The Concepts of Responsibility to Protect and Protection of Civilians: 'Sisters, but not Twins'

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This article examines the differences and commonalities between the concepts 'Protection of Civilians' (PoC) and 'Responsibility to Protect' (R2P) in terms of their origins, evolution and applicability to various situations. Such comparative analysis is necessary as to avoid confusion and misinterpretation. The main argument is that the two can be regarded as 'sister' concepts, reinforcing each other, particularly when it comes to critical situations, the most recent example being the international responses to the deadly threats to civilians in Libya in February-March 2011 and the measures imposed by the UN Security Council Resolutions 1970 and 1973. The article also assesses whether the responses to the crisis in Libya represent a triumph or a failure of the 'sister' concepts.

With the failures of the international community and warring parties to protect civilians in major armed conflicts in the last two decades—including Bosnia-Herzegovina, Liberia, Somalia, Rwanda, Burundi, Timor Leste, Democratic Republic of Congo, Sierra Leone, Kosovo, Darfur and elsewhere—two related, but distinct concepts have risen on the international agenda: the duty for Protection of Civilians (PoC) in armed conflict and the Responsibility to Protect (R2P) people from mass atrocities. There is a close relationship between R2P and PoC. They share the same concern—civilian suffering from mass human-induced violence—and both have underpinned international policy and calls for interventions. But there are also important differences in their scope and the situations and ways in which they can be applied. One can argue that they are 'sister' concepts: it is important to keep in mind their differences, as to avoid confusion and gaps in responsibilities; but also it is important to exploit the commonalities between the two as to bring mutual reinforcement and co-operation among actors. The two concepts have co-existed for more than a decade, but there has hardly been any in-depth comparative analysis nor a clear differentiation so far, apart from a short anonymous brief written for the Global Centre for R2P.[1] The UN Security Council Resolutions 1970 and 1973 on Libya utilised both concepts and have provided us with an opportunity to undertake a more detailed comparison.

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[1] 'The Relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict', Policy Brief, Global Centre for the Policy to Protect, 9 May 2011, <http://responsibilitytoprotect.org/The%20Relationship%20Between%20POC%20and%20R2P-%20Updated.pdf> [Accessed 3 December 2011].

Protection of Civilians

The origins of PoC in armed conflict can be traced in the history of the development of the norms of war, prescribed in early religious texts and developed by many scholars of politics and ethics over many centuries.[2] The need to protect the life of civilians and other non-combatants in armed conflicts has been gradually accepted in international humanitarian law, universalised and codified in the 1949 Fourth Geneva Convention. The Fourth Geneva Convention—'Relative to the Protection of Civilian Persons in Time of War'[3]—coined the term PoC, and grounded its international legal establishment. PoC, therefore, emerged as relevant to situations of armed conflict only—if there is no armed conflict, where civilians are defined as the opposite of combatants, PoC transforms itself into protection of citizens (that can confusingly also be abbreviated as PoC) in times of peace, which is covered by the well-developed and comprehensive body of human rights. PoC is more limited than the peace-time protection of citizens and more limited than the protection of all non-combatants in times of war—it would not, for example, include the protection of wounded or captured soldiers, which are dealt within the First, Second and Third Geneva Conventions. The International Committee of the Red Cross (ICRC), some UN agencies with protection mandates, such as OCHA (Office for the Coordination of Humanitarian Affairs), UNHCR (United Nations High Commissioner for Refugees), and some humanitarian NGOs interpret the concept of PoC as one of their core activities and apply it in a broader sense, covering not only the period of armed conflict, but also protecting civilians in post-conflict situations, too. PoC has been under regular consideration by the UN Security Council since 1999, when it received the first report of the Secretary-General on the subject.[4]

Responsibility to Protect

In parallel with the increased attention to PoC, another concept, R2P, has emerged out of a similar concern—the failure to protect people from systematic mass atrocities.[5] In 1996, the then Representative of the UN

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[2] See V. Popovski, G. Reichberg and N. Turner (eds.), *World Religions and Norms of War* (Tokyo: United Nations University Press, 2009).

[3] 'Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949', International Humanitarian Law—Treaties & Documents, International Committee of the Red Cross, 2005, <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument> [Accessed November 2011].

[4] S/1999/957, 8 September 1999. For a full list of all UN Security Council resolutions and Secretary General Reports on PoC, see <http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.4012213/k.481A/Protection_of_Civilians_in_Armed_ConflictbrUN_Documents.htm> [Accessed 19 November 2011].

[5] Ramesh Thakur, *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics* (London: Routledge, 2011); Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington DC: Brookings Institution, 2008); Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Cambridge: Polity, 2009).

