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Libya and the Future of the Responsibility to Protect – African and European Perspectives

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Member of Leibniz Association

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Summary

The adoption of UN Security Council Resolution (UNSCR) 1973 and the ensuing military intervention in Libya have been widely hailed as events of historic importance. And rightly so. Although the UN Security Council had authorized the use of coercive measures to protect civilians before, it is the first time that the Council authorized the use of force for the purpose of human protection against the will of the acting government of a functioning state. Moreover, the broad language of the resolution left room for prolonged military action that resulted in the toppling of the Libyan regime. The Responsibility to Protect (R2P), developed by the International Commission of Intervention and State Sovereignty (ICISS) ten years ago, and endorsed, albeit in rather general terms by the community of states at the World Summit six years ago, is finally put into practice. This watershed event will change the understanding and meaning of this hitherto contested concept in many respects. For one thing, the events in Libya point to the continuing relevance of R2P. Despite the disastrous outcomes of the interventions in Iraq and Afghanistan, and despite plummeting support for humanitarian intervention in many Western societies, Resolution 1973 and the subsequent military campaign indicate that the idea of humanitarian intervention has not been put on the back-burner. Less easily predictable are the consequences of these events for the legitimacy of the concept of R2P. Does UNSCR 1973 indicate the emergence of a global consensus on when and how to use force for protective purposes? Or will these events reinforce existing normative frictions?

This paper discusses how Resolution 1973 has been received in two relevant regional settings – the European Union (EU) and the African Union (AU) – and how implementation of the resolution will impact on the interpretation of R2P in both regional organizations. It starts with a reconstruction of R2P and discusses its application in Libya. The paper shows that important ambivalences in the concept of R2P, such as the principles of right authority and right intention, have also surfaced in the current controversy over the implementation of Resolution 1973. The principle of right authority concerns the authorization of violence as well as control over the ensuing use of force. The principle of right intention addresses the relationship between interests and moral obligations.

In section three, the paper describes how the EU and AU have incorporated and re-interpreted R2P in their respective security cultures. In contrast to other regional organizations like ASEAN, both the AU and the EU started to engage with this concept shortly after it had been put on the international table by the ICISS. Generally speaking, both organizations have reacted positively to R2P. At the same time, however, both organizations have adapted the concept to their local needs, traditions, and interests. The European Union has emphasized the preventive and reconstructive aspects of R2P at the cost of its protective aspects, while the AU has stressed the principle of local ownership. The experience in Libya will reverberate differently in both regional organizations. Within the EU, this event might well strengthen the hands of those actors who have long promoted a more forceful interpretation of R2P. Within the AU, the Libyan experience could lead to a disillusionment with and estrangement from this concept. Overall, the Libyan experience will most likely not pave the way for a broad normative consensus on

humanitarian protection. On the contrary, it is likely to reinforce existing cleavages between regions and regional organizations.

The paper concludes with an appeal to take the principle of local ownership seriously. It takes issue with the implicit assumption underlying mainstream European security writing that solving conflicts in other parts of the world through military means could and should be the core task of the EU's common security and defense policy. The addressees of this professed charity could find the notion of Europe as a force for the good not generous but pretentious. Instead of making interventions in other regions its ordinary business, the EU should rather contribute to enabling other regional organizations to solve their security challenges.

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1. Resolution 1973 and the tension between state sovereignty and the global protection of human rights

Ten years after the International Commission on Intervention and State Sovereignty (ICISS) published its influential report on "The Responsibility to Protect" (ICISS 2001), and six years after the UN World Summit endorsed this responsibility in rather general terms, the 'world community' is acting forcefully on the basis of this contested concept. The military intervention in Libya, mandated by UN Security Council Resolution (UNSCR) 1973, was expressly conducted with the aim of protecting endangered civilians. It was not the first time that the Security Council approved enforcement measures with reference to the responsibility to protect.[1] While Resolution 1706 invited the consent of the Sudanese government, in Libya R2P was enforced against the will of the host government, which has subsequently become the object of a campaign of regime change pursued by rebel forces and supported by NATO. Therefore the war in Libya will have lasting repercussions for how the members of the world community perceive and interpret the meaning of this concept. The importance of Resolution 1973 as a precedent was reinforced by a second military intervention on the African continent that happened at about the same time. On the basis of a mandate to protect civilians (UNSCR 1975), the UN Security Council authorized UN blue-helmets and French troops to conclude the power struggle in Cote D'Ivoire between the incumbent President and his elected successor by military means.

Does the historic vote on 17 March 2011 on the imposition of a no-fly-zone and the authorization to "protect civilians and civilian populated areas" reflect the emergence of a new normative consensus on the legitimacy of protecting human rights through military means? Are we witnessing the emergence of a global consensus on the rebalancing of the principle of sovereignty and non-intervention on the one hand and forcible human rights protection on the other hand?

As impressive as the speedy 36-hour agreement on UNSCR 1973 appears, as premature would it be to celebrate the 10-0-5 vote on the resolution as a breakthrough on the path to a consensus on the legitimate use of force on behalf of endangered civilians. The abstention of Brazil, Russia, India, and China, as well as Germany, indicates that the glass is only half full. The explanations given by the BRIC countries show a variety of motives, not least a lack of trust in US and Western intentions regarding the use of force

1 UN Security Council Resolution (UNSCR) 1706 (31 August 2006) mentioned R2P when authorizing the use of force in Darfur. Other comparable cases include Res. 794 (1992), authorizing the United Task Force to enter Somalia and Res. 929 (1994), authorizing French troops to protect civilians during the ongoing genocide in Ruanda. However, while Res. 794 was taken in the absence of a central Somali government, Res. 929 was supported by the interim government (Bellamy/Williams 2011: 825).

(Jones 2011: 55).[2] Even more telling was the critical attitude of the African Union regarding NATO's role in implementing the resolution. On the following pages, we will discuss whether UNSCR 1973 does indeed represent a new consensus on R2P. We will ask how NATO's intervention in Libya has been perceived by other major players and how this event might shape the position of relevant actors on R2P. In particular, we will discuss the tension between human protection and regime change, which has been part of the discussion on R2P since the ICISS report was published. We will look at the positions of two regional security organizations: the AU and the EU. Our focus on regional security organizations is based on three considerations. First, we acknowledge that the importance of regions and regional security organizations has increased significantly since the end of the Cold War. States increasingly turn to regional organizations as suppliers of security; and regional organizations increasingly shape the range of policy options that are available to their member states. Second, we concur with recent research which describes regional security organizations as important gatekeepers who frame security issues and formulate plausible policy responses of the world community to humanitarian crises. In this regard, regional security organizations are more relevant than states. They have been accepted by the UN as building blocks of a global peace order. Thus, they enjoy authority and may confer legitimacy on enforcement actions. In this regard, it has been argued that neither Resolution 1973 nor Resolution 1975 would have been conceivable without the support of the League of Arab States and the Economic Community of Western African States (ECOWAS), respectively (Bellamy/Williams 2011: 847). Third, we assume that regional security organizations function as filters between the global level, where emerging norms are presented, and the local level, where the compliance or non-compliance of state actors influences their acceptability. In this sense, regional security organizations are an important arena where groups of states with a shared identity discuss their interpretation of emerging global norms. Regional security organizations (RSOs) may accept or reject emerging global norms. Most likely, however, they will "prune these norms", i.e. they will adapt them to the existing norms, beliefs, and interests (Acharya 2004), as expressed in basic documents and declarations of the respective organization. This body of basic documents, declarations, and practices which constitutes the backbone of the RSO and which provides directions guiding the organization's policy and restricting member-states' freedom of maneuver has been referred to as the security culture of an organization. Since the concept of security culture is rather fuzzy, we cannot contribute to the theoretical debate over its content and scope, but rather intend to use it as a useful shorthand device for denoting all those fundamental norms and practices which are at the core of an RSO's security architecture. The security cultures of RSOs thus reflect and shape the local interpretations of emerging global norms. We focus on the AU and the EU because the regional security cultures of both organizations have been shaped

2 In contrast, the German abstention has been interpreted differently. While some commentators point to domestic politics (and a dose of cynicism) (Jones 2011: 55), others refer to the special German culture of restraint. For a critical discussion of the German position see also Müller (2011).

by the popularization of the concepts of human security and civilian protection, even though each organization has adopted a somewhat different reading of these concepts. We proceed in four steps: First, we recapitulate the emergence of R2P and the interpretation of R2P at the global level. Second, we discuss how the AU and EU have received R2P at the regional levels. Third, we analyze how the AU and the EU reacted to NATO's intervention in Libya, and discuss what those reactions indicate with regard to their future attitudes towards R2P. Although R2P has been called "a norm born out of Africa" (Williams 2009: 397), the way UNSCR 1973 was implemented could well lead to an African disenchantment with the responsibility to protect. In Europe, on the other hand, this episode could lead to deeper acceptance of R2P.

