributing to the R2P consists of the events that occurred in Kosovo in 1999 (Newman, 2009, 93).

Because of all the failures, and the selective use of international assistance, the concept of humanitarian intervention fell into disgrace (Ibid). That opened the door for the R2P. These dramatic events urged the UN Secretary-General Kofi Annan to call upon states to engage in a serious debate to find out new parameters, prospects and approaches to ensure 'human security and intervention in the next century' (Kofi Annan, September

1999). The challenge launched by the Secretary-General has been accepted by the Canadian government that appointed the International Commission on Intervention and State Sovereignty (ICISS) to prepare a groundwork in that direction. In 2001, the ICISS published its historic report entitled '*The Responsibility to Protect*' (ICISS, 2001).

The underlying principle of the report was the concept of '*sovereignty as responsibility*' firstly expressed by Francis Deng and Roberta Cohen, according to which sovereignty does not entail only rights, but also duties, the main of which is the protection of citizens (Bellamy, 2015, 37). This implies not only negative responsibilities, such as providing shelter against external threats but also positive ones, like providing essential services and preserving citizens' lives[1]. In this optic, should states encounter difficulties in the fulfilment of these obligations, they are expected to ask for international assistance. The non-compliance with these duties gives rise to accountability (Deng and al, 1996, 1).

Accordingly, two responsibility layers exist, with the former belonging to states, and the latter to the international community, which plays an integrative or proactive role, respectively assisting countries or replacing them, if they fail (Bellamy, 2015, 38). These provisions are innovative for at least two reasons.

Firstly, R2P remarkably changes the domestic-international relationship, allowing states to intervene in the internal affairs of others if it proves necessary to uphold people's rights, thus prioritising them vis-à-vis states' prerogatives (Belloni, 2020, 6). It provides a normative justification to interfere, as 'the time of absolute and exclusive sovereignty…has passed' (Boutros-Ghali, 1992, par. 17). Secondly, R2P overturns the state-citizen relation, as 'states are now widely understood to be the servants of their people, not vice versa' (Annan, 1999), thus de facto conditioning sovereignty rights to the duty of protecting citizens (Thakur, 2016, 421).

The formalisation of this new principle occurred in 2005 with the UN World Summit, when the ICISS precepts have been included in the outcome document, later adopted by the General Assembly. The core elements agreed by world's leaders are paragraphs 138-140, which point out the responsibility of states to protect all persons under their care, not only their citizens (Bellamy, 2015, 43), from four crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity. Indeed, 'this responsibility also entails the prevention of such crimes, including their incitement' (World Summit Outcome, 2005, 30).

The ICISS conceived the R2P as a three-pillar structure. Pillar I entails the protection responsibilities of states (Ki-Moon, 2009, 2), reporting the duties of each country to protect its population. Pillar II refers to the role of the international community

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[1] https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml

when a state is unable or unwilling to meet its obligations (Ibid, 9). Finally, Pillar III foresees a 'timely and decisive manner when a state is manifestly failing to provide such protection' (Ibid, 9).

Moreover, the ICISS also involves three separate and intertwined responsibilities (Williams et. al, 2012, 482). First, the *responsibility to prevent* mass atrocities from occurring (ICISS, 2001, 19). Second, the *responsibility to react* (Ibid, 29), which redirects the duty to intervene to the international layer, when states are unable to protect their populations or unwilling, as themselves are the perpetrators (Williams et. al, 2012, 482). Finally, the *responsibility to rebuild* (ICISS, 2001, 39), according to which 'intervening states are responsible for security, reconciliation, and development, as well as peacebuilding in the torn-down country' (Ibid, 39-42). Although the principle of intervening against mass atrocities and protecting populations has spread as a mainstream idea, much more difficult proved to be the destiny of the responsibility to rebuild (Keranen, 2016, 332).

Indeed, because of a conceptual shift, this duty passed from representing an international obligation, part of a wider duty to protect, to a domestic issue (Ibid.). The responsibility to rebuild has long roots and finds its ratio in the duty of the intervening forces to rebuild the occupied societies, as expressed by the *Just Post Bellum* school (Ibid, 333). The debate about the rightness of the rebuilding task is still ongoing, with some arguing that intervening forces have such a duty because the aftermath of a conflict is as important as the conflict itself (Ibid, 334). By contrast, others point out that international actors acting in compliance with the just war criteria to protect populations do not have further responsibility for collateral damages (Robinson, 2013, 106). Finally, others again clarify that despite rebuilding is a responsibility belonging to the foreigners, it should be undertaken by those better endowed to do so, namely the UN or other specialised agencies (Pattison, 2015, 22-24).