Secretary-General on Internally Displaced Persons, Francis Deng, with his team at Brookings published the seminal work *Sovereignty as Responsibility,*[6] arguing that sovereignty can no longer be seen as a licence for states to ignore people, but rather as states' responsibility for the humanitarian consequences of conflict. After yet another failure to protect civilian population—Kosovo Albanians from the Milosevic regime's repressions in 1998-99—and the controversial un-authorised military intervention by NATO, an International Commission on Intervention and State Sovereignty (ICISS) was formed from the initiative and sponsorship of the Canadian Government, that coined the phrase R2P in its 2001 Report.[7] R2P has become a worldwide shared concept, when in September 2005 almost 150 world leaders—the largest ever gathering in history of Heads of States—adopted the document 'World Summit Outcome'[8] at the opening of the UN General Assembly 60th Session in New York, spelling out the newly emerging norm in paragraphs 138-140 of the document. The UN General Assembly continued debating R2P in several of its sessions as is evident from the Reports of the UN Secretary-General in 2009, 2010 and 2011,[9] always enjoying a huge support, and with very few countries, still reluctant to accept it.

R2P thus applies to serious situations of mass atrocities, but it does not cover all violations of human rights, nor suffering from natural disasters—as horrific as these might be. One test of the R2P limitations was the 2008 Cyclone Nargis in Myanmar, when some of the initial founders of the concept—Bernard Kouchner and Lloyd Axworthy—attempted to speak about Myanmar's reckless ignorance of the human suffering as a failure to exercise R2P.[10] This could have been possible under the original scope of the ICISS 2001 Report, but not under what was agreed upon by the UN General Assembly in the 2005 World Summit Outcome document. One may argue that if the Myanmar regime's deliberate impediments to humanitarian assistance had continued and the misery and starvation of people could amount to a policy of extermination, a crime against humanity, then such deliberate inflicting of additional human suffering (not the victimisation from the natural disaster *per se*) could have triggered the applicability of R2P. However, if evidence does not support such a finding of a crime against

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[6] D. Rothchild, Fr. Deng, I. W. Zartman, S. Kimaro, T. Lyons, *Sovereignty as Responsibility: Conflict Management in Africa Brookings* (Washington DC: Brookings Institution Press, 1996).
[7] International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, Report of the International Commission on Intervention and State Sovereignty (Ottawa: International Development Research Centre, December 2001).
[8] '2005 World Summit Outcome', Fact Sheet, UN Department of Public Information, September 2005, <http://www.un.org/summit2005/presskit/fact_sheet.pdf> [Accessed 3 December 2011].
[9] 2009 UN SG Report: Implementing the Responsibility to Protect; 2010 UN SG Report: Early Warning, Assessment, and the Responsibility to Protect; 2011 UN SG Report: The Role of Regional and Sub-regional arrangements in Implementing the Responsibility to Protect.
[10] For analysis, see 'Cyclone Nargis and the Responsibility to Protect', Myanmar/Burma Briefing No. 2 by the Asia-Pacific Centre for the Responsibility to Protect, <http://www.r2pasiapacific.org/documents/Burma_Brief2.pdf> [Accessed 3 December 2011].

humanity, an R2P framework cannot be activated, and in such a case other mechanisms—human rights machinery, humanitarian assistance—could be applied instead.

In the case of R2P, the threshold between what falls in and what falls out of the concept lies in the determination of the four atrocity crimes and accordingly, it should not be equated to the general duty to protect citizens from various disasters, nor should its mechanisms be equated with general conflict prevention or conflict resolution; these can be regarded as a much larger and historically more developed agenda. Although prevention of conflicts in general can be a useful contribution in avoiding the occurrence of potential mass atrocities during these conflicts, the focus of the R2P preventive mechanisms should be specified to address particular atrocity crimes. R2P, although narrowed in scope, should have a deep resource: from the domestic, bilateral, regional and international mechanisms, starting from power-sharing agreements (Kenya)[11] to the use of military force as a last resort (Libya) can form its arsenal.

Differentiating R2P and PoC

The two concepts have a similar origin, they share the same initial humanitarian impulse, but they have different scope and applicability. Not all war crimes would fall under PoC, because some of them are not committed against civilians, for example, mistreatment of prisoners of war. But all war crimes would fall under R2P, as they represent one of the four atrocity crimes. War crimes against civilians, as well as crimes against humanity committed during armed conflict, would fall under both R2P and PoC and in these situations the two circles of R2P and PoC would overlap.

