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ABSTRACT

The role of legitimacy in India's approach to the doctrine of the 'Responsibility to Protect' (R2P) and Humanitarian Interventions (HIs) has not received as much attention as it is due. The following paper evaluates India's evolving views on R2P and HIs through the prism of *legitimacy*. It also demonstrates why the outcome of an HI, whether through the medium of the R2P or otherwise, matters as much as motives. Most Indian debates about R2P and HIs tend to mirror Western debates. While a preliminary consensus did emerge in 2005 about the R2P, the inappropriate application of the doctrine has triggered a crisis of legitimacy.

INTRODUCTION

As a major emerging power, expectations are high for India to perform an active role in armed humanitarian interventions. Given this reality, its role in upholding the rights of civilians and protecting them against atrocities on a colossal scale is undergoing scrutiny. Among the most

crucial areas where New Delhi's attitude and position has been under examination is over the doctrine 'Responsibility to Protect' (R2P) adopted by the United Nations World Summit in 2005. India's role in the protection of civilians as an emerging power has received scholarly attention, but few of the analyses have addressed the significance of legitimacy in India's approach to R2P and humanitarian interventions (Pai 2013, pp. 303-319).

Why and how India's views on the doctrine of Responsibility to Protect (R2P) and Humanitarian Interventions (HIs) are a function of Global Institutional Legitimacy (GIL) and Domestic Normative Legitimacy (DNL), are the subject of enquiry for this article. This conceptual distinction is important in that it helps clarify why both concepts have underpinned India's approach to humanitarian interventions. HIs come in different guises. The most well-known form of HIs are UNPKOs. India's most consequential contributions, even as an emerging power to global governance, have been through UNPKOs. On the other hand, the R2P represents a shift at the extreme end of HIs to the extent it is doctrinaire and coercive, and mandates expeditious action against mass atrocities without adequately considering outcomes. Consequently, it grates against India's preferred deliberative and consent-based approach to HIs through UNPKOs authorised by the UNSC. This paper will show by way of argument and analysis that legitimacy plays an important role, if not exclusively, and broadly defines India's approach to R2P and humanitarian interventions. The different strands of thought among Indian foreign policy elites reflects the values inherent in Indian society.

Most of the Indian debates, particularly non-official on R2P, centre on the motives of the intervening state or states as opposed to the outcome of the intervention, and this is most evident in its application against Libya. At an official level, there is greater attention paid to both the means and ends of HIs. It reveals the ambivalence of India's attitude

to R2P. On the one hand, it extended reluctant support to R2P due to the massive support. Legitimacy has always been a constant and core test for India in HIs. India's emphasis has often been on consensus and deliberation, and not the alacrity with which the proponents push for the application of R2P.

While motives are necessary, an armed humanitarian intervention can be deemed legitimate only if the outcome of the intervention produces humanitarian benefits for the target population. The debates in India about R2P generally revolve more around the motives, and insufficiently around outcomes of HIs, which tend to parallel Western conduct.

The paper is structured as follows: First, it establishes the conceptual basis of legitimacy in both its institutional and normative variants and respectively deals with two cases in which formal institutional and domestic political legitimacy undergirded Indian HIs. The difficulty with most debates and analyses about India's views on R2P and HIs is that it tends to fixate on the most recent humanitarian crises such as in Libya and Syria, overlooking the complexity and nuances undergirding India's positions historically on HI. Corresponding with institutional legitimacy, I analyse India's intervention in the Congo in the early 1960s.

In the second case, I analyse the role of domestic normative legitimacy's functional role in India's HI in East Pakistan in the early 1970s. This selection of cases enables better and more accurate understanding of India's current approach humanitarian interventions. It provides a sound empirical basis for understanding India's approach to one variant of HIs as opposed to others. These brief case histories provide illuminative value and explain the present Indian position on R2P and HIs and the views of its foreign policy elites respectively. This has implications for the extent to which India can contribute to global governance.

The final part explains the concept of R2P and analyses India's official and non-official views on the doctrine and more generally New Delhi's approach to HIs. This section devotes attention to R2P's application to NATO's intervention in Libya in 2011. It demonstrates, despite institutional legitimacy underwriting the UN-sanctioned intervention in Libya, India abstained from voting for the intercession. It surveys the media, policy community and academic literature on India's approach to R2P and humanitarian interventions. It demonstrates the differences between competing schools within and outside India.

CONCEPTUALISING LEGITIMACY

Let us begin with institutional legitimacy, which implies that institutions are durable, bind actors to a set of rules that prescribe acceptable rules of conduct, roles, constrain activity and shape expectations. Compliance with an international norm can be a function of coercion, self-interest or legitimacy. The scholarship on the first two mechanisms is thorough, yet in regards to legitimacy, the work done thus far is still under-researched, most particularly from an empirical standpoint. Legitimacy by definition, as Ian Hurd puts it, means "...the normative belief by an actor that a rule or institutions ought to be obeyed. It is a subjective quality, relational between actor and institution and defined by the 'actor's perception of the institution' irrespective of interests and coercion (Hurd 2007a, p. 7) (Hurd 1999b, p 381). This perception moulds an actor's conduct. Formal global institutions include the United Nations, and its apex political decision-making body, the Security Council, is vested with the authorising power for the use and non-use of military force in response to humanitarian emergencies. Power and legitimacy need not be binary, but can complement each other. Legitimacy is often confused with legality and sometimes exclusively morality. Even legality and morality taken

together might not sufficiently define legitimacy (Claude Jr. 1966, p. 369). Instead, legitimacy must include a “political dimension” in that “...the process of legitimization is ultimately a political phenomenon, a crystallization of judgment that may be influenced but is unlikely to be wholly determined by legal norms and moral principles” (Claude Jr. 1966, pp. 369-370). The “function of legitimization,” as Claude Jr. observed, “...in the international realm is...conferred upon international political institutions” and this institutional function will be performed most prominently through the political role of the United Nations. This is simply because political leaders are as much concerned about the approval of other states as they are about foreign policy choices that they make independently of external influence (Claude Jr. 1966 p. 375).