2. The Responsibility to Protect: background and criteria

The Responsibility to Protect (R2P) is a manifestation of a recent trend in international politics which challenges the Westphalian understanding of security, and places the security of individuals (instead of states) at the center of analysis. In his 1992 *Agenda for Peace* report, then UN Secretary-General Boutros Boutros-Ghali talked about "new dimensions of insecurity" which included "intrusion into the lives and rights of individuals". He held that the "time of absolute and exclusive sovereignty […] has passed; its theory was never matched by reality." Further developing this view, the 1994 UN Development Report introduced the concept of Human Security, criticizing that "[f]or too long, the concept of security has been equated with the threats to a country's borders" (United Nations 1994).

Against this background, and in response to ever-louder calls for humanitarian intervention in the face of atrocities committed in Rwanda and Bosnia-Herzegovina, as well as in reaction to the controversy triggered by NATO's intervention in Kosovo, the government of Canada initiated in 2000 the establishment of the International Commission on Intervention and State Sovereignty (ICISS). While the ICISS's 2001 report is usually credited for kicking off the debate over sovereignty as responsibility, it was in fact Sudanese national Francis Deng who introduced a broader audience to this notion in 1996 (Deng et al. 1996). Their concept is based on the idea of a dual social contract – between each government and its citizens, and between nation-states and the international community as a whole: "The sovereign state's responsibility and accountability to both domestic and external constituencies must be affirmed as interconnected principles of the national and international order. Such a normative code is anchored in the assumption that in order to be legitimate, sovereignty must demonstrate responsibility" (ibid.: xvii). Hence, sovereignty should not merely be regarded as the right to be left alone, but as the responsibility to discharge governmental duties. "Normatively, to claim otherwise would be to lose sight of its purpose in the original context of the social contract, taking the means for the end" (ibid.: xviii). The authors go on to argue that if a government manifestly fails to fulfill its part of the social

contract, its claim to sovereign immunity becomes void. Consequently, discharging the responsibilities of sovereignty is in effect the best guarantee for sovereignty (ibid.: 1, 15).

The norm entrepreneurship of Deng – coupled with the effects of state practice in the 1990s – bore fruit when in 2001 the ICISS published its widely cited report *The Responsibility to Protect*. The gist of the ICISS's argument is that "state sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself" (ibid: xi). The international community is obliged to support states to fulfill its responsibility by helping them to prevent conflicts and to rebuild war-torn societies after conflicts. R2P thus is about more than just military intervention – it actually rests on the three pillars: prevention, protection and rebuilding. However, if a state proves unwilling or unable to live up to its responsibilities, i.e. if it violates basic human rights or does not prevent such violations, the international community has a residual responsibility to act. The principle of non-intervention thus yields to the international responsibility to protect (ibid.: xi). This argument is derived from the idea that both the prohibition of the use of force and respect for basic human rights form part of international *jus cogens*. If a state violates the latter, it cannot shield itself from intervention by invoking the former. Borrowing from just war theory, the report listed a number of legitimacy criteria for interventions in "R2P situations": Right authority, just cause (gross violations of fundamental human rights), right intention (putting an end to these violations), last resort (military means as ultima ratio, after all non-military measures have been exhausted), proportional means (minimal duration and intensity of military strikes), and, lastly, reasonable prospects of success (ibid.: xii).

The issue of right intention in particular has emerged as a major source of disagreement, with Western countries time and again being suspected of ulterior motives when intervening abroad. Geopolitical developments post-9/11 only reinforced developing countries' worries that R2P could be abused for the pursuit of the national interests of the powerful. At first glance, the ICISS report seems to posit a narrow scope for the application of R2P, which shall be neither invoked to justify the redrawing of borders or to support the self-determination claims of any particular belligerent party (ibid.: 35). The sole rationale for intervention is the protection of civilians – therefore any military campaign must be strictly confined to this goal, and should not be used as a pretext for pursuing regime change (ibid.: 35). However, the drafters of the ICISS report also acknowledged that the protection of civilians will often require disabling the target regime's capacity for hurting its own people, "and what is necessary to achieve that disabling will vary from case to case" (ibid.: 35). Hence, the ICISS deliberately left some wiggle room for assessing the legitimacy of any military action in context-specific terms, avoiding an all-too rigid application of the right intention criterion. This deliberate indeterminacy is also reflected in the statement that while occupation of a territory could never be an end in itself, it could be necessary for an interim period (ibid.: 35). In order to operationalize the right intention criterion, the commissioners suggest the following indicators: Any action that is multilateral in nature, that has the clear support of the target population, and that is endorsed by other countries in the region satisfies the right intention criterion; conversely, military action that flunks one or more of these tests is less legitimate (ibid.: 36).

Another yardstick for assessing the legitimacy of an intervention is the proportionality principle. Here again, the ICISS used the same strategy as in the case of the principle of right intention: While at the outset positing strict adherence to the principle of proportionality, it subsequently allows for some leeway in assessing the proportionality of any military action in context-specific terms: "The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objective in question. The means have to be commensurate with the ends, and in line with the magnitude of the original provocation. The effect on the political system of the country targeted should be limited, again, to what is strictly necessary to accomplish the purpose of the intervention. While it may be a matter for argument in each case what are the precise practical implications of these strictures, the principles involved are clear enough" (ibid.: 37). Both necessity and proportionality are elusive concepts which are collapsed into a single legitimacy criterion in the ICISS report, where the commissioners defined proportionality as the minimum necessary force for realizing the goal of civilian protection. Even though the ICISS claimed that "the principles are clear enough", their application in practice might not be as straightforward. As has been argued elsewhere with regard to the use of force in counter-terrorism operations (Reinold 2011: 267), the application of the criteria of necessity and proportionality requires an elusive calculation, which becomes even more complex when necessity is defined in "outcome-determinative" terms (Printer 2003: 343).

The ICISS also dealt with the issue of just authority. While emphasizing the UN Security Council's (UNSC) primary responsibility for the maintenance of international peace, it did not duck the problem of Council paralysis and tentatively suggested possibilities for action outside the Council: First, states must in all cases seek Security Council authorization prior to carrying out any military action; second, in cases of massive human rights violations, the Council's permanent members should agree not to use their veto power, unless vital national interests are at stake; and third, should the P-5 exercise their veto nonetheless, recourse may be made to the General Assembly and to regional arrangements, subject to their seeking subsequent authorization from the Security Council (ICISS: xiif.). This reference to regional arrangements as well as the emerging division of labor between the UN and regional security organizations points to a second, less obvious subsidiary principle. If states fail in their responsibility to protect their citizens against gross human rights violations, the community of states will step in. However, the community of states might delegate this responsibility to or share it with concerned regional organizations. In particular, regional organizations could and should have a role to play in carrying out and/or monitoring the conduct of coercive action.

Subsequently, R2P was affirmed by the major UN bodies in a variety of resolutions, including the World Summit Outcome Document.[3] However, the World Summit framed

3 A/RES/60/1, 24 October 2005; A/RES/63/308, 14 September 2009; S/RES/1674, 28 April 2006; S/RES/1706, 31 August 2006; S/RES/1856, 22 December 2008; S/RES/1857, 22 December 2008.

R2P in rather restrictive terms, emphasizing that intervention decisions should be taken on a case-by-case basis, through the Security Council, and only if national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. These conditions beg the question whether states had actually agreed on anything that had not been part and parcel of international law before. Currently, there is no inter-subjective consensus over what R2P actually means, that is, which rights and obligations exactly it confers or imposes upon the international community, and which actors are the primary duty bearers (Reinold 2010).[4] The consequences of this opaqueness will be explored in more detail in the following.

