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Analysis of the Dilemma of the Responsibility to Protect and Reconstruction of Norms: A Review

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Abstract: "As an important theory in the field of humanitarian protection, the responsibility to protect has not been adequately adapted to the practical situation, and is prone to produce unfavorable consequences beyond the scope of humanitarian protection. Based on in-depth investigation of the dilemma of the "responsibility to protect" in the application, in order to explore the possible path of improvement. This paper summarizes the past literature at home and abroad, and focuses on the case of humanitarian intervention in Libya. The findings reveal that the "Responsibility to Protect" faces challenges in practice, including "unclear triggering conditions," "excessive costs of action," and "lack of post-intervention reconstruction measures," all of which hinder its practical effectiveness. In order to improve the theoretical framework of the responsibility to protect, we can draw on the theoretical perspective of "responsible protection", while actively promoting the establishment of a more equitable and just international political and economic order.

Keywords: Responsibility to protect, Humanitarian intervention, Libya

1. Introduction

"The concept of the 'Responsibility to Protect' was introduced in the early 20th century and has undergone more than two decades of development, yielding certain theoretical and practical achievements. Scholars have summarized that the proponents of the 'Responsibility to Protect' primarily employ a 'diagnostic framing' approach, constructing a relatively sophisticated 'moral practice framework[1].In this process, countries around the world have either accepted or partially accepted this principle, and there is significant international expectation regarding its application. However, following its initial implementation in Libya, the limitations of the principle have gradually become apparent. This has led to debates within the international community over the legitimacy of interventions based on this principle and questions regarding the effectiveness of such interventions. Therefore, further clarification and study of the theory are necessary.

A review and synthesis of the existing literature reveals that scholars generally focus on the theoretical construction of the 'Responsibility to Protect,' with less attention given to its practical effectiveness. There remains a lack of sufficient empirical research and actionable recommendations for its implementation. At the same time, the practical application of this theory in international humanitarian intervention also presents certain limitations, with its actual effectiveness being subject to widespread scrutiny. This paper focuses on the analysis of the dilemmas surrounding the

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'Responsibility to Protect' and its normative reconstruction. In the course of this research, the paper returns to the limitations of the 'Responsibility to Protect,' outlining and summarizing the challenges it faces. Based on this analysis, the paper critiques the shortcomings of humanitarian intervention in Libya and proposes actionable theoretical regulatory pathways. Ultimately, the goal is to deepen the understanding of the 'Responsibility to Protect,' refine its theoretical framework, promote its rational application within the international community, and, in the long run, contribute to the promotion of world peace and development."

2. Literature Review

In this paper, in the process of researching the “responsibility to protect”, the Chinese literature was searched using Zhi.com and the English literature was searched using heinonline. Through comparison and analysis, it is learned that the number of English literature in the field of “responsibility to protect” is obviously more than that of Chinese literature, and the content is also richer. Therefore, this paper mainly focuses on the English literature, supplemented by the Chinese literature, to analyze and study the “responsibility to protect” .

2.1. Clearly Define the Criteria for Triggering the Responsibility to Protect

The “responsibility to protect” is an intervention by the international community in a country's national sovereignty based on the protection of human rights, and it is therefore crucial to accurately grasp the conditions under which it can be penalized. The current governmental consensus is that the power to take military action is reserved for the Security Council[2].However, there was a view in the international community today of unilateral humanitarian intervention, which held that a State or group of States could intervene in another country on humanitarian protection grounds without authorization from the Security Council. Such a view, which undoubtedly lacked a legal basis and a source of legitimacy, would result in an infringement of sovereignty and undermine the peaceful development order of the international community. Therefore, in implementing the responsibility to protect, due process should be followed, i.e., international organizations must adopt a resolution by the Security Council before it is necessary to intervene in other countries, and there should be no private intervention between countries in the internal affairs of other countries without the approval of the Security Council[3]. At the same time, the scope of intervention using the “responsibility to protect” should be limited to genocide, ethnic cleansing, war crimes and crimes against humanity[4].The reason for limiting the scope to these four crimes is, firstly, that these four types of acts are characterized as systematic, widespread and prolonged, and are criminal acts under international law and human rights law. Secondly, these four types of crimes deprive individuals of their security and liberty, while the right to life, personal liberty and bodily integrity are fundamental human rights and the basis for the enjoyment of other rights.