Similarly, there is a complex interplay between the legal, ethical and political, which are not necessarily prioritised over each other, but legitimacy judgments strike a balance between all these three norms (Clarke 2005 p. 220). Constitutionality is the term that corresponds to the political norm, which represents an interaction between power and interests and there is always a political element to legitimacy based judgements (Clarke 2005 p. 207-208). Ian Hurd, in a similar vein, shows how and why legitimacy performs a fundamental role in underwriting the power of the Council. If Inis Claude Jr., drew attention to the political element of legitimacy and Clarke to the interplay between morality, legality and constitutionality, Hurd brings to fore the social dimension of legitimacy, symbolised by the authority of the UNSC and respected by the entire UN membership. (Hurd 2002c p. 35-36). Hurd observes:

The power of Council [UNSC] wields over the strong comes not from blocking their military adventures (which it is not empowered to do) but rather from the fact that the Council is generally seen as legitimate (Hurd 2003a, pp. 204-205).

The “high social status” of the Council provides symbolic value in the form of “social capital”, which induces compliance on the part of states (Hurd 2002c p. 35). As Hurd shows, power needs legitimating authority (Hurd 2002 p. 35). Since there is an absence of world government, the means for the enforcement of contracts and laws between states needs some ordering principle that is independent of self-interest and coercion, which legitimacy furnishes (Hurd 1999 p.404).

What if institutional legitimacy for undertaking an HI is absent? Can domestic normative legitimacy furnish sufficient authority for the initiation and conduct of HIs? Domestic normative legitimacy also provides a basis for understanding of how states respond to humanitarian emergencies in the absence of global institutional legitimacy. As we have seen, the role of institutional legitimacy is very important, but what happens when the institution endorses a norm in principle, but not in practice? Norms are an authoritative standard by which members of a group follow a set of rules that are deemed legitimate in both breadth and depth, which they have internalised, because it is associated with the ‘core values’ of the state and many states. After all, if a State’s Constitution provides and enshrines the protection of liberties of its citizens, particularly the right to life and property, the imperatives to protect these rights become important internally and between states (The Constitution of India, Fundamental Rights, p. 10). The international norm has to have some domestic salience, which may be considered the basis for appropriate intra-state and inter-state conduct. There has to be a ‘cultural match’ between the international norm and domestic norm in that it strikes a chord with domestically shared understandings of ‘beliefs and obligations’ (Cortell and Davis 2000 p. 68-77). Nevertheless, the motives for legitimising HIs is often unclear as Finnemore observed, ‘...justification does not equal motivation. Humanitarian justifications have been used to disguise baser motives in more than one intervention (Finnemore 1996a, p. 155).

Finnemore goes on to claim that HIs are legitimate only if they are “multilateral” (Finnemore 1996b, p. 15). The politics of the Cold War according to Finnemore, rendered impossible multilateral HIs, yet the post-Cold War period offered more opportunities for HIs (Finnemore 1996b, p. 15). Other scholars concede that calculation of interest is hard to separate from legitimacy and that legitimacy is multi-dimensional when it comes to the exercise of military power for HIs (Hurrell 2006 pp. 15-18). The claim that only multilateralism bequeaths legitimacy for HIs, one might say, is too restrictive and self-serving. Even unilateral humanitarian intervention may be deemed legitimate. As Michael Walzer noted: ‘Multilateralism is no guarantee for anything’ (Walzer 1995 p. 63). Notwithstanding its attractiveness, multilateralism as the only basis for legitimacy for HIs suffers simply because if every member state of the international community were consulted, each could indulge in their ‘...self-aggrandizing proposals’ to the point of vetoing collective action. The consequence is likely to be ‘stalemate and inaction’ (Walzer 1995, pp. 62-63). Yet crude coercion for humanitarian ends on the part of great powers also needs legitimising authority (Hurrell 2006, p. 16). It is difficult to meet the demanding criterion of exclusively compassionate sentiment and humanity as the rationale for humanitarian intervention because there are few or almost no cases where such a test has been met (Wheeler 1997, p.14). A combination of self-interest and humanitarian motives can be a sufficient basis for HI, particularly if there are humanitarian ‘benefits’ (Walzer 1977 pp. 104-108).

Both the legitimating role of institutions and moral agency provided by domestic institutions, the Constitution and Indian society have performed an equally important role in determining India’s approach to HIs. R2P, which is a more recent phenomenon, is contested, if not in its totality, but specifically armed intervention that the Third Pillar of the doctrine mandates.

The Congo: The Role of Formal Institutional Legitimacy in India's Approach to Humanitarian Interventions

India has seen formal institutions such as the United Nations bequeathing legitimacy to its contributions to HI in the form United Nations Peace Keeping Operations (UNPKO). Congo stands as among the most visible examples of New Delhi's contribution to HIs and demonstrates the significance of institutional legitimacy that undergirded it. In doing so, New Delhi actually shrunk the domestic sovereignty of the Congo through the UN. Gopal called Indian intervention in the Congo the "...altruistic side of India's commitments" (Gopal 1984, p.145). For Nehru, supporting the UN in the Congo "...was a personal act of faith...", according to his biographer (Gopal 1984, p. 146). Mohan noted Indian contributions to UNPKO was and is '...a form of collective intervention by the international system' (Mohan 2008). Nehru himself called it "real internationalism" despite Indian nationalism as he noted in his *Discovery of India*, which he contrasted with the British Empire and the Commonwealth that subordinated the colonies, including shortly to be independent India "...to the extension of a narrow British nationalism" (Bhagavan 2010a 319-320). The UN would be the legitimating vehicle for this 'real' internationalism to ensure peace and justice (Bhagavan 2010a, pp. 319-321). This is significant as the Congo demonstrated India's internationalism, albeit an anti-colonial variant (O'Malley 2015, p. 973). For Nehru, India was prepared to subordinate to "some extent", its sovereignty to a world organisation (Bhagavan 2012a, p.319). Notwithstanding the fact that Nehru could not push his ideals too far lest he not attain them all, he nevertheless observed to Albert Einstein, "All we can do is try our utmost to keep up standards of moral conduct both in our domestic affairs and the international sphere" (Bhagavan 2012b, p. 86). Indian nationalism and the ideals of peace, justice and liberty that helped India attain independence served as a critical wellspring for its internationalism.