2.1 Protection or intervention: the case of Libya

The crisis in Libya erupted suddenly and unexpectedly in early 2011. Whether the initial protests in January had been completely peaceful and whether the forces of Colonel Gaddafi had reacted with indiscriminate violence, including the bombing of civilian protesters, is still contested. In any event, the uprising quickly turned violent and the rebels gained control of the towns and cities in the Eastern part of the country. After these early successes, however, government forces regained the initiative and were about to conquer Benghazi, the rebel-stronghold in the East. There were clear threats by the Libyan government against the rebels and the city's civilian population (Fröhlich 2011: 143). Gaddafi had told Western reporters that measures would be taken to clear the country from "these cockroaches" and that "any Libyan who takes arms against Libya will be executed".[5] Reacting to this dire situation, the UN bureaucracy framed the crisis as a human rights issue, and on 23 February the UN Secretary General reminded the Libyan government as well as the Security Council of their responsibility to protect endangered civilians. UN member-states responded swiftly to this call. On 25 February, the UN Human Rights Council adopted a resolution condemning the "gross and systematic human rights violations" and strongly calling "upon the Libyan government to meet its responsibility to protect its population […]"[6] One day later, the UN Security Council adopted Resolution 1970, demanding an immediate end to the violence and establishing, among other measures, an arms embargo. Regional organizations reacted as well. On 22 February, the League of Arab States suspended Libya's membership. One day later, the AU's Peace and Security Council (PSC) condemned "the indiscriminate and excessive use

4 The 2008 report of the UN Secretary General on the implementation of R2P failed to clarify matters as it basically repeats the three components – prevention, protection and re-building – without specifying who bears what kind of responsibility.

5 ABC (Australia), 23 February 2011, cited in Bellamy/Williams (2011: 838).

6 Human Rights Council, Resolution S-15/1, Situation of human rights in the Libyan Arab Jamahiriya, distributed 3 March 2011.

of force and lethal weapons against peaceful protesters".[7] On 7 March the Gulf Cooperation Council asked the Security Council to impose a no-fly zone with a view to protect civilians. On 8 March the Organization of the Islamic Conference (OIC) issued a declaration calling upon the "Libyan authorities to immediately end the military operations targeting civilians […]". The declaration stressed "the principled and firm position of the OIC against any form of military intervention to Libya", but indicated that an emergency meeting of its executive committee might support the establishment of a no-fly zone.[8] The same day, Secretary-General of the OIC, Ekmeleddin Ihsanoglu, called for a no-fly zone but rejected any military intervention on the ground.[9] Most consequential, however, was the official request by the League of Arab States on 12 March 2011 to the Security Council, asking for the establishment of a no-fly-zone. This request was widely regarded as a precondition for the adoption of Resolution 1973 and indeed tipped the balance in Washington in favor of those who had argued for the imposition of coercive measures.

The bombing campaign, at first conducted by a coalition of Western states supported by Qatar and the United Arab Emirates, began immediately after the adoption of UNSCR 1973. On 24 March NATO was charged with the coordination and conduct of the enforcement measures. Initially, the air campaign focused on disabling the Libyan air defense and the destruction of heavy weapons of the Libyan army in the vicinity of embattled towns. The air strikes quickly stopped the advance of Libyan troops on the city of Benghazi and opened the way for the rebel forces' counter-offensive. NATO declared that *Operation Unified Protector* would be restricted to the enforcement of UNSCR 1973 and would be terminated as soon as the Libyan government met three demands: a) end attacks against civilian populated areas, b) withdraw to bases all military forces and c) permit unlimited humanitarian access.[10] Despite these assurances, the impression quickly emerged that NATO was not an impartial protector of civilians, but, willingly or unwillingly, was pursuing the toppling of the Libyan regime. This impression was created by the dynamics of the conflict. A cease-fire takes two sides, and various mediating missions conducted by the AU, Russia and others foundered on the incompatibility of the party's positions. The Transitional Council insisted on Gaddafi's prior resignation while Gaddafi continued to demand that a cease-fire should have priority and would only be followed by a process of political reforms. Without a cease-fire, however, NATO would continue to pound the Libyan military. Actions by NATO and its member-states added heavily to this impression. Firstly, NATO extended the range of targets and attacked vital

7 AU document PSC/PR/COMM(CCLXI) 23 February 2011.

8 Final Declaration of OIC about Libya, 8 March 2011, www.rohama.ort/en/pages/ print.php?cid=4337 (13.11.2011).

9 OIC chief backs no-fly zone over Libya, emirates24/7, 8 March 2011.

10 Compare NATO Statement on Libya, following the working lunch of NATO Ministers of Foreign Affairs with non-NATO contributors to Operation Unified Protector, 14 April 2011.

installations of the regime like a major military compound in the center of Tripoli that formerly housed Gaddafi and his family. Secondly, leading NATO members made it clear that their political goal was the removal of Gaddafi from power. In a prominent joint op-ed article, Barack Obama, David Cameron and Nicolas Sarkozy expressed their commitment to the limited objectives of UNSCR 1973, but went on to argue that "it is impossible to imagine a future for Libya with Gaddafi in power. […] So long as Gaddafi is in power, NATO and its coalition partners must maintain their operations so that civilians remain protected and the pressure on the regime builds" (Obama/Cameron/Sarkozy 2011). Thirdly, NATO states increased their direct military support for the rebel forces by providing military training and purportedly also dispatching special operation forces. In violation of the arms embargo, France even provided weapons on an official basis before Russian protests stopped this practice. In brief, the boundaries between protecting civilians and pursuing regime change became increasingly blurred, raising critical questions concerning the intervening parties' intention and the proportionality of the use of force.

In the next section, we will discuss how the African Union and the European Union reacted to these events and how the crisis in Libya will affect their positions on R2P.

3. The AU and R2P – from non-intervention to non-indifference?

The creation of the African Union marked a turning point in African perspectives on sovereignty and (non-)intervention: Unlike its predecessor organization, which exalted traditional sovereignty norms, the AU Constitutive Act mandates the organization to deal with human rights issues in member states which are no longer regarded as matters essentially within the domestic jurisdiction of states.[11] The AU's founding fathers equipped their organization with a far more interventionist posture than its predecessor organization could have ever dreamed of. However, the transition from a security culture characterized by the principle of non-intervention to one founded upon the doctrine of "non-indifference" remains incomplete.

The Constitutive Act enshrines the fundamental norms underlying the AU's emerging security culture: The principles of sovereign equality (Art. 4a), non-intervention by member-states (Art. 4g), non-use of force (Art. 4e, 4f, 4i), rejection of unconstitutional changes of government (4p), and the AU's right to intervene in the internal affairs of member-states in the event of gross human rights abuses (Art. 4h). After the adoption of the AU Constitutive Act, African governments reaffirmed their (rhetorical) commitment to R2P in the "Ezulwini Consensus," which affirmed the UNSC's primary responsibility

11 Art. 4(h) of the African Union Constitutive Act, 2158 UNTS 3 (entered into force 26 Mai 2001).

for the maintenance of international peace, but also noted that in certain cases regional organizations might have to intervene without prior Security Council approval.[12] Art. 4(h) of the AU Act as well as the Ezulwini Consensus testify to Africa's rhetorical support for R2P, yet as previously noted, words have for the most part not been followed by deeds.

A major impetus for the founding of the OAU and its successor, the AU, was the idea that Africa should be able to come up with African solutions to African problems in order to prevent foreign powers from exploiting Africa's internal weaknesses (Selassie 1963: 285). This notion of African emancipation from Northern tutelage is a core part of the AU's emerging security culture. The AU's nascent regional identity is constructed around the ideology of Pan-Africanism, which in turn is premised on the assumption that "all Africans have a spiritual affinity with each other and that, having suffered together in the past, they must march together into a new and brighter future" (Emerson 1962: 280). A sense of Third World identity and agency is thus asserted which was denied by the colonial powers and which is used as a rallying device to put up a united African front against Western domination.

On this view, the creation of Africa's security architecture is, among other things, an attempt to balance the hegemony of the West and has significant implications for the African approach to R2P. The general African tendency towards rejecting hegemonic interference explains for instance why various African governments tend to support the ICISS's suggestion for establishing a code of conduct for the P-5 members of the UNSC in situations involving mass atrocities. The veto power wielded by the P-5 is anathema to Africans, who view the UNSC as a hegemonic body where Africans have no voice. Africa's mistrust of the UNSC also explains the AU's understanding of the relationship between R2P and the principle of non-intervention: While Art. 4(h) of the AU Constitutive Act provides for a right to humanitarian intervention and hence at first glance seems to reject the principle of non-interference, it is important to note that the right to intervene belongs to the AU, and only to the AU. In relations between Africa and the outside world, the non-intervention principle continues to reign supreme. Thus, Africa has developed a very peculiar interpretation of R2P, which includes a pruning of the non-intervention norm in favor of a right to intervention which is borne by the AU, but not the international community at large, as suggested by the ICISS. According to the African understanding of R2P, the primary duty-bearers are nation-states themselves; but if the former fail to live up to their responsibility, responsibility devolves to the AU. Prior authorization by the UNSC is seen as desirable, it is not, however, considered as a *conditio sine qua non* for the AU to launch a humanitarian intervention (Ladnier 2003: 53). The African version of R2P is obviously at odds with Art. 2(4) of the UN Charter, which lays down the prohibition on the use of force. Art. 103 of the Charter in turn establishes the primacy of the Charter over other international treaties (including the AU Constitutive

12 The Common African Position on the Proposed Reform of the United Nations: "The Ezulwini Consensus," Executive Council of the African Union, 7th Extraordinary Session, 7-8 March 2005.