3.   STATE-BUILDING

Broadly speaking, state-building is understood as a process of capability-enhancement, thus a national process locally shaped, arising from the state-society interaction, but often influenced by several external factors (Whaites, 2008). The idea of (re)building states is a quite long-lived principle emerging from the first decades of the past century. Even though its first, true forerunner is often found in the Marshall Plan (Keranen, 2016, 336), other less known attempts occurred well before. According to Andrew Williams, the first one has been performed by the United Kingdom in the Boer republic, whose administrative and productive capabilities have been updated and strengthened by London, after the Boer

War (Williams, 2005, 541). Other two attempts can be found in the reforms carried out by the League of Nations to revive the Austrian economy after the First World War (Ibid.), and in the post-war reconstruction promoted by the US in Germany and Japan to stimulate economic development and democracy (Keranen, 2016, 336).

After the Cold War, numerous states found entangled in internal conflicts that not only made the transition to democracy quite harsh but also consistently threatened the stability of others (Belloni, 2020, 4). For the first time, the obstacle to the apparently unstoppable advance of Western principles did not consist in the USSR but rather in the so-called 'weak and failing states' (Ibid, 5). The turning point occurred in 1992 with the drafting of the *Agenda for Peace* by the UN Secretary-General Boutros-Ghali through which the UN asserted the right to intervene in the internal affairs of sovereign states to underpin the post-war reconstruction and to favour democracy (Ibid.). It inaugurated the concept of peace-building, which I intend as the purpose of state-building. In fact, only by providing conditions of public safety, sustainable growth, and good governance, it is possible to build a durable peace (ICISS, 2001, 39).

The current conception of peace-building is intrinsically different from the past historic attempts, as instead of rebuilding the status quo (Fukuyama, 2006, 4), the post-Cold War attempts are intended to alter it (Keranen, 2016, 335). It concretely means addressing the root causes that originate conflicts and instability, namely poverty (NSS, 2002, sect. 2) which, together with weak institutions and corruption, makes fragile states prone to become a source of transnational ills, impossible to contain within borders and likely to affect Western states (Belloni, 2020, 5). Such risky situations require thus an external intervention which, although violating national sovereignty, is justified by the provision of public goods, such as economic development, democracy, and human rights (Ibid, 6).

In order for these goods to last and provide stability, a full state-capacity, namely a functioning state (Keranen, 2016, 335) shall be ensured, so effective state-building becomes necessary. Furthermore, rebuilding is also understood as a necessary step to prevent societies from relapsing into conflicts (Boutros-Ghali, 1992, par. 21). For this reason the ICISS related intervention and rebuilding, with the latter being a natural consequence of the former (Schnabel, 2012, 53). The 2001 report drew up a list of priorities to be implemented in the rebuilding stage: security, justice, development (Keranen, 2016, 336).

First, security is usually best implemented by international actors in order to ensure public order, protection for the population, and safe ground for the rebuilding operations (ICISS, 2001, 39-42). An essential role is played by disarmament, demobilisation, and reintegration of the former combatants, but also by the law enforcement, and the

reconstruction of a national army and police. This not only facilitates reconciliation but also ensures a long life to the newly-created institutions (Ibid, 41).

Second, justice is another essential element to ensure the protection of citizens in the long-term (Keranen, 2016, 336), thus rebuilders have to focus on effective judicial reforms. The ratio is that it does not make sense to strive to protect human rights if there is no functioning judicial system, able to punish violations (ICISS, 2001, 41). Another important task is to protect the legal rights of returnees, by removing bureaucratic shortcomings, punishing the perpetrators, and abolishing discriminatory practices (Ibid, 42).

Finally, durable peace is not feasible without sustainable development, simply because people (particularly former combatants) without an income, are more likely to return to weapons (Ibid.). It can be pursued by stimulating economic growth, opening up markets but, most importantly, by withdrawing coercive economic measures (Ibid.).

4.   STATE-BUILDING UNDER R2P

After having investigated the origins of the R2P and state-building, time has come to go in-depth and figure out how the latter has been influenced and implemented in the light of the former. The most important consequences are certainly the introduction of the concept of 'local ownership' (Ki-Moon, 2012) and the detachment of the international community from the direct, top-down, and externally imposed interventions carried out in the 1990s that caused unhealthy dependencies and hampered the domestic capacity building and recovery (Keranen, 2016, 340). Indeed, two innovations occurred.

First, the principle of national ownership requires to find a balance between international and local responsibilities (ICISS, 2001, 44-45), as interveners have to contribute to the post-conflict reconstruction, without seizing and monopolising political power. Their task consists instead in setting up a process conducive to the development of local political capabilities (Ibid.), and in providing resources and instruments to stimulate domestically driven reforms (Belloni, 2020, 15). Transferring responsibilities back to local communities is the only way to encourage them to bear the burden of reconstructing their societies and destiny, but also to ensure that the rules and the institutions created during the transition period will not collapse after the interveners' departure. Disregarding this

principle would impoverish domestic capabilities, trigger toxic over-reliance on foreign aid, and raise the risk of relapsing into conflict (ICISS, 2001, 44-45).