These conclusions clearly illustrate that institutional legitimacy is a very critical facet of India's contributions to global peacekeeping missions and HIs. It is these forms of HIs legitimised through formal institutions that have been a more common characteristic of India's foreign policy than the doctrinal approach to HIs undergirding R2P.

The crisis in the Congo erupted in 1960. Congo was and is a country located in Central Africa and its land mass matched that of Western Europe. It had significant mineral resources, with a small population of 13 million at the time. On 30 June 1960, it gained independence from Belgium. The Belgians were determined to retain their colony. On 11 July, a little less than a fortnight following Congo's independence, the Belgians encouraged Moïse Tshombe the Congolese leader, considered by some "to be a black stooge" of the Europeans, to secede the Katanga region where a large number Belgians lived (Gibbs 1993, 164). The Katanga region contributed the most to the Congolese economy and revenue (Lemarchand 1962, pp. 405-406). Due to these subversive developments extirpating the Congo's independence, Patrice Émery Lumumba, the Congolese Prime Minister, appealed for international assistance. Then UN Secretary-General (UNSG) Dag Hammarskjöld, acting with alacrity, secured UNSC approval for technical and military assistance until the Congolese forces could act on their own. Nehru was prompt in his appreciation of the UNSG's decision to get the UNSC to aid the Congo. Despite the UN's inadequacies, the Indian government believed the world body was the only ally the Congo had. India did not initially deploy troops to the Congo as New Delhi suspected that the West was trying to shore-up the Congolese dispensation led by Moïse Tshombe, Joseph Kasavubu and the military general Mobutu Sese Seko. Mubutu accusatorily observed:

'These Indians who run the United Nations here are doing everything they can to bring Lumumba back to power and turn the Congo into a Soviet State' (Gopal 1984, p. 152).

Albeit, Mobutu enjoyed the support of American intelligence at the time of Belgian independence in 1960 (Askin and Collins 1993, p. 74). The Kennedy Administration had taken charge of the U.S. government in early 1961 and viewed the Indian position with greater sympathy, than did its predecessor (Gopal 1984, p. 154). The concern from the Indian standpoint was not so much the violation of Congolese sovereignty, but more about whether the UN as an organisation and global institution could restore stability and order in the country. India saw the UN as an instrument for legitimising the intervention. New Delhi sought a clear and unambiguous mandate from the UNSC. Nehru even rejected Tito's proposal that African states contributing to the mission be placed under their respective national commands because it would lead to the fragmentation of the UN force and encourage external armies to support their preferred warring factions (Gopal 1984, p. 153). This would spell further disaster for the country as it would plunge it into a civil war and wreck the legitimating function of the UN in stabilising the Congo. Therefore, foreign forces, except those under the UN Command, had to leave the country and allow the Congolese Parliament to convene (Gopal 1984, p. 153).

The central African state from the Indian standpoint had to be free from foreign interference, particularly the Soviet Union and the US-led Western bloc countries, which India believed was actively working to undermine the Congo's newfound independence. The UNSC had to provide a strong and effective mandate to the UN Secretary General. India would then despatch combat troops. Eventually, the UN did pass a resolution on 21 February 1961 that met Nehru's demands. American aircraft airlifted Indian combat forces to the Congo. The Indian intervention in the Congo occurred at a time of considerable military stress in Sino-Indian relations. Despite this fact, India deployed an entire brigade to the country, which remained during and after the Sino-Indian boundary conflict (Gopal 1984, p. 160). Some have even critically

concluded, despite the Indian Army's pleas for more operationally ready combat troops for the defence of the Sino-Indian frontier, Nehru's deployment of an elite brigade to distant Congo, reflected his 'overconfidence' and misplaced sense of priorities (Vertzberger 1984, 129). Notwithstanding criticism of India's choices, the foregoing empirical analysis allows us to make a critical inference that India's HI in the Congo under UN command reflected its solidarity with institutional legitimacy despite the absence of any direct Indian interests in the Congo. It was executed independently of any Indian self-interest or coercive pressures from third parties.

As of today, India has contributed to 44 UNPKO missions (PMINY). The only period when India did not contribute to the UNPKO was during the period of 1970-1989 (PMINY). Multilateral humanitarian interventions through the UNPKO have been New Delhi's most consequential and constant contributions to global order and governance since the inception of the UNPKO in 1948. India has participated in eleven times as many peacekeeping missions as it has undertaken regional HIs. The UN's peacekeeping office credits 'UNSC-authorized peacekeeping' duties for providing '...unparalleled legitimacy to any UN peace operation', which explains India's extensive involvement, because it is deliberative, consent-based and representative (Background Note, UNPK). From Jawaharlal Nehru to the current Indian government under Narendra Modi, India has been involved in UNPKOs. At present, India is contributing to eight ongoing UNPKOs and missions (PMINY).

1971: Indian Regional Humanitarian Intervention – The Role of Domestic Political Legitimacy

The 1971 war between India and Pakistan broke out because of the civil order in the Bengali-dominated Eastern wing of Pakistan collapsed. In March 1971, the Punjabi-dominated Pakistani military regime led by

Yahya Khan undertook a massive crackdown in the East, leading to a significant exodus of refugees into India. Unable to bear the burden of hosting approximately eight to ten million refugees and failing to convince and secure the support of the UN and the international community for an intervention, New Delhi by the end of 1971, mounted a massive military offensive (backed by the Soviet Union) to liberate East Pakistan, thereby helping create a new state. The motives behind this Indian intervention, albeit well-documented, are often considered mixed, ranging from the humanitarian to the ulterior.