Act). The African R2P doctrine hence cannot be reconciled with the norms of the UN Charter.

The AU's position on R2P is also influenced by the type of security challenges facing its members. As Africa continues to be a continent beset by state failure, civil war, and the risk of mass atrocities, it seemed logical for the AU to adopt an interventionist posture. The genocide in Rwanda made it painfully clear to Africans that the UN could not be relied upon to protect African civilians. It was partially this realization which prompted the AU to adopt a security doctrine which is more interventionist than any other regional security culture in the world.

Finally, we must look to the sub-regional level of analysis in order to understand the role R2P plays in the AU's security culture. At the state level, the fear of neo-colonialism under the guise of humanitarian concerns continues to influence African leaders' attitude towards R2P. Many African governments continue to uphold traditional sovereignty norms, which has frequently led to a privileging of regime security over human security. In addition, many African leaders share the interest in regime stability. The AU often acts as a mutual preservation club of autocratic leaders, who still maintain a strong sense of loyalty towards one another (Abdulai 2010). Hence, a genuine commitment to R2P as part and parcel of the African security culture is "doomed to be theoretical rather than practical as long as its members are primarily interested in preserving regime security and their exclusive access to the state's resources" (Taylor/Williams 2008: 145).

The AU and the crisis in Libya

Recent developments in North Africa and the Middle East have thrown into sharp relief the diverging interpretations that regional organizations attach to R2P. The following narrative focuses on some of the most contested aspects of the debate over the military realization of human security, namely issues of proportionality, right intention, and selectivity, which emerged as major objects of controversy among the AU and the EU in the Libyan crisis.

As mentioned above, a week into the carnage, the AU Peace and Security Council (PSC) issued a statement calling upon the Libyan government to ensure the protection of its citizens. The statement expressed sympathy for the aspirations of the Libyan people for democracy and political reform, but also highlighted the need to preserve the territorial integrity of Libya.[13] The UNSC in turn sprang into action rather swiftly, adopting Resolution 1970, which referred the situation in Libya to the ICC.[14] The Council's three African members – South Africa, Nigeria, and Gabon – who had previously sided with

13 PSC/PR/COMM(CCLXI), 23 February 2011.

14 S/RES/1970, 26 February 2011.

other African governments in frustrating the International Criminal Court (ICC) process in the cases of Al-Bashir and Kenya, cast an affirmative vote.

Yet the AU did not want to leave the resolution of the crisis to extra-continental powers alone, and therefore adopted another statement on 10 March on the establishment of an 'Ad Hoc High Level Committee' tasked with seeking a diplomatic solution. The AU PSC moreover expressed its conviction that urgent African action had to be taken to reach a cessation of hostilities and the adoption of political reforms.[15] This formula was seen as sufficiently flexible for leaving open the possibility of further engagement with the Gaddafi regime in pursuit of a diplomatic solution. When the UNSC – encouraged by the Arab League's request to establish a no-fly-zone over Libya (Leiby/Mansour 2011) – upped the ante on 17 March by authorizing "all necessary measures" to protect civilians,[16] its African members voted in favor, even though the AU PSC had previously rejected any foreign military intervention.[17] The onset of the bombing campaign frustrated the AU's High Level Committee's diplomatic mission, because the eminent personalities could not even get into the country – which further exacerbated tensions between the AU and NATO (Onyango-Obbo 2011). The AU's Proposal for a Framework Agreement on a Political Solution to the Crisis in Libya called for an immediate and complete cessation of hostilities, to be followed by the formation of an inclusive transitional government, the establishment of a constitutional framework and the organization of elections. A peace plan based on this proposal, which was presented by an AU delegation under the leadership of Jacob Zuma to the Libyan government in April, received Gaddafi's approval but failed to convince the National Transitional Council.[18] Despite this failure, the AU continued to push for a solution to the crisis based on "the African way", that is, through a negotiated settlement with Gaddafi, but was increasingly sidelined in the following months.

What does the AU's role in the crisis tell us about the organization's commitment to human security and R2P? In the following, we will argue that the AU's interpretation of R2P's constituent principles such as proportionality, necessity, right intention, etc. is frequently at odds with the EU's and other Western actors' interpretation; that this difference is explicable with reference to the AU's security culture; and that the AU's commitment to human security is wavering when realizing human security comes at the expense of regime security – especially when the regime is one which has long played a leading role in the continental organization.

Initially, various African leaders tried to downplay the carnage – with Zimbabwe's Mugabe predictably treating the Libyan uprising as merely a "domestic hiccup" (ibid.)

15 PSC/PR/COMM.2(CCLXV), 10 March 2011.

16 S/RES/1973, 17 March 2011.

17 PSC/PR/COMM.2(CCLXV), 10 March 2011.

18 Libya: Gaddafi has accepted roadmap to peace, says Zuma, in: The Guardian, 11 April 2011.

and Uganda's Museveni defending Gaddafi as a "true nationalist" (Museveni 2011). Museveni's defense of the Libyan dictator as a "true nationalist" will sound like the purest form of irony to most non-Africans; yet in Africa this kind of anti-Western reasoning apparently continues to strike a chord with some of the continent's autocratic and pseudo-democratic leaders. For a long time, many of these despots were rulers by the grace of Gaddafi, who generously funded their political ambitions. Unsurprisingly then, some of Gaddafi's former vassals were rather reluctant to turn against their long-time benefactor (Kituyi 2011).

Despite lingering sympathies towards the Libyan tyrant, in the end, however, the majority of African leaders were apparently convinced that "Brother Leader" Gaddafi had become politically untenable (Bakata 2011). This realization notwithstanding, the AU feared that Resolution 1973 had left too much leeway for "powerful Western states with a notorious track record of invasion and occupation" (D'Almeida 2011). Instead of supporting regime change from the outside, the AU believed that it was up to the Libyan people to initiate a process of political reform: "The [AU High-Level Ad Hoc] Committee considers that it should be left to Libyans to choose their leaders and that international actors should refrain from taking positions or making pronouncements that can only complicate the search for a solution."[19] The AU thus clearly did not think that forcible democracy promotion from the outside was a legitimate means to ensure the effective protection of civilians. NATO's expansion of its target list to include Gaddafi's compound in Tripoli, for instance, fuelled fears in Africa of hidden neo-colonial agendas (Oluka 2011). The AU High-Level Committee therefore reminded the intervenors to strictly adhere to the provisions of Resolution 1973.[20]

Apart from the controversy over the necessity and proportionality of military action to protect Libyan civilians, the criteria of right intention and non-selectivity were equally disputed among the various diplomatic players in the crisis. As we recall from the ICISS report, right intention can be measured on the basis of three indicators: Multilateral action, popular support, as well as the consent of other states in the region. While NATO's action (at least initially) had the blessing of the UNSC as well as the Arab League, African leaders remained ambivalent. Even though the African members of the UNSC voted in favor of Resolution 1973, the AU PSC rejected foreign military intervention in Libya. This rejection was partly based on suspicions of double standards in the application of R2P and hidden agendas pursued by the West. Why, for example, did NATO intervene in Libya but not Yemen and Bahrain? The obvious answer, according to many African commentators, is that these two countries are close US allies and therefore do not have to fear being held accountable for their failure to protect their own peoples (Bajoria 2011; see also Oluka 2011). Another suspicion was that the West's real motive for intervening in

19 PSC/PR/2(CCLXXV), 26 April 2011.

20 PSC/PR/2(CCLXXV), 26 April 2011.

Libya was not the protection of civilians, but rather to secure Libya's vast oil supply (AllAfrica 2011).