Second, following the 2009 update of the report, states considered that, since mass atrocities can be seen as consequences of institutional shortcomings (Chandler, 2010, 165), post-conflict rebuilding is coherent with preventive capacity-building (Keranen, 2016, 338) and that such a responsibility is better performed by local, rather than external actors. However, after the military missions in Afghanistan (2002), Iraq (2003), and Libya (2011), which definitively lacked an exit strategy and did not envisage any follow-up, it appeared reasonable that post-conflict responsibilities should be undertaken by the interveners, but states considered rebuilding tasks excessively onerous and politically costly, thus preferring withdrawing immediately after the end of hostilities (Chandler, 2010), and leaving the eventual reconstruction responsibilities to the UN and specialised agencies (Keranen, 2016, 334).

This approach openly contradicts the spirit of the 2001 report that called for a long-term commitment by the intervening forces, which have to plan to remain in the target country 'for some period of time after the initial purposes of the intervention have been accomplished' (ICISS, 2001, 39). A further explanation is provided by Schnabel, which points out that the failures of the state-building operations in the past decades created a bias within states that now are less willing to commit to the third pillar of the R2P (Keranen, 2016, 335).

Libya: the cost of doing nothing

The military intervention carried out in Libya in 2011 is often regarded as the first practical test of the R2P, as it has been explicitly mentioned by the UNSC resolutions 1970-1973 (UNSC, 2011), which provided the legal basis for the intervention. However, the UNSC only mentioned the responsibility to protect and to react, neglecting the duty to rebuild (Krisetya, 2016, 47). It is evident that the interveners' post-conflict approach was marked by disengagement (Pack and Barfi, 2012, 19). Accordingly, although the rebuilding phase lasted four years, little progress has been made towards political stability and prosperity (Keranen, 2016, 340).

Since the NATO intervention involuntarily resulted in regime change, external actors should have been committed *a fortiori* in rebuilding tasks, because, as a World Bank's research shows, in the post-conflict phase there are 40% of chance that countries return to conflict within a decade (WB, 2007)[2]. In the Libyan case, it only took three years

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[2]

http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:21327 197~pagePK:64165401~piPK:64165026~theSitePK:469382,00.html

for the country to be absorbed in a new civil war (Krisetya, 2016, 49). Due to the immediate withdrawal of the interveners, once the international spotlights turned off, a new conflict occurred among the former anti-Gaddafi combatants, since many refused to down their arms, distrusting the new governing institutions as some pro-Gaddafi elements held governing seats (Keranen, 2016, 340).

Moreover, in the absence of a credible judicial system, judicial functions were performed by armed groups, which managed prisons and conducted trials (ICG, 2013). The newly installed government was unable to enforce the law, impose its authority and credibly lead the process of disarmament, demobilisation, and rehabilitation (as foreseen by the ICISS), being mistrusted by hundreds of armed groups, which refused to cooperate fearing that subjects active in the previous regime had infiltrated the new government (Pack and al, 2014, 44).

These troubles brought rebuilding tasks down in the priority list of international donors, whose focus was mainly on strengthening the security apparatus of the new government to stabilise the country and, most importantly, provide border security to curb terrorism, arms trafficking, and illegal migration (Keranen, 2016, 341). Accordingly, the Western concern was not to bring about effective state-building, but to limit the negative setbacks that could affect their national interests (Ibid.).

The very only attempt to rebuild the country has been carried out by the UN through the UNSMIL, acting under the principle of national ownership (UNSC, 2011-12), even though results are still far unsatisfactory. Yet, it is an issue, as post-conflict economic development not only plays a role for security, providing people with an income that prevents them from returning to arms but is also essential for the complete recovery of the country (ICISS, 2001, 41). Indeed, a sustainable plan for economic development is the only true exit strategy (Krisetya, 2016, 52).

Ivory Coast: when nobody wins

Another relevant case is that of Côte d'Ivoire, which differs in many ways from the Libyan experience. In April 2011, the country stepped outside a prolonged civil war that originated from the elections of November 2010, when the incumbent president Laurent Gbagbo has been defeated by Alassane Ouattara. Refusing to step down, Gbagbo triggered military clashes against the opposition forces, which were supported by the *Forces Nouvelles* (FN), by a French mission, and, surprisingly, by the military intervention of the United Nations Operations in Côte d'Ivoire (UNOCI) (Piccolino, 2018, 486).