The scholar Ian Hall, for instance, argues that “ulterior” motives animated India’s humanitarian interventions, most specifically its intervention in East Pakistan in 1971 due the history and strategic rivalry between the two South Asian foes (Hall 2013, p. 90). Nevertheless, he concedes Indian motives were ‘mixed’ (Hall 2013, p. 90). There is nothing unique in Hall’s observation and claim about India’s 1971 intervention. After all, the late K. Subrahmanyam, the doyen of Indian strategists, observed preceding India’s overt military intervention in East Pakistan in 1971, ‘an opportunity [to vivisect Pakistan] the like of which will never come again’ (Sisson and Rose 1990, p. 149). Self-interest too, is a conditionality for legitimacy. Beyond this ulterior motivation, which in any case was only one motive, Hall overlooked in his analysis the level of internal deliberation that occurred prior to India’s intervention in East Pakistan. New Delhi was never militarily in a position to intercede rapidly in East Pakistan or at least the Indian government did not direct the armed services to mobilise, such as in the spring of 1971 (Subrahmanyam 1996, p. 89). That apart, military intervention was not India’s first choice of policy but rather a political solution (Sisson and Rose 1990, p. 153). A political solution that involved some compromise between the two wings leading to a federal Pakistan was certainly something India had sought and deemed feasible (Raghavan 2013, p. 78-79). Further, there were differences

within the Indian political and strategic establishments over the merits of the intervention, which stood in sharp contrast to sections of the establishment that supported Subrahmanyam's view and those that did not (Raghavan 2013 pp. 135-153). Prominent Indira Gandhi Advisor P.N. Haksar, while sympathetic to the Bengali plight, was initially leery of Indian intervention on behalf of the East Pakistanis, as it would violate Pakistani sovereignty – a member state of the UN (Bass 2015 p. 238). The Indian government resisted following Subrahmanyam's prescription for quick intervention (Raghavan 2013, pp. 68-70).

Ironically, scholars Sumit Ganguly and Eswaran Sridharan respectively temporise about HIs undertaken by the West in general and the U.S. specifically and accuse and critique New Delhi today of indulging in 'shibboleths' about sovereignty and opposing humanitarian interventions (Ganguly and Sridharan 2013). In 1971, the United States supported Pakistani sovereignty and did not support Indian intervention. Washington saw Pakistani sovereignty as a right and ironically, India, at one point in the crises considered it important too. Ganguly overlooks the importance of context and choice and their complex interplay. Context in this case is equally about the geopolitics of the Cold War, in that Pakistan played a pivotal role in enabling the rapprochement between China and the United States, which induced Washington's support for Pakistani sovereignty. For India, geographic proximity facilitated intervention coupled with considerable domestic legitimacy bequeathed by the Indian public for the intervention and the degree of support within the target state, which in East Pakistan had a popular leader in Sheikh Mujibur Rahman. The Awami League enjoyed significant popularity within the Bengali populace, which only reinforced the legitimacy of India's intervention (Raghavan 2013 p. 30-32). Briefly, India had a ready local ally, which was pivotal to the success of Indian intervention and gave it more legitimacy. In any case, India's intervention in the East was not inevitable as Srinath Raghavan's recent

account of the 1971 war demonstrated. Raghavan observes, "...it was the product of conjuncture and contingency, choice and chance" (Raghavan 2013, p. 9).

Even if this is deemed unsatisfactory, as Ganguly suggests in a critique of Raghavan's work that structural factors as much or were more determinative of the war, the issue of domestic normative legitimacy and the political judgment undergirding it are factors Ganguly underplays (Ganguly a 2016 p. 194). He also underestimates in his latest assessment the importance of legitimacy in attitudes towards HIs (Ganguly b 2016, pp 362-372). Respect for sovereignty will remain, if not exclusively, an abiding commitment in Indian foreign policy conduct involving responses to humanitarian emergencies and R2P specifically. After all, Indian military activism in response to humanitarian emergencies through the 1990s and 2000s was not evident in recent cases within South Asia such as Nepal, Myanmar and Sri Lanka (Pai 2013 p. 308). The crucial difference between New Delhi's response to the humanitarian emergencies in these countries and the East Pakistan humanitarian crisis of 1971 was the level of public and parliamentary support for military action. It was more intense in the latter as compared to the former.

Therefore, the 1971 episode also testifies to why and how India shrunk domestic sovereignty, which in this case was Pakistani sovereignty, when it needed to. Tellingly, the United Nations did not support India's case for intervention. As Malone put it:

"...in an age [context] unfamiliar with and unsympathetic towards humanitarian intervention, India's actions were seen primarily as aimed at dismembering a member state of the UN" (Malone 2011, p. 255).

India just about avoided censure by the UN (Malone 2011, 255). India had no formal institutional legitimacy or collective legitimation to

undergird its eventual intervention in East Pakistan (Pai 2013, p. 306). Domestic normative legitimacy furnished a pivotal motive for the intervention.

India's democratic system actually subverted its initial commitment to respect Pakistani sovereignty, as moral outrage of the Indian public and parliament towards the Pakistani Army's atrocities was overwhelming, leading to military intervention. In contrast to Haksar, Jayaprakash Narayan, a leading opposition leader at the time observed: "...what is happening in Pakistan is surely not an internal matter of that country alone' (Bass 2015, p. 238). Eventually, as the crisis evolved, Haksar conceded the moral revulsion the atrocities evoked in India compelling the case for intervention and that distant countries could temporize about sovereignty, but India could not view the developments in East Pakistan with 'calm detachment' (Bass 2015, p. 239). Even in the case of Subrahmanyam, his case for intervention was not merely driven by opportunism to dismember Pakistan, it was justified as much on normative and moral grounds. India's stance against apartheid in South Africa and Rhodesia served as a precedent according to the Indian strategist for intervention to topple a repressive Punjabi dominated minority military regime that did not respect majority rule under Bengalis. In sum, Pakistan was an apartheid state. He saw Indian intervention in East Pakistan as generating pressure against the Rhodesians and South Africans at the UN (Bass 2015, p. 249). Here again we witness the legitimacy and normative force undergirding Subrahmanyam's case for the HI in East Pakistan. The crucial difference between Subrahmanyam and other members of the Indian establishment was that he was more emphatic in making the case for decisive and early intervention, because many lives could be saved.