2.2. Reduce the Cost of Humanitarian Intervention

When humanitarian interventions utilize the “responsibility to protect”, the question of how to rationally reduce the costs of operations and avoid situations where the adverse costs outweigh the actual effects is also a key issue to be considered. No matter how carefully coercive operations may be planned and conducted, they almost always cause collateral damage and accidental deaths - they break things and kill innocent people - which is may be planned and conducted, they almost always cause collateral damage and accidental deaths - they break things and kill innocent people - which is No matter how carefully coercive operations may be planned and conducted, they almost always cause collateral damage and accidental deaths - they break things and kill innocent people - which is bound to have a more immediate impact on public debates than a conjectured counterfactual

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scenario[5].The mediation process should adopt an “escalating and flexible” timeframe, insisting on clear and unchangeable conditions, contain the undesirable development of the situation in a timely manner, and provide incentives for the willingness to cooperate and the improvement of the dispute resolution situation[6]. Military action should only be authorized on behalf of the R2P when other peaceful means of settlement, such as mediation, fail to achieve humanitarian protection, and should be subject to a “comprehensive and careful analysis” of its consequences, while its scope should not exceed that authorized by the Security Council.

2.3. Develop a Long-term Prevention Strategy

Scholars analyzing existing cases of humanitarian interventions through the “responsibility to protect” have found that interventions often achieve only short-term goals but do not help the target country to achieve long-term development and lack a sustainable end state. Achieving a sustainable end-state for an intervention may be a more far-reaching task than the immediate task of protecting populations at immediate risk of mass atrocities[7]. Humanitarian crises happen when there isn't enough rule of law, social injustice, or government power in the target country. For this reason, the international community needs to have a long-term plan to prevent these problems and help the target country rebuild after a conflict, once the goal of protecting civilians has been met[8].

3. Case Analysis

In 2011, large-scale anti-Government protests broke out in Libya under the influence of the Arab Spring. In order to suppress the protests, the Gaddafi government used violent means of repression such as air strikes, which led to a large number of casualties among innocent civilians. As a result of the timely deterioration, the United Nations Security Council adopted resolutions 1970 and 1973, deciding to take the necessary measures to intervene in order to protect civilians on the ground. The 2011 humanitarian intervention in Libya was a classic example of the application of the responsibility to protect to a humanitarian problem, but it received mixed reviews from the international community. Supporters argued that it was a successful exercise of the responsibility to protect that saved a large number of civilian lives. Critics, however, argue that the intervention was only a short-term victory, and that in the long term it did not effectively stabilize the situation in Libya, but rather led to a more serious conflict and humanitarian crisis. Therefore, on the basis of previous studies, this paper further analyzes the application and effectiveness of the responsibility to protect in the humanitarian intervention in Libya.

First of all, the humanitarian action in Libya exceeded the authorized scope of the UN Security Council, which means that the intervention may have constituted “mission creep”[9] .Through the analysis of UN Security Council Resolutions 1970 and 1973, it can be seen that the intention of the Security Council was to take certain actions to set up a no-fly zone in order to stop the violence in Libya for the purpose of protecting civilians. The Security Council's intention was to take certain actions to establish a no-fly zone to stop the violence in Libya for the purpose of protecting civilians, and it did not demand that the Gaddafi government step down. However, when the Libyan Foreign Minister declared a ceasefire and accepted the no-fly resolution, the countries that intervened did not cease fire but carried out further military strikes against Qaddafi and created conditions for the opposition to confront the government forces, which ultimately led to the fall of the Qaddafi government. Accordingly, the intervention went beyond the scope of the Council's authorization and had a certain degree of political overtones. Strong dissatisfaction has been expressed over the shift of the objective from the protection of civilians to the overthrow of the Gaddafi government in the humanitarian intervention in Libya, and it is believed that the authorization of UNSCR 1973 could not be extended to the civil war and the overthrow of the regime[10]. At the same time, Russia, China,