Unlike what happened in Libyan, here a true rebuilding operation occurred, led by the UN, which could rely on a previous, ten-year mission in the country (Keranen, 2016,

342). Hostilities ended with the seizure of Gbagbo, and the inauguration of the Ouattara's government, which, thanks to the president's past, received remarkable support from the international financial institutions (Piccolino, 2018, 504). The state-building process assumed a strong domestic character, as Ouattara wanted to develop an ambitious multi-annual plan of public and private investments (Ibid, 503), diversification of the economy, and FDIs, rather than ODA, to underpin the post-conflict transition (European Parliament, 2013)[3], even though consistent aid has been provided, particularly by France and the EU, for social policies (Cook, 2011, 10).

Although the recovery program proved successful, consistent problems regarded the lack of independence of the judicial system, which arbitrarily persecuted the supporters of the former president Gbagbo (Bovcon, 2014, 193-198). Moreover, the UN-led operation, UNOCI, emphasising the principle of national ownership and responsibility (UNSC, 2014), left the organisation of the elections and other post-intervention tasks to the domestic government.

The outcome of the four-year transition are mixed and with considerable shadows, as Outtara's forces committed atrocities and violations of human rights that remained uninvestigated (Keranen, 2016, 343), and he could consolidate its power through an arbitrary distribution of land, causing widespread conflicts, and corruption to control the opponents and preserve power (Piccolino, 2018, 505). Both remained entirely unaddressed and neglected (Mitchell, 2014, 213), not to talk about the arbitrary assignment of public tenders (Piccolino, 2018, 505).

Finally, despite the boost to the GDP, the redistribution of wealth was unequal and failed to translate into an appreciable improvement in ordinary citizens' life (Piccolino, 2018, 504), since there has been a negligible decrease in poverty, from 48.9% in 2008 to 46.3 % in 2015 (Ibid.), and a level of Human Development Index of 0.474 even below the average of the region equal to 0.523 (UNDP, 2018)[4].

5.   CONCLUSION

Many lessons can be drawn from this analysis, but the most important is that we look at state-building from a wrong point of view. Rather than deeming it the conclusive phase of a process that can anyway survive, we should understand it as an essential element not only to rebuild societies but also not to nullify the efforts carried out to halt violence.

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[3] http://www.europarl.europa.eu/
meetdocs/2009_2014/documents/deve/dv/country_briefing_/country_briefing_en.pdf
[4] http://hdr.undp.org/en/composite/HDI

The only way to prevent international action carried out to *protect* populations and to *react* to mass atrocities, from being undermined by a relapse into conflict, is to provide an effective post-conflict transition and stabilisation. Even though state-building can lead to stability and prosperity in the long run, it can produce the opposite effect in the short one (Keranen, 2016, 343). The reason is that it leads to a reconfiguration of power, thus creating winners, losers, and a general struggle for power (Ibid.). Furthermore, using democracy to maintain peace can have adverse effects as introducing a competitive system in post-conflict societies not institutionally or culturally prepared for competition can trigger further violence or simply be ineffective (Paris, 1997, 54-56).

State-builders have also to remember that if their work does not reflect local instances, namely if they impose rules and institutions, neglecting communities' preferences and perceptions of legitimacy, it raises the chance of destabilisation and rejection by the locals, as well as the collapse of the imposed structures (Major, 2013, 27). Besides, economic development is the only vector able to lead war-torn societies through the transition to prosperity. This is certainly the hardest phase, as it requires security forces to ensure protection but also significant funds to fuel such a process (Collier, 2009, 88-89).

Investments and aid, moreover, are vital to allow high-quality transitions. As shown by the World Bank, a war-torn country's ability to exploit foreign funds is low in the immediate post-conflict because of institutional weaknesses. More generally, in the first three years, this capacity is not particularly high, but in the following seven years, it doubles and after having peaked, it then decreases (WB, 2003, 1). However, often international organisations and donors are not so patient and put pressure to see quick results, even if their expectations are unrealistically high. This is also due to the so-called '*CNN effect*'. International attention is higher in the immediate conflict aftermath when however the absorptive capacity of the country is lowest and then drops when the recipient has reached the most absorptive phase.

From this insight, it is possible to understand why state-building is so important. Since the main handicaps in absorbing aid and implementing programs rest with institutions, strengthening them allows long-term stability and makes countries more able to utilise funds when they are more likely to be available (Ibid.). What truly makes the difference is the external commitment, as international actors often are unwilling to stay in a country for enough time to allow a safe and effective transition (Major, 2013, 30), as they see it as an excessively costly process.

At this point, my question is the following. Since preventing war-torn societies from relapsing into conflict is too *costly*, what is the cost of *doing nothing*?

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