However, the AU's own ability and willingness to act as an honest broker in the Libyan crisis and to apply R2P in an impartial fashion was equally doubted. In the opinion of one commentator, the Libyan crisis has highlighted the ambivalent commitment of many African governments to the notion of human security, especially when human security and regime security clash: "If the African Union has gone further in its Constitutive Act than any organization in the institutional framing of norms about the responsibility to protect civilians, these are still to find concrete expression in the actions of AU member states. As a result of its own contradictions, the AU has been lacking in political will and courage to deal with state-sponsored abuses of civilian right holders in member states, including Libya. To want to lead the mediation now is a little too late and a face-saving exercise for an institution without political resources and the will to solve such a complex impasse" (Hengari 2011). The AU High-Level Panel was criticized as an ineffective gathering of self-congratulatory African leaders who were ultimately forced to watch from the sidelines while NATO tried to bomb Gaddafi out of office (ibid.). In particular, the AU's credibility to act as an impartial mediator in the conflict was called into question, considering Gaddafi's central role as a prime financier of the continental organization (Sudane Tribune 2011). In light of the significant financial and ideological influence Gaddafi had wielded for so long in the OAU and later AU, it is thus rather questionable whether the AU itself is currently living up to the criterion of right intention in implementing R2P in Libya.

Note, however, that the AU is not a monolithic bloc. Some African leaders such as Rwanda's Kagame openly criticized the AU's tepid response to the bloodshed in Libya: "From the African perspective there are important lessons to learn, the main one being that we as the African Union need to respond faster and more effectively to situations such as these" (Kagame 2011). Some African media commentators judged the AU even more harshly: "The circus of African inadequacy plays out even more glaringly in the case of Libya. With the exception of Rwanda and The Gambia, African states have been very slow in their responses to the criminal violence Col Muammar Gaddafi has visited upon his own people" (Kituyi 2011).

In sum, these reactions thus show that the twin concepts of R2P and human security continue to be strongly contested, and that the AU's security culture evinces a very peculiar understanding of these concepts. The AU's response to the crisis was shaped on the one hand by the global discourse and the AU's prior declarations on the protection of civilians, which is reflected in its repeated invocation of the need to protect civilians in all of its resolutions on the crisis. Yet if this global discourse had been the only factor, the AU's response to the crisis would have been much more determined. In reality, however, the AU's role is rather ambivalent, and in order to understand this ambivalence, other explanatory variables must be taken into account. These include regional factors such as the central role played by Gaddafi in the continental organization, but also the AU's chronically underfunded peace and security architecture, which forced it to rely on diplomatic means for addressing the crisis in Libya. Third, interests and perceptions of

AU member-states equally played a role, such as the (historically founded) fear of African governments that the West might use humanitarian arguments for the pursuit of its neo-colonial agenda, as well as the undemocratic nature of many African regimes, who tend to extend solidarity to their fellow autocrats and often prioritize regime security over human security. The predictable risk that the intervening powers would abuse their mandate to protect civilians and pursue the broader goal of regime change also added to the AU's cautious and critical attitude.

4. The EU and R2P – more smoke than fire?

Since the inception of the European Security and Defense Policy at the Helsinki summit in 1999, a distinct European security culture with a focus on humanitarian issues has been emerging (Reinke de Buitrago 2010; Biava et al. 2011). This regional culture developed in parallel with the global debate on human security and protection. Not surprisingly, EU statements have expressed support for R2P on several occasions.[21] Referring to well-established concepts of the EU as a normative power (Manners 2002; Haukkala 2008), a standard interpretation is that the EU welcomes the emerging R2P norm because it has initiated this norm in the first place. Such an interpretation, however, would be misleading. The story of the inter-relationship between global and European norm development is much more complex than it appears at first glance. In fact, the EU is as much a taker of global norms as it is a promoter of European norms.

On the following pages, we will reconstruct the co-evolution of the global protection norm and European security culture. We will begin by showing that the interpretations of the global norm and the emerging European security culture are interrelated and have both been contested. The body of EU doctrines and practices that had emerged before the Libyan crisis reflects a restricted interpretation of the human security/R2P agenda. The EU had been focusing on conflict prevention and peace-building and the idea of military intervention for humanitarian purposes, by contrast, was much less entrenched in the emerging European security culture. Secondly, we will show that this adaption of emerging global norms to local circumstances cannot fully be explained with reference to the interests of (powerful) EU states, but also reflects the institutional structure and dynamics of the EU. These findings will be developed in three steps: first, a brief reconstruction of the development and meaning of European security culture and how this development related to the interpretation of the responsibility to protect; second, an analysis of the drivers and mechanisms of pruning; and finally, a focus on EU practices.

The origins of European Security and Defense Policy (ESDP) can be traced back to an agreement between Britain and France on the need for Europe to possess real military

21 The EU Presidency Statement at the UN 2005 World Summit notes, for example, that "the EU strongly welcomes the agreement on the responsibility to protect".

power. While alliance politics was one motive behind this drive for European military capabilities (Howorth 2007: 52-54), ethics was the other. The Labour government, having proclaimed an 'ethical foreign policy', conceived of ESDP as a "force multiplier" for humanitarian interventions (Williams 2005: 164-177). Following the catastrophe in Rwanda, France had also witnessed a lively debate on humanitarian interventions and, renouncing Gaullist traditions, sought a multilateral cover for future military missions (Treacher 2003).

Early European doctrines reflect this consensus by setting the ambitious Helsinki Headline Goal (HHG) of enabling Europe to field a 60.000 strong, well equipped and highly mobile intervention force (Schmitt 2004: 110f.) that would be able to fight wars like the ones in Bosnia or Kosovo (Howorth 2007: 104f.; Giegerich 2008: 17). In the following years, however, European security culture developed in a different direction. The EU, for all practical terms, abandoned its high-flying military plans and instead focused on the creation of civilian and integrated civil-military instruments of conflict prevention and peace-building (Nowak 2006: 20-23; Menon/Sedelmeier 2010). This redirection went hand-in-hand with a redefinition of European security culture. Instead of focusing on peace enforcement tasks, European security documents increasingly stressed the root causes of violence and emphasized conflict prevention, structural peace-building, and the nexus between development and peace.[22] Working with the UN and other regional security organizations has become another hallmark of European security culture (Tardy 2005). EU documents like the 2003 European Security Strategy stress the principle of multilateralism and promise to contribute with civilian and military capabilities to UN peace-keeping efforts.[23]

Despite these conceptual and institutional linkages between the European regional system and the UN, the terms "human security" and "responsibility to protect" begin to appear in EU documents only after the decision of the World Summit in September 2005. A reference to R2P appears for the first time in the Consensus on Development (November 2005). Reiterating the statement of the EU-Presidency at the World Summit, the document states that "the EU also strongly supports the responsibility to protect. We cannot stand by, as genocide, war crimes, ethnic cleansing or other gross violations of international humanitarian law and human rights are committed".[24] The 2008 Report on

22 The 2005 European Consensus on Development, for example, states that "(the Community) will maintain its support to conflict prevention […] and peace building by addressing the root-causes of violent conflicts, including poverty, degradation, exploitation […]" European Parliament, Council, Commission 2006: The European Consensus on Development, Official Journal (C46/01), 24.2.2006.

23 A Secure Europe in a Better World: European Security Strategy, Brussels 2003. Compare also: EU Commission (2003); European Council (2004)

24 European Parliament, Council, Commission 2006: The European Consensus on Development, Official Journal (C46/01), 24.2.2006 (Article 37). A similar remark can be found in the EU Consensus on Humanitarian Aid, see: Council of the European Union (2008): The European Consensus on Humanitarian Aid 2008/C25/01, Brussels.

the Implementation of the ESS created a closer link between European security and the human security/R2P agenda. The report states, "Sovereign governments must take responsibility for the consequences of their actions and hold a shared responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity" (Council of the European Union 2008: 2).

The picture that emerges from these rare remarks and from the corpus of ESDP documents shows that the EU has developed a peculiar understanding of the human security/R2P agenda that is more akin to the restricted understanding of the World Summit than the broader understanding of the ICISS. To start with, the EU clearly subscribed to an interpretation that emphasizes the responsibility to prevent and to rebuild, and downplays the responsibility to protect with military means. EU documents clearly convey the understanding that force should be used in rare and clearly defined circumstances only. Coercive measures are consistently mentioned in connection with genocide, war crimes, ethnic cleansing or crimes against humanity. Concerning right authority, the EU clearly respects the prerogatives of the UN Security Council. Many ESDP documents state that "the Union recognizes the primary responsibility of the UN Security Council for the maintenance of international peace and security", consciously leaving room for ambivalence. In contrast, EU documents containing a reference to the R2P emphasize the authority of the Council in stricter terms, demanding that enforcement measures should be taken "through the Security Council or approved by the Security Council".[25] Lastly, EU documents clearly indicate that local actors bear the prime responsibility to protect. If states prove unable or unwilling to protect their population, this responsibility would then pass over either to the UN or to the geographically responsible regional security organization. Outside of Europe, the EU sees itself primarily in an auxiliary role. It will empower local actors or, if absolutely necessary, step in temporarily to fill the gap before local actors or the UN take over (Gänzle/Grimm 2010; Brosig 2011).