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India, and Brazil also expressed strong opposition to this action. While NATO supporters believe that only the complete overthrow of the Qaddafi government and the establishment of a new government can truly realize the protection of the Libyan people. But as Evans, the father of R2P, points out, such an action would violate the purpose of the R2P principle and the rights of the Libyan people, who are the only ones who can decide on regime change[11]. In the author's view, although the "responsibility to protect" authorizes a certain degree of crossing the boundaries of sovereignty within the scope of protection of civilians when the fundamental rights of the civilians of a country have suffered a great deal of harm, it is not a complete negation of the sovereignty of a country. Therefore, when implementing humanitarian interventions on the basis of the R2P, it is crucial to comply with the authorization of the UN Security Council, otherwise the legitimacy of the intervention will be lost.

Secondly, the humanitarian intervention in Libya has had a greater cost. While counterfactual reasoning suggests that the intervention is expected to save millions of lives, the obvious harm it has caused cannot be ignored. Investigations have shown that the intervention itself caused a large number of civilian casualties and prolonged the internal conflict in Libya[12]. According to the precautionary principle, force must not be the first option for States, but rather the last resort. Tn other words, military action is only okay if all non-military options for stopping or ending a crisis peacefully have been tried and there are good reasons to think that the non-military option won't work to keep the crisis under control[13]. In addition to the principle of prevention, the principle of proportionality requires States to ensure that the scale, practice and intensity of attack of any military action must be commensurate with the scale of the aggression denounced. Thus, the scale, duration and intensity of military intervention in humanitarian interventions based on the "responsibility to protect" should be the minimum necessary to ensure that the objectives of humanitarian protection are met. The extensive use of air strikes and military support for anti-Government forces during the humanitarian intervention in Libya undoubtedly went beyond the scope of armed operations that should be carried out for the purpose of protecting civilians and, to a certain extent, resulted in civilian casualties. In the course of the military intervention, reports of the current situation in Libya have appeared from time to time, and the large number of photos of bombed-out mosques, destroyed schools, wounded civilians and corpses in hospitals[14] have gradually shaken the Arab League's support for the operation and raised questions about it. It is thus clear that the negative impacts of forceful humanitarian intervention are unavoidable, and that no matter how well planned, forceful action can cause collateral damage and unintended deaths.

Finally, Libya's post-war trauma has been severe, and reconstruction has been difficult, with a lack of complete measures to assist reconstruction. After the humanitarian intervention in Libya in 2011, the country was plunged into a long-term chaotic situation. After the fall of the Qaddafi regime, Libya failed to establish a unified and effective government, local armed forces and warlord forces rose rapidly, and armed groups in different regions were opposed to each other. At the same time, the local economy was hit hard, the oil industry and infrastructure system suffered serious losses, and the country's economy was plunged into difficulties. To this day, Libya is still in the midst of a serious political and economic crisis, and still faces a relatively severe humanitarian crisis, so the humanitarian intervention in Libya has not solved the root causes of Libya's social development. From this, we can see that the reconstruction after humanitarian intervention is also an aspect that should be given due attention. when ICISS first proposed the "responsibility to protect" in 2001, it believed that this principle should include the "responsibility to rebuild", which means that interveners in R2P situations should be "genuinely committed to the responsibility to protect", which means that the "responsibility to protect" should not be limited to the "responsibility to protect" . This means that interveners in R2P situations should be "genuinely committed to helping to build lasting peace and promote good governance for sustainable development"[15]. This view suggests that there may be an obligation under international law to assist in the reconstruction of the "target State"

