

PROJECT SYNDICATE



Gareth Evans

Gareth Evans, Australia's foreign minister for eight years and President Emeritus of the International Crisis Group, is currently Chancellor of the Australian National University and co-chair of the Global Center for the Responsibility to Protect. As Foreign Minister, he was at the forefront of recasting Australia's relationship with China, India, and Indonesia, while deepening its alliance with the US, and helped found the APEC and ASEAN security forums. He also played a leading role in bringing peace to Cambodia and negotiating the International Convention on Chemical Weapons, and is the principal framer of the United Nations' "responsibility to protect" doctrine.

Hypocrisy and War

27 April 2011

MELBOURNE – All the world hates a hypocrite. When states preach virtues they do not practice, or set lower hurdles for allies, trading partners, or co-religionists than they do for others, irritation and non-cooperation are the least they can expect. International policymaking is a hardheaded, cynical business, but tolerance for double standards has its limits.

Russia discovered that when it invoked the "responsibility to protect" doctrine to try to justify its 2008 invasion of Georgia. Democracy promotion by the United States and the European Union generates ridicule when it extends only to elections producing winners found palatable, as Gaza's vote for Hamas in 2006 did not. Nuclear-weapons states keep learning the hard way that strengthening the non-proliferation regime is a tough sell when they drag their feet on disarmament.

And the invasion of Iraq in 2003 is a gift that keeps on giving to the world's malcontents: embracing the Security Council only when you get your way, but ignoring or undermining it when you don't, is no way to promote a cooperative rule-based international order.

But in the real world, how consistent is it possible to be in responding to genocide and other mass atrocities, treaty breaches, border violations, or other serious trespasses against international law? To demand that every case that seems to look alike be treated alike might set

the bar impossibly high, and certainly runs the risk of becoming hostage to critics – like those who attack the intervention in Libya – who assert that if you can't act everywhere, you shouldn't act anywhere.

The hardest cases, always generating the strongest emotions, involve the coercive use of military force. Why strike in Libya but not in Darfur – or in Yemen, Bahrain, or Syria? If military intervention in Libya and Côte d'Ivoire were correct decisions, why wasn't the Iraq invasion in 2003, given Saddam's many crimes? What credence can the responsibility to protect have when we know that however bad things get in Tibet, Xinjiang, or the Northern Caucasus, military action against China or Russia will always be off limits?

Former US President George W. Bush famously did not “do nuance.” Nor do most of the world's foreign-policy pundits. But nuance is exactly what is required. And there are tools for applying it in the five tests of legitimacy for the use of force – in any context, not just mass atrocity crimes – recommended by former United Nations Secretary-General Kofi Annan and the High Level Panel he appointed to advise the 2005 World Summit on reforms to the global security system.

These guidelines have not yet been formally adopted by the General Assembly or the Security Council, and remain only background noise in current international debates. But their practical utility, combined with long philosophical pedigree, justifies much greater visibility.

The first test is seriousness of risk: Is the threatened harm of such a kind and scale as to justify *prima facie* the use of force? The risk of an imminent civilian bloodbath was as real in Benghazi and Abidjan last month as it was in Rwanda in 1994. By contrast, there was no such imminent risk in Iraq in 2003, though there certainly had been a decade and more earlier for the country's northern Kurds and southern Shiites.

The current situations in Bahrain, Yemen, and Syria are on the cusp: ugly, but smaller in scale and perhaps retrievable by pressure short of military action (of which the US and its allies could usefully apply much more).

The second test is whether the primary purpose of the proposed military action is to halt or avert the threat in question. Libya passes, as would most other recent cases: had oil – or regime change – been the primary motivation, the Arab League and the Security Council would never have endorsed military intervention. Russia, by contrast, found it hard to find any takers for its assertion that civilian protection was the primary rationale for its South Ossetian adventure in 2008.

The third test whether every non-military option has been explored and found wanting. Libya again followed the textbook: Resolution 1970 applied targeted sanctions, an arms embargo, and the threat of prosecution at the International Criminal Court to concentrate Col. Muammar el-Qaddafi's mind on civilian protection. Only when that failed did Resolution 1973 embrace the military option. In Iraq in 2003, lesser options had far from run their course, which is arguably true now in Bahrain, Yemen, and Syria.

The fourth test is one of proportionality: Are the scale, duration, and intensity of the proposed military action the minimum necessary to meet the threat? As military stalemate looms in Libya, there will be a growing temptation to stretch the UN's legal authority – and the moral and political support that goes with it – to the breaking point, and NATO is now close to that line. It must not cross it if it wants to preserve its own credibility, and the world's capacity for intervention in similar conscience-shocking cases.

The final, and usually toughest, legitimacy test attempts to balance the consequences: Will those at risk be better or worse off? This was always the showstopper in Darfur: any attempted invasion of Sudan would have been disastrous for the two million displaced people, and would have re-ignited the country's even deadlier north-south conflict.

This test explains the effective impunity of China, Russia, or any other major power; however badly it behaves internally, any attempted invasion would trigger a much larger conflagration. Resolving Libya's agony will take more than military action. But, as in Côte d'Ivoire, it is hard to argue that the use of force will cost more lives than it will save.

Steering a course between double-speak and necessary selectivity is hard. But, when examined against the right criteria, cases that initially look alike are often very different. Even when they're not, a higher principle surely comes into play. When our common humanity is under threat, even if we can't do everything we should, shouldn't we at least do what we can?