In the following section, we show how regional dynamics influenced the reception of the emerging global protection norms on the European level. States remain important actors in European security policy. While all EU states showed support for the protection of human rights in general,[26] they differed with regard to the issue of military protection. On one end of the spectrum sat countries whose colonial histories accustomed them to interventionist practices – namely France and the UK, who consistently supported both a militarily meaningful ESDP and an interventionist interpretation of R2P. The National Security Strategy of the United Kingdom refers affirmatively to the R2P, as does the 2008 French White Paper on Defense and National Security. Former French Foreign Minister

25 EU Presidency Statement- United Nations General Assembly: Debate on the Responsibility to Protect, 23 July 2009.

26 See the compilation of European national attitudes by the International Coalition for the Responsibility to protect: www.responsibilitytoprotect.org (17.11.2011).

Bernard Kouchner in particular promoted a rather extensive understanding of R2P. During the floods in Burma, he even argued that "aid might have to be imposed if the military regime refused to cooperate."[27] On the other end of the spectrum were member-states with a neutral or non-interventionist tradition like Germany. They emphasize the preventive and peace-building aspects of both ESDP and the global protection norms. Many of the new member-states are still preoccupied with traditional security concerns and de-emphasize the global humanitarian agenda of European security.

Input on the European security debate came from above and below, and was shaped by regional factors, most notably the institutional structure of the EU. In contrast to intergovernmental reasoning, the large and powerful states did not dominate the outcome. Instead, institutional mechanisms, especially the agenda-setting powers vested in the rotating Presidency, increased the number of opportunities for smaller states to assert their opinions. Sweden, in the first semester of 2001, became the first to use its EU-Presidency to push the emerging European security culture away from the British and French interventionist vision. The Gothenburg Summit in June 2001 adopted the seminal "EU Program for the Prevention of Violent Conflicts" which laid the foundation for the civilian dimensions of ESDP. Successive Presidencies of countries with a similar outlook built on these lines. To defend their vision of ESDP, they, too, referred to global norms but emphasized their soft security aspects. Finland, for example, reconvened the Barcelona Group of eminent thinkers and NGOs to advance a preventive interpretation of the human security agenda within the EU. Of course, France and the UK also used the institution of the Presidency to further their views. It is no coincidence that the strong EU support for R2P at the World Summit was presented by Tony Blair, who served as EU President during the second semester of 2005. France used its Presidency in the second semester of 2008 to write an explicit reference to R2P into the 2008 Report on the Implementation of the ESS. However, given the vast majority of small states with a neutral and non-interventionist tradition, the institution of the rotating presidency contributed to the re-orientation of European security culture.

International bureaucracies, too, pushed European security culture away from the early British/French conception. Although the primary responsibility for security rests with the second pillar, the Commission established itself as a major player in this field. In fact, its activities date back to a 1996 planning paper by Directory General Development on conflict prevention in Africa.[28] The Commission's views were captured by Joao de Deus Pinheiro (1999), then Commissioner for Development, when he stressed three principles of the EU approach: local ownership; a long term approach that focuses on root causes of conflicts, and the integration of different instruments to work on all phases of

27 See the article 'To protect sovereignty, or to protect lives?', in: The Economist, 15 May 2008, online at www.economist.com/world/international/displaystory.cfm?story_id=11376531 (17.11.2011).

28 EU Commission, The EU and the issue of conflicts in Africa: peace-building, conflict prevention and beyond, SEC(96)332, 1996.

the conflict cycle. On several occasions, the Commission referred to UN norms and practices in order to legitimize its own policy. For instance, the 2001 Communication on Conflict Prevention states clearly that: "The Commission is closely following the implementation of the Brahimi Report and fully subscribes to the peace-building approach set out in the Report. In proposing the Rapid Reaction Mechanism (a new funding line, M.D./T.R.), the Commission drew inspiration from the UNSG's proposals on establishing quick impact projects for countries emerging from crisis".[29] However, the Commission portrayed the human security/R2P agenda in a way that fit its own approaches and bureaucratic interests. For example, External Relations Commissioner Benita Ferrero-Waldner stated that the UN's "holistic approach echoes the EU's own commitment to a comprehensive conception of security" (Biscop 2005: 75). In a 2006 speech, she noted that the 2005 World Summit had recognized that "development, security and human rights are inextricably interlinked." She welcomed the notion of human security and defined it as "the comprehensive security of people […] encompassing both freedom from fear and freedom from want".[30] In general, members of the Commission have expressed the view that the greatest potential for operationalizing R2P at the EU level is in terms of prevention, where the EU already has a range of instruments at its disposal such as development cooperation, trade or human rights and environmental policies (Vincent/Wouters 2008: 9).

Javier Solana, the EU's first High Representative, influenced the direction of the emerging European security culture as well. He was not only *ex officio* the author of the above mentioned Security Strategy and other key documents, but also used his personal standing to steer the development of ESDP, such as when he initiated the Barcelona Study Group of independent experts. The group, under the leadership of Mary Kaldor, was encouraged by Solana to draft a vision of European security that combined an interventionist agenda with the specific institutional strength of the EU in the field of civilian and civil-military prevention and long-term peace-building. Referring to global norms, the group proposed a 'Human Security Doctrine for Europe', but presented the concept in a particular way:[31] They stated that the EU should defend the security of human beings, if necessary by military means, and went on to argue that Europe's military intervention forces should be configured in new ways that would enable them to address the security needs of people. The study group thus proposed a human security

29 European Commission 2001: Communication from the Commission on Conflict Prevention, Brussels COM(2001) 211 final, p. 26.

30 Human Security and Aid Effectiveness: The EU's Challenges, Speech by Benita Ferrero-Waldner, Overseas Development Institute, London26/1072006.

31 A Human Security Doctrine for Europe 2004. The Barcelona Report of the Study Group on Europe's Security Capabilities, available at: www.lse.ac.uk/Depts/global/Publications/HumanSecurityDoctrine.pdf (11.5.2011).

intervention force, composed of civilian reconstruction specialists, police, and troops trained and equipped to protect endangered populations, not to win wars.[32]

Among the EU institutions, the European Parliament (EP) has been the most outspoken advocate of humanitarian protection and strongly supported ESDP's stressing both R2P and the notion of human security, as defined by the Barcelona Group[33] However, even in the EP consensus on R2P remains fragile. Reservations are expressed by parts of the European Peoples Party and the Confederal Group of the European United Left who fear that the R2P agenda might be used to justify military interventions (Vincent/Wouters 2008: 8). The strength of the EP's support for the R2P agenda contrasts, however, with Parliament's rather limited influence on decision-making in the second pillar.

On the next pages, we ask whether and to what extent the doctrinal fit between the R2P agenda and evolving European security culture guides European policy practices. Does the EU move beyond declaratory policy to action? And what kind of action does the EU take to protect endangered populations abroad? Firstly, we find that since the inception of ESDP, the EU has become one of the most important providers of soft humanitarian security. Using CFSP and community instruments, the EU has supported and conducted numerous activities in the area of conflict prevention and peace-building. The bulk of these programs have been executed in cooperation with the UN or with other regional security organizations, most notably the African Union (Brosig 2011). To a surprisingly high degree, the EU has financed UN programs or institutions like the UN Peacebuilding Commission (Miall 2007) and activities of other RSOs without involving itself in the implementation of these programs. For example, 48% of the funds from the Instrument of Stability, through which approximately 300 million Euros are disbursed every year, have been implemented by UN agencies and 17% were channeled through other RSOs (Natorski 2011). Another example is the African Peace Facility, established by the EU in 2004, whose funds may be used to defray expenses incurred by African countries deploying their peacekeeping forces in other African countries (Pirozzi 2009: 25).