As Indira Gandhi, the Prime Minister of India of the day put it: 'Pakistan cannot be allowed to seek a solution of its political or other problems at the expense of India and on Indian soil' (Sisson and Rose

1990, p. 152). The Pakistanis for their part believed that they were preserving their sovereignty. India in any case violated article 2 that recognises the “sovereign equality” (Charter of the United Nations, 1945) of all states of the UN Charter and justifiably so, because its intervention enjoyed domestic political legitimacy borne out of its constitutional values. In any case, India did seek UNSC approval for intervention, only to be denied (Bass 2015, p. 229). Where multilateralism failed unilateralism worked. Ironically, Indian scholars, today, such as Mehta actually see New Delhi’s 1971 intervention in East Pakistan as presaging the adoption of R2P and this doctrine in 1971 was “applied...well” (Mehta 2011, p. 104). This is somewhat quixotic; Mehta has been an opponent or at least a sceptic of R2P (Mehta 2009, p. 231). India, he argued, could not support the R2P doctrine because it had more pressing challenges at home, and the fractious and contentious nature of its domestic politics makes it improbable for New Delhi to embrace the doctrine (Mehta 2009 p. 209-233). Therefore, New Delhi should not be distracted by the interventionist demands of the doctrine and needs to privilege sovereignty over intervention (Mehta 2009, 231). The challenge with R2P, which Mehta overlooks, is that it bequeaths “right of intervention” under the auspices of the UN. As the foregoing reveals, India did not see its armed intervention in East Pakistan as a ‘right’ or a ‘doctrine’ of intervention, unlike the proponents of R2P who do. Secondly, the 1971 war was a decisive intervention, but not ‘timely’ as R2P’s third pillar mandates. The consequence of Mehta’s claim about 1971 as the basis for the contemporary R2P doctrine, even if it is not his intention, brings India under frequent Western pressure to support every military intervention it selectively and possibly frivolously undertakes by invoking R2P. If Mehta can rationalise the 1971 intervention as the foundation for R2P, why is he so resistant to endorsing the doctrine? It also goes against the grain of the evolutionary, complex and gradual approach taken by the Indian state in mounting the 1971 intervention.

The 1971 intervention was the outgrowth of deliberation and not alacrity and swiftness as the Third Pillar of R2P mandates. As of now, the selective interventions pursued by the West and some non-Western countries have not converged with the selective interventionist preferences of India. On the other hand, Hall's claim that India's intervention was driven, partly by ulterior motives is true, yet presumes the West's interventions such as in Bosnia, Kosovo, Libya and Syria were and are driven exclusively by altruistic considerations and high-minded liberal egalitarianism.

Let us take one prominent Western HI partly involving ulterior motives – Bosnia. The Bosnian war started with the break-up of the former Yugoslavia in 1989. This precipitated Western intervention by the mid-1990s. It is important to determine whether it was undertaken for exclusively humane and altruistic reasons. The HI in the erstwhile Yugoslavia in the mid-1990s was ostensibly undertaken for humanitarian reasons on behalf of hapless and helpless Bosnian Muslims who were the victims of Serb atrocities, particularly in the early stages of the war. This created the impression within the Western press, political establishments, and intelligentsia that the Serbs were the villains and never the victims of Muslim and Croat Catholic atrocities. The scholar Samuel P. Huntington, while not completely discounting the moral motives for intervention in Bosnia, called Western and more particularly American involvement on behalf of the Muslims as a classic example of “calculated civilizational realpolitik” (Huntington 1996 p. 289-290). The West and particularly Washington, Huntington observed, made common cause on behalf of the Bosnian Muslims backed by Muslim powers, such as Turkey and Saudi Arabia and tacitly Iran in a quest not to antagonise the Turks and the Saudis due to the ‘convergence of interests’ unconnected to the ethno-religious war in Bosnia in the 1990s (Huntington 1996 p. 289-290). India, like many Western powers, has been no exception in this regard. Ulterior

motivations have found expression in Western HIs as much as Indian regional HIs. Motives are necessary, but insufficient; outcomes matter. The legitimacy of an HI by way of R2P or otherwise can be ascertained only by the humanitarian results it produces for the target population. Indian intervention in 1971 secured Bengali dignity and dismemberment was the only means to achieving it, which Hall refuses to recognise. After all, did the West not dismember Serbia, when it vivisected Kosovo from the latter? On the other hand, most Indian debates on R2P tend to mirror the same about Western motives.

R2P AND LIBYA: EXPLAINING INDIAN VIEWS ON THE DOCTRINE

Briefly, the R2P has three pillars. Pillar I calls for 'The Protection Responsibilities of the State' to prevent large-scale atrocities within its borders. Pillar II mandates 'International assistance and capacity building' [of the state] and finally Pillar III requires a 'Timely and decisive [military] response' to genocide and mass atrocities (UNGA 2009 pp. 10-22). Officially, India supports the first two pillars and not the third. Most recently, India supported, for the first time since the 2005 world Summit that a debate on the normative dimensions be conducted without a vote on the R2P at the UN General Assembly (PMINY 2017). Nevertheless, India made clear respect for sovereignty remains the 'bedrock' of 'international politics' and political and legal complexities of R2P also need to be examined thoroughly. The current Indian envoy to the UN also underlined the significance of 'deliberation' rather than 'preemptive decision-making' lest the effort to create a 'just global order' result in weakening the existing global order (Akbaruddin PMINY). The latter point highlighted the importance of the deep misgivings India had over the haste with which R2P was invoked against Libya in 2011 and UNSCR 1973 resolution passed without the consequences that followed. India only supports military intervention

as a last resort (Puri PMINY 2012) (Saran 2014). Even in the case of India's 1971 intervention, armed force was not the first policy preference for New Delhi; it was only a final recourse occasioned by extreme circumstances. Libya never met the test of mass atrocities and genocide, as was the case in Rwanda or the Balkans in the 1990s (Puri PMINY, 2012). India endorses the Brazilian principle of 'Responsibility While Protecting' (RwP) (Puri PMNY).

