The ‘Responsibility to Protect’: a neo-colonial project?

The Responsibility to Protect (RtoP) represents a dramatic shift in the post-Westphalian nation-state. States have voluntarily accepted the right of the international community to intervene in cases where governments are unable or are the perpetrators of crimes against humanity, war crimes, mass atrocities and genocide. Sceptics of the doctrine like Mahmood Mamdani argue that the doctrine will be abused by the big powers for their own self-interest in continental Africa. The premise of this argument exploits the past wretched colonial history that most African nations are still battling with today. This paper will negate the argument that RtoP and international justice are merely facades for a larger western agenda to recolonise Africa in three parts. Firstly, RtoP represents a significant movement away from the traditional notion of sovereignty. Mamdani’s assertion that the concept was born out of Western capitals and forced down the throats of Africans is a lie. Secondly, RtoP has advanced the norms of international justice, particularly the International Criminal Court. Mamdani and his colleagues argue that the ICC is a Western court designed to try Africans. Nothing could be further from the truth, Africans were heavily involved in the creation of the court and the subsequent operations of the court, both administratively and referring cases to the ICC. Thirdly, Mamdani misrepresents the Darfur conflict in his book *Saviors and Survivors* as a conflict between Arabs and Africans and argues that calls intervention by the international community in Darfur were unwarranted as the situation did not meet the criteria of a ‘genocide’. This paper argues that Mamdani and his colleagues have oversimplified the RtoP doctrine as a ‘neo-colonial’ project.
that will give credibility to African dictators who will continually evade justice and commit crimes against humanity.

In 2001, the International Commission on Intervention and State Sovereignty (ICISS) coined the phrase ‘The ‘Responsibility to Protect’. This linguistic shift radically altered the traditional notion of sovereignty. By adopting the principle in 2005, the United Nations General Assembly accepted that states were responsible for the protection of their populations, and if they failed to do so adequately in the face of mass atrocities, the international community had a duty to intervene (UNGA Resolution 1674, World Summit 2005). The shift had begun in 2000 when Kofi Annan had made a powerful statement in the Millennium Report of the Secretary-General of the United Nations, “If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica- to gross and systematic violations of human rights that offend every precept of our common humanity?”(Annan, 2000). The RtoP doctrine was introduced to bridge that traditional gap between two contradicting norms of international law, that of state sovereignty and humanitarian intervention. The doctrine was mildly successful in negating the old arguments that RtoP would be misused by the West to legitimise their military and opportunistic interventions, often branded ‘old militarism in a new bottle’ (Bellamy, 2009).

Humanitarian interventions’ were not uncommon through the 20th century, take for example India’s intervention in the Pakistan civil war in response to atrocities taking place in Bengal, Tanzania’s attack on Uganda to bring down its leader Ida Amen or Vietnam’s invasion of Kampuchea to allegedly end the inhumane policies of the Poll Pot regime (Soroos,1985).It is
clear that Mamdani’s claim that great powers would abuse the RtoP doctrine as premise to cover their unilateral interventions in smaller, weaker states in Africa is farfetched. (Luck, 2010; Newman, 2009; Mamdani, 2008). Mamdani cites Russia’s unilateral intervention into Georgia in 2008 or Kouchner’s advocacy that RtoP was applicable when Myanmar refused entry to emergency relief after cycle Nargis (Serena, 2010). For Mamdani and his supporters RtoP is simply the ‘humanitarian intervention’ characteristic of the Cold War era world order (Bellamy, 2009). Even Evans acknowledges this danger. Mamdani however fails to engage more deeply with the doctrine’s benefits in tackling the humanitarian challenges of the 21st century. Notably, whilst he criticises the doctrine and makes the argument that RtoP should be abandoned in its African ambitions, he fails to adequately give an alternative. Perhaps the best one can draw from his argument is that the African Union should be responsible for ensuring mass atrocities and human suffering are averted. This argument has little credit, given the African Union is severely underfunded and under-resourced, lacks adequate technical and technological expertise in interventions and is still in its youth, combating problems of corruption and legitimacy (Cohen, 2006). In rebuttal that RtoP tends to be overly militaristic and interventionist, supporters of RtoP will point to the Kenyan case, where the principle was invoked and diplomatic measures were pursued to bring an end to the violence that took over the country in the aftermath of the 2008 elections (Bellamy, 2010).