A similar picture emerges with regard to the ESDP missions. Since the beginning of ESDP, the EU has conducted more than 20 civilian and military operations in different parts of the world, with Africa and the Balkans being the focal points. The EU conducted most of the operations in Africa in close cooperation with either the UN or the AU (Brosig 2011: 109; Biava et al. 2011: 45). Although most EU operations are executed by

32 A Human Security Doctrine for Europe. The Barcelona Report of the Study Group on Europe's Security Capabilities.

33 See for example: European Parliament, Report on development perspectives for peace-building and nation building in post conflict situations (2008/2097(INI), 12.11.2008, pp. 7f.; 2008 annual report on the CFSP, P7_TA-PROV(2010)0060, 10.3.2010, p. 3; EP resolution on the European Security Strategy and ESDP (2008/2202(INI)), 19.2.2009, p.2.

coalitions of the willing in many cases with France as lead-nation – the character of missions is nevertheless heavily influenced by European practices and institutional constraints. Operations are usually short-term, have a clear exit-option and involve only limited resources and risks. These constraints reflect the limited willingness of European states to engage themselves in humanitarian protection operations. The emerging European security culture has had a pulling effect. For example, the moral authority of the UN as well as EU peer pressure induced Germany, much against its instincts and traditions, to take part in the 2006 mission to Kinshasa/Congo, aimed at providing stability during the strained election process (Gowan 2009: 120). However, at other instances, this mechanism proved to be less effective. For example, Germany refused to participate in the EU mission in Chad and the Central African Republic (EUFOR-CHAD/CAR). And when the UN, facing an imminent humanitarian crisis in the Eastern Congolese province of Kivu, requested help in October 2008, EU member states decided simply not to respond (Pirozzi/Sandawi 2009: 14).

The EU and the crisis in Libya

The humanitarian crisis in Libya puts a spotlight on deep divisions within Europe on the meaning of European security culture and the R2P. During the early phase of the crisis and before the use of force was seriously contemplated, the EU-states seemed to act according to the same tune. After Italy, which initially blamed the insurgents for the crisis, joined the European chorus, an agreement emerged that the actions of the Libyan government constituted grave violations of human rights and that Colonel Gaddafi must relinquish power.[34] During these days, German Foreign Minister Westerwelle projected an image as a promoter of tough measures, declaring "the time of appeals is over. Now is the time for action. Germany will take the lead while some other EU-members have been hesitant".[35] This was a major turn away from the previous EU policy of engagement, which aimed at accommodating Libya into the respected group of Neighborhood Countries following the lifting of sanctions in 2004. As recently as October 2010 High Representative Catherine Ashton had attempted to arrange a cooperation agreement worth 50 million Euros with Libya on border security and the "management" of migration flows. On 28 February 2011 and following UNSC Resolution 1970, the EU imposed an arms embargo and additional sanctions. A special European Council meeting on 11 March condemned the "gross and systematic violation of human rights" – a phrase that has been reiterated in several EU-documents since then. The Council declared that "Colonel Kadhafi must relinquish power immediately" and welcomed "the referral of the situation in Libya to the International Criminal Court […]" (European Council 2011: 2f.)

34 See the 20 February statement by HR Ashton: http://europa.eu/rapid/pressReleasesAction.do?reference=PESC/11/33&format=HTML&aged=0&language=EN&guiLanguage=en (17.11.2011).

35 FAZ, 26 February 2011, p. 4.

Despite the rhetorical condemnation, the EU has been heavily criticized for its failed policy vis-à-vis Libya and its slow reaction to the unfolding crisis. Comments castigated the EU for its ineffective European Neighborhood Policy that put EU (energy) interests first and paid lip-service to European values, for its flawed arms export policy that did almost nothing to stop dubious shipments of dangerous arms to Libya, and for its human rights policy that allowed member-states to conduct dubious deals with the Libyan leader in order to keep unwanted immigrants away from European shores (Friedensgutachten 2011: 13f.).

The image of the EU as driven by events instead of driving them changed when President Sarkozy regained the initiative. Supported by British PM David Cameron, as well as representatives from smaller EU states, he began to compare the situation in Libya with the events in Srebrenica and Rwanda. Faced with the Gaddafi's threats of revenge should Benghazi, the rebel stronghold, fall, Sarkozy decided to unilaterally recognize the Transitional National Council on 9 March 2011 and, together with the UK, prepared the groundwork for UNSC Resolution 1973. In contrast, German representatives were careful not to use vocabulary that might invoke the responsibility to protect. As the possibility of an intervention drew closer, German representatives continued to express deep reservations about the use of force. Given this disagreement, the only additional measure the EU could agree on was the extension of financial sanctions. The vote on UNSC resolution 1973, authorizing member states to take all necessary measures to protect civilian and populated areas, revealed a deep division. While three EU members of the Security Council voted in favor, the forth – Germany – abstained. This publicly displayed disunity over a vital conflict in Europe's direct vicinity amounts to a disintegration of Europe as a political actor. As one diplomat puts it: 'CFSP died in Libya – we just have to pick a sand dune under which we can bury it' (Menon 2011: 76). In the aftermath of this diplomatic disaster, the EU tried to overcome the split by adopting on 1 April a decision on an EU military operation in "support of humanitarian assistance operations". EUFOR Libya could be launched if requested by the UN Office for the Coordination of Humanitarian Affairs (OCHA). OCHA, however, deemed this offer not helpful, adding to the European embarrassment.

The justice criteria developed by the ICISS played some role in European discussions. Right authority was an issue but, due to the swift adoption of Resolution 1973, did not figure prominently. Before the adoption of Resolution 1973, some voices demanded the use of force even without Security Council approval (Peral 2011). Official French and British statements, however, stressed the necessity of proper authorization as a prerequisite for military action. The Arab League's demand for a no-fly-zone, too, was regarded as crucial, as was the participation of two Arab states in the Western coalition. Issues of right intention were discussed, but again were not decisive. Noting the striking discrepancy between the French attitude before and after the Arab uprising, commentators suspected that Sarkozy's efforts during the crisis were motivated by

attempts to distract attention from the coziness that had developed between members of the French government and North African dictators before the crisis.[36] More important, and we will return to this point later in the paper, was the discrepancy between the officially declared EU goal of removing the Gaddafi regime from power and the mandate of Resolution 1973 to protect civilians. Some commentators insinuated that protecting civilians was just a pretext for ulterior aims (Mutz 2011: 56).[37] This suspicion is probably not unfounded, for example: the Italian reversal of policy was likely motivated by the fear that Italian influence in Libya would wane if the French-backed opposition forces prevailed and Italy was still perceived as an ally of the old regime. Others pointed out that in cases where regimes commit severe crimes against their population, protecting civilians will inevitably raise the issue of regime change. Issues of proportionality were also noted and discussed in Europe. While some critics questioned the legitimacy of bombing governmental complexes in Tripoli, others demanded an intensification of the bombing campaign as well as the temporary employment of ground troops to relieve the situation in Misrata (de Vasconcelos 2011). Another relevant debate concerned the issue of reasonable prospect of success. Critics asked whether it was reasonable to assume that bombing Gaddafi's forces would end the humanitarian distress or whether NATO's intervention would more likely lead to a protracted civil war (Pradetto 2011; Friedensgutachten 2011: 5). Other voices questioned the moral integrity of the resistance forces and expressed concerns that the victory of the resistance movement might lead to the same acts of revenge that NATO tried to prevent in the first place. In essence, these debates reflected deeper splits in Europe between countries with an interventionist tradition like France and the UK and non-interventionist countries like Germany.

In sum, the Libyan crisis exposed deep ambivalences within Europe. Europeans, in general, support the emerging global protection norms as they reflect basic European and EU norms on human rights and individual freedoms. However, they disagree on the consequences of R2P for European security culture and thus struggle over the exact meaning of these norms. While all European actors refer to global norms to legitimize their positions, they emphasize those aspects of the global human security/R2P agenda that reflect their own traditions, outlooks and interests. While the exact meaning of European security culture is still contested, Europeans collectively tend to emphasize the dimensions of prevention and re-building at the expense of military protection, because the coercive use of military force is still controversial.

36 Even after violence had erupted Libya in after the 'day of wrath' on 18 February 2011, former French Foreign Minister Michèle Alliot-Marie continued to call for a 'stabilizing role' of the EU (Andreas Rinke 2011: Eingreifen oder nicht? Warum sich die Bundesregierung in der Libyen-Frage enthielt, in: IP 66: 4, 44-52 (45).