Within the Indian establishment, non-official views, including retired diplomats' views on R2P and HIs are variable largely reflecting the diverse intellectual strands, ideational positions and values encompassing Indian society. At one end is the anti-colonial school, at the mid-end is the pragmatic-realist school and at the far end is the hard realist school, which sees cynical motivations and double standards behind the West's interventions in conflicts, most recently in Libya by invoking R2P and Syria. However, we must maintain the differences between these schools as, not distinct, but largely used as a heuristic device to delineate differences within the Indian polity. To be sure, there is an overlap in the views between these schools, as the succeeding analysis will show.

Let us begin with the anti-colonial school, which occupies the Left of the political spectrum. This school is not outrightly or reflexively opposed to any form of intervention, as long it has been strongly endorsed by the UNSC, enjoys deep and wide multilateral support among member states of the UN and follows considerable deliberation. Therefore, the Left in India places a higher premium on institutional legitimacy, but not one that is dominated and determined by the West. In this regard, R2P specifically came under sharp attack in the wake of the Libyan crisis in 2011 from the Indian left-leaning media. Vijay Prashad noted caustically, "...selectivity is a function of those who continue to exercise their power through the U.N. bodies — which is to say that the West sets the agenda for the use of the R2P doctrine" (Prashad 2013).

To some extent, this is true; because three out of the five UNSC permanent members are Western countries, namely the United States, the United Kingdom and France; the other veto-wielding members being Russia and China. The former's combined political weight tends to drive the UNSC's agenda for military intervention for humanitarian reasons or against it. Prashad's criticism also extended to the sheer arbitrariness with which the UNSC declared the Gadhafi regime's crackdown as amounting to genocidal violence (Prashad 2013). On the Libyan crisis in 2011, a leading Leftist foreign policy commentator critically analysed the West's precipitate decision to intervene in Libya noting the 'motive' was 'political' and 'strategic' and not humanitarian (Varadarajan 2011).

This has some basis, as even prominent figures in the American establishment, such as Richard Haas recently concurred that it 'morphed into regime change' (Haas 2017 p. 8). R2P legitimised regime change in Libya rather than the protection of Libyan civilians against mass atrocities. Yet as Haas accurately maintained, armed humanitarian interventions are rarely 'apolitical' and 'solely humanitarian', contrary to Varadarajan's claim (Haas 2017 p. 6). War, even for humanitarian ends, is '...a continuation of political intercourse, carried with other means' (Clausewitz 1984, p. 99). Means can never be separated from their ends (Clausewitz 1984, p. 99). Further, the Indian Left has not fully considered the political dimension's importance in legitimating an intervention; it is based on a political judgment (Claude Jr. 1966, p. 375). The intervention in Libya also enjoyed UN institutional legitimacy and the support of the Arab League. The Left's opposition was merely because the intervention was driven by major Western powers, ignoring the Arab League's support for UNSCR 1973. As one noted critic of the Indian Left-leaning elites observed prior to the Libyan crisis, they invariably condemn the West's interventionist conduct as imperialism and adopt less condemnatory positions in regards to the Eastern imperialism of the Soviet Union and China, because the latter is better than the former (Aiyar 2007).

The emergence of R2P however, has sharpened the focus of the Left's critiques of the doctrine and the West's motives in general. Yet these Left-oriented commentaries' assertions ignore the selectivity with which India mounted its own HIs at least regionally, because in instances such as New Delhi's intervention in East Pakistan in 1971, the test of domestic political legitimacy in the defence of civilians assumed primacy and lacked the formal institutional legitimacy that India has frequently sought and supported extra-regionally. After all, India's immediate neighbours accuse it of 'hegemonic' and 'imperial' ambitions too. The Indian Left overlooks that arbitrariness is highly subjective and common to a cross-section of states, when it comes to HIs in international politics. Motivations tend to be variable or mixed. Selectivity, as we have seen earlier is something even India has practiced, at least regionally. If political motives explain Western intervention in Libya, so it must explain India's abstention on the Libyan crisis. Notwithstanding New Delhi's deep reservations to vote in favour of UNSCR 1973, India did not frontally oppose the West and the Arab League. The League's support for the intervention allowed New Delhi to justify its abstention (Mohan 2011 p. 6). Further, extra-regionally, India at an official level has supported Soviet interventions at a minimum tacitly, if not explicitly. Take the Soviet repression of the Hungarian revolt in 1956. The Indian Prime Minister Jawaharlal Nehru actually noted in parliament that the facts about Soviet repression were "obscure", despite a UN resolution condemning Soviet acts as repression and rejected calls for UN-supervised elections in the country (Kissinger 1994a p. 564). The facts were anything but unclear. New Delhi's interests vis-à-vis Moscow meant that it would not antagonise the latter over some tiny and '...distant European country' (Kissinger 1994a p. 564). Further, Russia's brutal conduct in Chechnya and more recently in the Crimea have not received or evoked the same moral indignation as the West's conduct from Indian Left-leaning foreign policy elites.

The objections to humanitarian interventions as conceived by the anti-colonial school ignores the role of institutional legitimacy, as Pai observes, 'The selectivity in the choice of theaters in which to intervene leads to scepticism about the motives of the world's major powers' (Pai 2013 p. 308). Therefore, this group has not been consistently committed to legitimacy of the R2P and HIs even when it enjoys institutional support.