Alex de Waal, a supporter of Mamdani’s position on RtoP and humanitarian intervention argued in the immediate aftermath of the doctrine being accepted by the international community that the Global South would soon realize its fatal mistake in accepting the doctrine because it was simply the old humanitarian intervention repackaged (De Waal, 2007). What both Mamdani and de Waal both miss is that RtoP was a moving away from the ‘right to intervene’ towards embracing more soft power mechanisms of preventing atrocities and
suffering on a mass scale. Both fail to acknowledge the strong Global South support for the doctrine, take for example African National Congress (ANC) member and liberation fighter, Cyril Ramaphosa or former Filipeno President Fidel Ramos, both of whom were strong advocates of RtoP and were part of the Canadian government backed Commission (Just, 2009). Furthermore, to prove that there is strong support for the doctrine in Africa, I will point to the African Union Constitutive Act which has at its core, the right for the African Union (AU) to “intervene in a member state in the presence of grave circumstances such as war crimes, genocide and crimes against humanity (Constitutive Act of the African Union, July 2002).

Take the Southern African Development Community (SADC) for example, in recent times has meaningfully engaged with human rights discussions and pushed forward human rights discourse in the continent (Schabas, 2007). To suggest that these initiatives are not those of Africans but of Western imperialists are to ignore how far Africans have come in their battle to fight human rights abuses. There has also been strong initiative and cooperation between Africa and Europe, most notably the EU-Africa Summit in 2007, which aimed at combating crimes against humanity, war crimes and genocide, including the punishment of those crimes under international law(Max Du Plessis, 2008). Scholars such as Mamdani have chosen to ignore the normative developments in Africa in their fight against human rights abuse.

This is not to ignore the humiliation, pain and subordination Africans suffered under colonialism (Obadina, 2008). Europeans had exploited Africa for its vast mineral resources and cheap labour for most of the 20th century and upon independence, most of these states were left with poor institutional capacities, arbitrarily constructed societies and political hierarchy. Few will forget their experience under colonialism. However Mamdani and those who support
his argument that RtoP will be misused by Western powers to force-feed their agenda onto Africa are merely exploiting these sentiments. There is also a tendency for many educated Africans to portray Westerners for their woes, blaming their current political, economic social turmoil on the West (Obadina, 2008). This populist sentiment has allowed many African leaders and dictators to cling onto power as they fight the imaginary white man (Obadina, 2008).

Another major criticism surrounding RtoP has been the emphasis on pursuing international justice; that is, the persecution of those responsible for committing mass atrocities. Most notable in this routine criticism is that the ICC is a creation of western powers designed to target Africans (Obadina, 2008). Mamdani’s arguments that the ICC is out to get Africans rests on two pillars: firstly, that the ICC was created solely by Western imperial powers, and secondly, that it was forced down the throats of African leaders who were forced to choose between accepting the court or bidding goodbye to development aid (Pheku, 2008).

In rebuttal, African leaders have embraced the ideals and objectives of the ICC, as embodied in the African Union’s core principles including the ratification of the Rome statute by thirty African countries (Max Du Plessis, 2008). African states were also very active in the formation of the court. Consider that 4 of the 18 judges of the Court are African, the Deputy Prosecutor, Fatou Bensouda is Gambian and the Vice President of the Court, Akua Kuenyehia is Ghanaian. The Court itself represents the ICC even better than the UN Security Council does. The arguments by Mamdani and those in his side of the court would have you believe otherwise. Furthermore, in recent years, African leaders have spent significant political capital tackling the culture of impunity that is prevalent across the continent, particularly crimes against humanity and mass atrocities. (Mochochoko, 2005).
Add to that the growing support for the International Criminal Court within African civil society, including over 90 NGOs scattered around the continent in Kenya, South Africa, Kenya, Nigeria, Uganda, Rwanda and Ethiopia and claims that the ICC is not in the best interests of Africans is an overly exaggerated and artificially constructed concept for those seeking fame (as in scholars such as Mamdani) or the cosiness of some African dictators (Mochochoko, 2005). The Responsibility to Protect and the pursuit of international justice is intrinsic to changing the culture of impunity in the continent. The large amount of public pressure within African states has also translated into added support for the doctrine and the pursuit of justice.