37 Mutz, Reinhard 2011: Libyen: Lizenz zum Töten? In Blätter für deutsche und Internationale Politik, 56: 6, 53-56.

5. Conclusion

The responsibility to protect has become an integral part of both the African and the European security cultures. Despite some similarities, however, both organizations also display certain peculiarities in their respective interpretations of R2P. Core documents of the AU acknowledge the protective aspects of R2P but emphasize that decisions on enforcement measures on the African continent should be taken by Africans. This attitude reflects deep-seated fears of exploitation and domination by outside powers. At the same time, there is a marked discrepancy between rhetorical support for the enforcement aspects of R2P on the one hand, and the political reservation of many authoritarian leaders in Africa who fear that any infringement on the principle of sovereignty might threaten their political survival on the other hand. The EU in turn has emphasized the preventive side of R2P at the expense of its enforcement aspects. This ambivalence reflects on the one hand a wavering European commitment to assuming responsibility for the protection of civilians globally and on the other hand exposes deep rifts among EU member states on issues pertaining to the use of force.

The civil war in Libya and NATO's bombing campaign were perceived rather differently in both world regions and will probably have lasting, but diverging, effects on the development of each region's security culture. Although many observers in Europe note the marked contrast between the attitudes of many European states towards the Libyan regime before and after the eruption of violence, they nevertheless deem the intervention justified and think that the primary aim of the intervening states has indeed been the prevention of a humanitarian catastrophe. The debate furthermore reveals the isolation of Germany. While many Eastern European members had deep reservations as well, their reticence drew less criticism than Germany's. More importantly, since the vote on UNSCR 1973 and the military successes of the rebels, Germany has been on the defense. Berlin has for all practical purposes been excluded from the deliberations over Libya's political future. In order to realign itself with the Western European consensus, the German government has taken a couple of symbolic steps. In a sense, this might indicate a certain acceptance of the German government that it had acted in contradiction to the European spirit. Berlin was even ready to participate in the planned EUFOR Libya mission, originally devised as a humanitarian mission that would have put boots on the ground in a dangerous and hostile environment. The indirect recognition that it is not in accordance with "European" norms to prevent the use of protective force in the event of an ongoing humanitarian disaster might have a lasting effect on how the EU localizes emerging global norms on humanitarian protection. Since nothing is as convincing as success, the successful practice of applying force for the protection of civilians in Libya will have a lasting effect on the emerging European security culture. Indeed, recent official statements by EU representatives already reflect an emerging consensus on the use of military force. For example, the President of the European Council, Herman Van Rumpoy, in a keynote address to the UN General Assembly, concluded that when "there was the risk of a bloodbath in Benghazi, European leaders […] acted with swiftness and determination, diplomatically and militarily. […] The principle of "responsibility to

protect" was put into action – with perseverance and success."[38] Last, but not least, events in Libya have exposed the weaknesses and moral deficits of the traditional European policy of engagement. Until the Arabian rebellions, EU policy vis-à-vis its neighborhood was characterized by an implicit recognition that authoritarian regimes are a fact of life: the EU must engage with them for the sake of preserving order and stability rather than opposing them in the name of freedom and justice. After Libya, the pendulum might swing back and human rights and justice issues might move to the center of the EU's security policy.

Reactions in Africa will probably be more ambivalent. On the one hand, some decision-makers and many civil society voices have deplored the continuing weakness of the AU in the face of massive human rights abuses on the African continent. These voices will probably demand that the AU take an unequivocal stand on R2P in the future and that the organization improve its capacity to solve African problems. On the other hand, many decision-makers and other public voices show deep resentment vis-à-vis the West. They believe that NATO unilaterally reinterpreted the UN mandate to achieve its ulterior motives. Instead of protecting civilians, NATO misused the mandate to orchestrate regime change in Libya. What is more, NATO's intervention also stymied the AU's mediating efforts which might have led to a political power-sharing arrangement. The AU promised to come up with African solutions to African problems, thus allowing Africans to accept global norms on human protection without having to fear outside intervention. Libya has proved the hollowness of this promise.[39] Overall, the long-term effects of NATO's intervention will probably prove more divisive than the vote on UNSCR 1973 suggested and many Western observers believe. To prevent a lasting African disenchantment with R2P, Western states, instead of marginalizing the AU, should engage the organization and accept it as a legitimate player in the solution of humanitarian crises. Most importantly, NATO should ask the AU to take an active role in helping the people of Libya to rebuild the political institutions of the country. Even if the participation of another international organization might come at the price of a certain loss of efficiency, this price would be small in comparison to the gains in legitimacy. Participation of the AU would at least help to mitigate African misgivings about Western involvement in Africa and could contribute to strengthening Africa's commitment not only to the responsibility to react, but also the responsibility to rebuild.

Finally, the intervention in Libya brought several controversial dimensions of the concept of R2P to the fore, which needs to be addressed before this concept will gain

38 Address by Herman Van Rumpoy, 66th United Nations General Assembly General Debate, New York 22 September 2011, EUCO 78/11.

39 See, for example, Thabo Mbeki's op-ed article in "Die Zeit" (9.6.2011) in which he deplores that Western powers have used their supremacy in the UN Security Council to decide on the fate of African countries – without taking into account or even listening to what the Africans themselves have to say. "This is the same attitude as Westerners displayed during colonial times when they presided over our continent." See: www.zeit.de/2011/24/p-oped-Afrika/komplettansicht (15.6.2011).

general acceptance. One structural dilemma concerns the collection and assessment of evidence for the perpetration of genocide, war crimes, ethnic cleansing and crimes against humanity. If the world community waits until unambiguous evidence for these crimes is available, it will in many cases be too late to intervene. On the other hand, intervention on the basis of vague evidence would create doubts concerning the observance of the right intention and proportionality criteria. In the end, the decision on whether and when to intervene will depend on the assessment of the Security Council. However, the creation of a UN fact-finding instrument could improve the quality of this assessment and might reduce disagreements among members of the world community.

Another important issue concerns the tension between the protection of civilians and the rights of sitting governments. As we have pointed out, the ICISS report argued that the sole rationale for intervention should be the protection of civilians and that force should not be used to pursue regime change. However, the drafters of the report also left some room for interpretation as they acknowledged that in some cases the protection of civilians might require the disabling of the host regime's instruments for committing atrocity crimes against its own people. In most cases, the fine line between protection and regime change will be determined by context specific factors. The Libya experience suggests two lessons: Firstly, the emphasis of the 2005 World Summit document on helping states to fulfill their responsibility to protect strongly supports the conclusion that R2P also includes respect for state sovereignty. In many cases, this demands a responsibility on behalf of intervening actors to work actively for a compromise between governments and suppressed/rebelling parts of society. In the case of Libya, NATO did not participate in the search for a negotiated solution. Quite to the contrary, the Alliance even undermined a negotiated solution by insisting that Gaddafi must go and supporting at least indirectly the uncompromising position of the Transitional Council. Second, ex ante authorization in form of a Security Council mandate will in many cases prove insufficient to delineate legitimate protective measures from illegitimate regime change. In the case of Libya, the intervening states clearly overstepped the UNSC mandate, for example by delivering weapons to the rebels, inevitably raising doubts about the purity of their intention. To prevent a free-wheeling interpretation of mandates in future cases, an oversight mechanism should be introduced which would allow the Security Council in its entirety to oversee the implementation of protective mandates.

Lastly, Libya raises the issue of who should carry the burden of protection. As long as this duty rests on coalitions of willing states, there will inevitably be suspicion that intervention decisions are driven by ulterior motives rather than moral concerns. Even worse, if Western states were the only actors able and willing to conduct humanitarian interventions in non-Western regions, suspicion would increase and would undermine a global consensus on the responsibility to protect. In this regard, the basic idea of ESDP as an instrument for interventions outside of Europe is highly problematic. Empowering other regional organizations like the African Union to solve local problems is thus a more important and rewarding task of European security.

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List of abbreviations

AU	African Union
CFSP	Common Foreign & Security Policy
ECOWAS	Economic Community of Western African States
ESDP	European Security and Defense Policy
ESS	European Security Strategy
EU	European Union
HHG	Helsinki Headline Goal
ICC	International Criminal Court
ICISSS	International Commission of Intervention and State Sovereignty
OIC	Organization of the Islamic Conference
PSC	Peace and Security Council
R2P	Responsibility to Protect
RSO	Regional security organizations
UN-OCHA	UN-Office for the Coordination of Humanitarian Affairs
UNSC	UN Security Council
UNSCR	UN Security Council Resolution