The second school can be broadly defined as 'pragmatic-realist,' in that power and interests matter, it is also "pragmatic" to the extent it is not cussedly opposed to R2P and humanitarian interventions nor is it obstinately tethered to the concept of sovereignty. Members of this school are realists who are ready to support the West and maintain that India strike balance between its interests and its values. This school does not fixate as much on Western motives for HIs, as it does Indian motives for opposing or remaining neutral in an intervention. Mohan, of the pragmatic school argued accurately, India's record is 'mixed' when it comes to supporting humanitarian interventions. New Delhi's abstention from voting for UNSC Resolution 1973 authorising military action to intercede in the Libyan civil war had little to do with the non-aligned status and non-Western identity of India or high principles, but more due to New Delhi's risk-aversion borne out of its strategic culture (Mohan 2011a p. 7) (Mehta 2011 p. 102). Non-Indian observers, such as Pethiyagoda too have attributed India's resistance or reservations about R2P to cultural motives. These cultural inhibitions towards R2P stem from India's deep traditions of non-violence, pluralism and tolerance (Pethiyagoda 2013 pp.11-13). The first two pillars of R2P blended well with India's notion of pluralism and non-violence respectively (Pethiyagoda 2013, pp. 16-18). The Third Pillar was activated through UNSCR 1973 mandating armed intervention and India's abstention can be explained by its commitment to non-violence (Pethiyagoda 2013, p. 18). On the other hand, Mohan concluded that India's abstention rested on cold calculation and the Indian national interest shorn of any

ideological biases (Mohan 2011a p. 8). Nevertheless, Mohan's writings predating the Libyan episode largely demonstrate that he is not a reflexive opponent of R2P and HIs, citing examples of India's intervention in 1971 and its armed intervention in Sri Lanka in the late 1980s (Mohan 2008b). Joshi, another leading foreign policy commentator saw the Indian abstention on UNSC 1973 as the typical fence-sitting that has characterised New Delhi's foreign policy (Joshi 2011). Joshi went on to lament that given the atrocities being committed by the Libyan regime, there was a moral imperative for New Delhi to take a clear position and endorse the intervention. He noted India had a '...tendency to run with the hare and hunt with the hounds' (Joshi 2011).

Others such as the scholar Pant, saw New Delhi's approach to the Libyan conflict as jarring in that India claimed to be the world's largest democracy, which contrasted favourably with China (Pant 2011). In doing so, New Delhi did not consider the gap between its aspirations to play a larger role in global affairs that contributes to peace and stability, and its national interests. Libya served, as is the case with the experts surveyed before about New Delhi's attitude towards R2P and role as contributor to global security. For Pant, India came out the worst, because akin to Joshi, he concludes that since New Delhi was a non-veto wielding member of UNSC at the time, its abstention amounted to an actual disapproval of the Libyan intervention, which he contrasted unfavourably with the two veto-wielding members, namely Russia and China who abstained. Their non-use of their veto actually amounted to approval (Pant 2011).

Writing in 2015, Mohan contended in the regional context, 'New Delhi does not have the luxury of treating the principle of non-intervention as absolute' (Mohan 2015c). Elaborating further, Mohan contended that there were demand and supply side issues in regards to intervention in the subcontinent. In South Asia, the supply side issue

comes under critical and sharp scrutiny because of India's putative ambitions and tendencies to be a regional hegemon and a great power (Mohan 2015c) (Jaganathan and Kurtz 2014 p. 466). This point is necessary but insufficient, as Mohan argued it was not as simple as New Delhi striving for regional hegemony, but equally a problem of political elites within the smaller neighbours bordering India seeking New Delhi's intervention when it suits them domestically (Mohan 2015c). The pragmatic school has its merits and strives for some middle ground between intervention and state sovereignty and between values and interests. Yet one of the crucial weaknesses of this school is that many of its members do not fully consider the importance of neutrality in international politics. It is by any account a legitimate stance in some instances for any state, and common to the practice of statecraft. Neutrality is also a political judgment. After all, New Delhi's neutrality or muted posture was equally evident in 2011 with regard to the crisis in Bahrain, which ran parallel to the humanitarian crisis in Libya, where a minority Sunni ruling clique was brutalising its Shia majority population. Bahrain is an apartheid state. Similarly, Canada adopted a neutral position before and during the Indian intervention in East Pakistan in 1971 (Raghavan 2013 p. 172-176). Is and was Canada entitled to run with the hare and hunt with the hounds and not India? In the case of Pant, more than New Delhi's abstention amounting to disapproval of UNSCR 1973, it was more likely irrelevant. After all, the very Western states that participated in military action against the Gaddafi regime, circumvented the UNSC due to the prospect of a Russian veto in 1999 against Serbian atrocities against its Kosovar population. The UNSC cannot prevent military action, despite the threat of a veto, yet performs notwithstanding Kosovo, a legitimating function. The UNSC can also err in authorising military action under the R2P, as was the case with UNSCR 1973, because the outcome of the intervention produced very little or no humanitarian benefits for the Libyan people. By explaining India's position on R2P by way of non-

violence is simplistic as Pethiyagoda does, it underestimates the Indian insistence on post-intervention outcomes (Saran 2014).

While Mohan as well as the other experts surveyed in the foregoing are right to contend, sovereignty is not absolute, nor is intervention. When it comes specifically to HIs, local interests within countries also need to align with any armed Indian humanitarian intervention, which was exactly the case when India intervened in East Pakistan. Moreover, the pragmatic-realist school is also deficient in not considering the fact that the prime “concern” for states is to ask what costs are they prepared to pay for violating the principle of sovereignty in order to service humanitarian goals and ‘...how much of this is justifiable in terms of the outcomes that such intervention seeks’ (Ayooob 2004, pp. 100-101). Given the painful denouement Libya has experienced following the overthrow of Gaddafi, it is hard to justify support for the intervention. It may have been justifiable had it enjoyed legitimacy and the outcome was stabilising; thereby reinforcing legitimacy of the intervention, as was the case in 1971 and several other UN and non-UN sanctioned HIs. In the Libyan case, Pillar III of R2P was activated to topple Gaddafi, without the implementation of Pillars I and II that should have followed the overthrow. The Libyan people have suffered the deprivation of the complete humanitarian benefits of R2P robbing the intervention of its legitimacy. After all, Mohan conceded that Indian officials in their interactions with him opposed the intervention on prescient grounds that a Somalia-like conflict would ensue with the regime’s departure threatening regional stability (Mohan 2011 p. 8). It is not just the armed intervention for humanitarian reasons that matters, it is equally the peace that follows, which might not be perfectly democratic, but stabilising to the extent it puts an end to mass atrocities (Bellamy 2008 p. 620-621). To be sure, Mohan concedes, New Delhi cannot be expected to support every single Western resort to force as a litmus test of its commitment to global order and governance. This is particularly true

when it has no real institutional stake in determining the conduct of military operations and the political settlement that ensues (Mohan 2011 p. 8). Albeit unlikely, New Delhi might be more favourably disposed to R2P's Third Pillar in particular if it "was granted a permanent membership in the UNSC..." (Moller 2017, p. 1924). Indeed, it may increase the legitimacy of R2P if the UNSC were more representative. However, under current conditions, states such as India or Brazil, another emerging power, will not extend comprehensive support for HIs under R2P (Moller 2017, 1924).