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following a humanitarian intervention. Although there is no reference to “reconstruction” in the 2005 UN document on the “Responsibility to Protect”, it is undeniable that military interventions based on narrow objectives, even if they achieve the initial goal of averting mass atrocities, can leave the international community concerned about the effectiveness of the operation. Even if it achieves its initial goal of averting mass atrocities, it still raises doubts in the international community about the effectiveness of the operation[16]. It is therefore necessary for the international community to invest more resources in this direction and to give more meaningful development assistance to the countries targeted by humanitarian interventions in order to improve their living conditions. Actions that hastily resort to military action, simply push for regime change, or remain merely emergency efforts cannot be characterized as a “responsible” form of protection. At the same time, in order to counter the negative view of “reconstruction”, the international community's involvement in post-intervention reconstruction would make the “responsibility to protect” indistinguishable from regime change imposed by external forces[17]. Therefore, the contradiction between “reconstruction action” and “national self-interest” should be reconciled, and the United Nations should be responsible for determining the boundaries of “reconstruction” measures, the criteria for the actual effectiveness of “reconstruction”, and so on.

Through an analysis of the humanitarian intervention in Libya, it can be seen that the humanitarian action against Libya was not a successful case of the “responsibility to protect” . Although the basis for its legitimacy began with the “responsibility to protect”, the actual means and final results have far exceeded the boundaries of the “responsibility to protect” . Although the basis of its legitimacy began with the “responsibility to protect”, the actual means and final results have far exceeded the boundaries of the “responsibility to protect”, and therefore there have always been voices of skepticism about it in the international community. At the same time, we can also find that the “responsibility to protect” still has certain deficiencies in its concrete application, and further improvements can be made in the construction of the system's concretization and its practical effectiveness.

4. Future Direction

The responsibility to protect originated from the consideration of humanitarian protection, but in practice it has been alienated and has failed to fundamentally and adequately address the political and economic problems of the countries concerned. At the same time, the application of the “responsibility to protect” has been controversial among countries with different positions, and no consensus has been reached. Therefore, it is necessary to improve and perfect the theoretical structure of the “responsibility to protect” in the future, so that it can play a better role in the international community to solve the terminal problems. Through sorting out and summarizing the views of past scholars, the author agrees with the “responsible protection”[18] developed on the basis of the “responsibility to protect”. “Responsible protection” breaks through the simple surface of the purpose of achieving, emphasize the implementation of the intervention of the actual effect of the consideration, at the same time, it for the existing dilemma of the preliminary institutional arrangements, conducive to solving the ‘responsibility to protect ’ of the dilemma and the possibility of moral hazard. At the same time, it has made preliminary institutional arrangements for the existing dilemma, which is conducive to solving the dilemma of the “responsibility to protect” and possible moral hazard. In the future, it is still necessary to conduct further research on the improvement and innovative development of the “responsibility to protect” on the basis of fully taking into account the actual situation. However, the most important thing is to actively promote the construction of a just and equal international political and economic order, so as to eliminate the existing contradictions in the international community as far as possible and solve the problems at the root.

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5. Conclusion

The theory of "Responsibility to Protect" was proposed with the goal of humanitarian protection. However, in the course of its practical development, a trend of deviation from its core values has emerged, undermining its actual effectiveness. Through an analysis of existing literature and the humanitarian case of Libya, the author identifies three main issues with the "Responsibility to Protect": (1) unclear trigger criteria, (2) excessively high costs of humanitarian intervention, and (3) lack of post-intervention reconstruction measures. Moving forward, a more systematic institutional framework and solutions need to be established. At the same time, efforts should be made to promote the construction of a fair and just international political order, actively resolving existing conflicts within the international community and addressing the fundamental issues with the "Responsibility to Protect.

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