Mamdani does have a valid concern in that the four countries standing before the ICC currently are African countries namely, Uganda, Democratic Republic of the Congo, the Central African Republic and Darfur. However upon closer examination, it is clear that the first three were self-referrals and the last, was referred to by the United Nations Security Council. Mamdani overlooks this pivotal point as it would inconvenient his argument that Westerns are using the ICC as a mask to pursue their colonial interests (Fritz, 2008). Perhaps what is most frustrating about radicalists like Mamdani who ruin the good work of the ICC and the justice element of the Responsibility to Protect is that they fail to propose any meaningful measures to combat the current humanitarian crisis we face, whether it be human rights abuses in Damascus or it mass atrocities in the weakly governed areas of the eastern Congo. Mamdani’s argument that the ICC is part of some new ‘international humanitarian order’ in which big powers have unilaterally given themselves the power to be arbitrars of justice rests on little or no empirical evidence. It rests on the oversimplification of Africa’s problems on its wretched colonial history. It is easy to see why approaching that line of argument can be tempting, however as an intellectual argument it has gained little traction (Mamdani, 2008).
In fact I would argue that Africa has more to gain from the work of the International Criminal Court than any other continent. A senior African legal adviser in the ICC’s Registry agreed on this point, stating that no other continent had fallen prey to the widespread culture of impunity than Africa (Mochochoko, 2005). It is no surprise that African leaders have decided to tackle this culture head on by first assisting in the creation of the Court and later, would refer multiple cases to the Prosecutor, including the famous Ugandan case in 2003 when it referred its situation to the Court which ultimately resulted in the arrest warrants for five senior commanders of the Lord’s Revolution Army and its leader Joseph Kony (Max Du Plessis, 2008).

In this case, like the other African cases, the Court has not undermined state sovereignty; rather it has strengthened their legitimacy and pursuit of criminals (Slaughter, 2003). The Responsibility to Protect doctrine has strengthened the mandate of the International Criminal Court.

Richard Just points out that Mamdani’s book *Saviors and Survivors* fails to correctly define genocide correctly. Mamdani’s defines genocide as “killing with intent to eliminate an entire group” (Mamdani, 2009). Yet the Genocide Convention adopted in 1948 defines genocide as "an attempt to eliminate a group in whole or in part" (Just, 2009). The factual and definitional mistakes only begin here and there many more that could be listed. What’s more important however is that this misstep by Mamdani undermines his credibility, he ignores facts that are inconvenient to his argument and most of all he is out of touch with humanity. His book fails to provide a serious alternative to RtoP on what the international community should do in the event that we are faced with mass atrocities, crimes against humanity, war crimes and genocide.
Instead his book advocates overly simplistic and naive proposals to solve Africa’s human rights woes. He ignores comments such as those of Jandaweed leader Musa Hilal who said “We should change the demography of Darfur and it of African tribes” (Just, 2009). If that does not constitute genocide, it’s hard to find a conflict that fits his definition of the term. Either way, even those who don’t refer to Darfur as a genocide agree that the loss of 300,000 lives in conflict in the region constitutes mass human suffering that warrants a response from the international community. By characterizing the Save Darfur movement which begged the U.S. government to invoke RtoP together with neoconservatives of the Bush administration, the author lost all credibility in his advocacy of non-intervention in the Darfur conflict (Just, 2009). Mamdani’s mischaracterization of the human rights activists as intellectual descendents of European colonialists proves this point.

Mamdani and his colleagues have failed to keep up with the transformation of human rights and justice at the international level, ignoring the acceptance by the international community of the RtoP doctrine and holding onto sovereignty as if Africa’s main security threats are western military adventures (Murray, 2004). The African Union has moved much further to promoting human rights, support for democratic institutions and culture and good governance (Max Du Plessis, 2008). If the AU is a strong supporter of these international norms, what motives lie behind Mamdani and his colleagues’ assertion that these norms are Western values forced onto Africans? Mamdani’s solution to combat humanitarian abuses and injustice in the continent is to allow the African Union to deal with these problems. Yet, it is fatal to ignore that the AU is severely under-resourced and cannot adequately enforce these values on the continent (Mills, 2008).
In conclusion, this paper has argued that the RtoP doctrine has been misrepresented by Mamdani and colleagues as a neo-colonial project forced down the throats of Africans. Instead this paper has shown that African leaders and civil society were strong in their support for such a doctrine, including the adoption of the principle in the charter of the African Union.

Furthermore, arguments that Mamdani’s oversimplification of RtoP and the establishment of the International Criminal Court as western ideals in his book *Saviors and Survivors* is a gross misrepresentation of the continent’s views. In contrast, Africa has embraced the RtoP principle and has shown strong support for the pursuit of international justice through multiple self-referrals of situations to the ICC. Lastly, this essay has demonstrated the weakness in Mamdani’s arguments that human rights activists who argued for intervention in Darfur were not in fact neoconservatives tied to the Bush administration nor European colonialists; rather they were genuine activists who wished to stop the bloodshed in Sudan. It is clear that the only beneficiary to Mamdani’s claims that RtoP and international justice are simply neo-colonial projects have been the anti-West, ruthless dictators club that include Mugabe, Gaddafi and others.

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