Consequently, India, officially at least, will be more selective. It will also exercise caution, and privilege sovereignty as opposed to completely endorsing R2P in the former French Foreign Minister Bernard Kouchner's words the 'doctrine of humanitarian intervention' (Puri 2016 p. 200-201). Therefore, intervention comes with its conditionality and limits. Sovereignty too, is an international institution and a critical ordering and moderating principle in the conduct of inter-state relations (Kissinger 2014 pp. 11-41). Finally, India does not treat sovereignty as an absolute principle; it just emphasises sovereignty when it suits it in the conduct of its foreign policy. It has been more amenable, if not in all instances, to violating sovereignty when it enjoys the institutional legitimacy of the UN. It is evident this school does not question motives for the pursuit of an armed HI and places a premium on what India should do to support it, but pays scant attention to the costs, risks and humanitarian benefits that must result from an intervention.

Finally, the third school can be classified as 'hard realist', because they see the R2P as nothing more than a ruse or a cover for the assertion of Western military power to effect regime change. With the Left, these realists share the view that the R2P is used for effecting regime change and foisting a regime that is pliant to the West' demands and requirements, rather than protecting civilians from a murderous dictator as was the case with Libya in 2011. They too, much like Left-wing

sections of the Indian elite, are dismayed about the choice of regions where the West chooses to invoke R2P and HIs (Parthasarathy 2011).

This point was reinforced by Sibal, who also went on to contest the necessity and the premise of the NATO-led intervention. While Libya is being subjected to vigorous military action, identical problems in other countries such as Bahrain and Yemen were being ignored. The revolt against Gaddafi's rule was supported by external military intervention, whereas in Bahrain for instance, the Shia revolt was being suppressed by external [Western] military assistance. Sibal went on to note that this differential approach was due to the Shia-Sunni power play involving Iran (Sibal 2011).

While not anti-Western, these 'hard' realists also prize a level of 'strategic autonomy' in the choices India makes on R2P and HIs to the extent that it does not vitiate India's interests. Yet these realists ignore that India too has undergone regime change at a regional level as it did in 1971 and it has pursued regime restoration as it did in the Maldives in the 1980s. For the "hard" realists, as is the case for "pragmatists" and the Left the problem is the absence of any consideration of legitimacy. Even when they do see 'some' legitimacy, intervention is seen as an opportunistic undertaking by the West (Sibal 2011).


What this misses again is that India too has undertaken at least partly opportunistic and selective HIs regionally and unilaterally borne out of domestic normative legitimacy. The element missing from specifically Indian regional HIs as opposed to Western HIs (except Kosovo), is that the UN never endorsed them nor did they enjoy significant regional and global support. Moreover, much like the Indian Left, these 'hard' realists question motives without fully considering the legitimacy of an intervention is significantly conditioned by its outcome. Sibal's point is pregnant with the fact that the Arab League and the UNSC endorsed the intervention in Libya. Intervention in Libya was undergirded by

institutional legitimacy and multilateral regional support, yet India abstained and exhibited deep scepticism about the entire enterprise. After all, it was also politically necessary in the case of Syria for the West to legitimise intervention through the UNSC, only to be stymied with a double veto from Russia and China. As we have seen, India too sought the UN's approval in 1971, only to be denied a multilateral UNSC mandate. Any decision to intervene is as much a political judgment as it is a moral, legal, social and interest-based judgment. Notwithstanding Libya, which was an inappropriate case for the invocation of R2P, certain exceptional cases may merit intervention under R2P's.

Yet even non-interventionist liberals such as Pratap Mehta, when it comes to interventions, particularly in the Middle East or the Greater Middle East, insist that India has to be circumspect due to 'sheer economic necessity' (Mehta 2011b p. 104). India will inevitably tread cautious path in the region and focus on the defence of its own borders. However, in other contexts, such as Sub-Saharan Africa, it might be more feasible to pursue R2P and HIs, either through UNSC approval or without, as the political, military and economic costs are relatively lower to stop mass atrocities such as in cases like Rwanda (Kuperman 2001 p.4). While some regional contexts may restrict India's endorsement and application of R2P, others might not. New Delhi may have to reconsider its hidebound attitude towards R2P's pillar III in such cases.

CONCLUSION

India stands as an interesting case in assessing the extent to which New Delhi supports humanitarian interventions, but has a mixed record in supporting and executing humanitarian interventions. It also reveals the paradox that inheres in India's attitude towards humanitarian emergencies. New Delhi's interventions within its neighbourhood have been rationalised, by invoking the principle of humanitarianism and altruism, at least partially, without an appeal to formal institutional

legitimacy. The opposite tends to be equally true in New Delhi's conduct toward humanitarian situations extra-regionally, which it seeks to legitimise through the formal institutional mechanism of the UNSC. Opposition or neutrality also animates New Delhi's attitude towards intervention under the R2P despite collective institutional legitimacy. These are the three faces of legitimacy undergirding India's attitude towards R2P and HIs. The first and the third schools may stand vindicated by the R2P's most prominent application against Libya, but the second school cannot be ignored either, particularly in regional contexts, where India can make a contribution not just for post-intervention reconstruction and recovery, but also militarily. All three schools underestimate the significance of legitimacy in India's approach R2P and HIs. Indeed, at an official level in India there is greater attention paid to the consequences of invoking R2P, particularly the Third Pillar. UNPKOs have been the constant in India's approach to HIs since its inception. Therefore, at an official level, India will look for other ways such as through UNPKOs to contribute to global governance even as a rising power. 

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