A situation that would fall under PoC, but not R2P, for example, would be the protection of civilians threatened from escalating armed conflict, if mass atrocities are not planned and committed as part of such armed conflict. A situation that would fall under R2P, but not PoC, would be, for example, ethnic cleansing or crimes against humanity without nexus to an armed conflict. On one hand, PoC is narrower than R2P—if all war crimes trigger R2P, not all war crimes would fall under PoC—some are not committed against civilians. On the other hand, R2P is narrower than PoC; it would not apply in every armed conflict, but only in those in which mass atrocities have been systematically planned and committed.

Interestingly, a situation that originally was not an armed conflict, can escalate into an armed conflict and engage the PoC. The first UN Security

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[11] Mark Schneider, 'Implementing the R2P in Kenya and Beyond', <http://www.crisisgroup.org/en/publication-type/speeches/2010/implementing-the-responsibility-to-protect-in-kenya-and-beyond.aspx> [Accessed 2 December 2011]; also 'Kenya in Crisis', Africa report No. 137, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/137-kenya-in-crisis.aspx> [Accessed 2 December 2011].

Council Resolution 1970 (26 February 2011) on Libya describes atrocities against peaceful demonstrators—not yet an armed conflict—and activates R2P (crimes against humanity), but is technically not yet a PoC situation. The second UN Security Council Resolution 1973 (17 March 2011) already describes the situation in Libya as a civil war, not simply protests and riots, and the PoC comes to life (in parallel with R2P) as it applies in non-international armed conflict. Another interesting element, emphasised in Resolution 1973, is that PoC is an obligation of all parties in conflict, therefore it urges not only the Gaddafi regime, but the rebels, as well, to protect civilians. If R2P is a matter for states only, PoC can be an obligation for non-state actors.

The comparison between the legal sources of R2P and PoC can be illustrated as follows:

Table 1: Comparison of Legal Sources for R2P and PoC

R2P Legal Sources	PoC Legal Sources
1948 Genocide Convention (genocide)	1949 Fourth Geneva Convention (PoC), International Humanitarian Law (IHL), *jus in bello* traditions
1949 four Geneva Conventions and their Additional Protocols (war crimes)	UN Security Council Resolutions: thematic (Res. 1894) and country-specific mandates to PoC
1998 Rome Statute for ICC (crimes against humanity, forceful deportation)	Refugee Laws (1951 Convention, 2009 African Union Convention on Internally Displaced Persons)
Domestic Law	Ottawa protocol banning landmines
Bilateral, Regional Law	2010 Convention on Cluster Munitions
UN Charter, Chapter VI, VII, VIII measures	Relevant Human Rights Laws—prohibition of recruitment of children in armed forces
Relevant Human Rights Laws—non-discrimination of ethnic minorities	

Table 1 (though not exhaustive), demonstrates well both similarities and differences: if all four Geneva Conventions are relevant to R2P, only the last (fourth) Geneva Convention is relevant to PoC. The whole volume of human rights laws would be too large for both R2P and PoC, and only parts of it will be relevant; for example, the non-discrimination of minorities would be relevant to R2P, if minorities rights are gradually abused, this can escalate into ethnic cleansing or genocidal policies. In another example, children's rights may be relevant to PoC in the case of a serious impact of armed conflicts on children. The legal sources for PoC would also include refugee laws, some disarmament treaties, and prohibiting certain weapons like chemical weapons, landmines or cluster munitions that cause excessive civilian suffering.

Table 2 (being, as Table 1, also not exhaustive) indicates the similarities and differences between R2P and PoC in terms of the actors engaged in the various types of protection:

Table 2: Comparison of Actors Engaged with R2P and PoC

R2P Actors	PoC Actors
UN Secretary General Special Advisors	Armed Forces
Police, law enforcement institutions (Pillar 1)	Peace Operations, UN Security Council, Department of Peace-Keeping Operations (DPKO)
Regional actors: African Union, European Union, League of Arab States, others	UN Agencies: UNHCR, OCHA
DPKO, UNHCR, High-Commissioner for Human Rights, Peacebuilding Commission, UNICEF, Special Rapporteur on Children; Aid donors, capacity builders, NGOs (Pillar 2)	ICRC
Mediators, fact-finding missions, Secretary-General (non-coercive measures); UN Security Council (coercive measures, Pillar 3)	Humanitarian NGOs
International Criminal Tribunals	

Some actors would engage in both R2P and PoC, but others will have specific mandate in just one type of protection. Although R2P may have the ambition to engage almost everyone, illustrated in the formula 'narrow, but deep response', some actors—PKO, UNHCR, ICRC, OCHA—that are very willing to apply PoC, are reluctant to engage with R2P, considering it a potential jeopardy for their mandates.

R2P and PoC concepts are 'sisters, but not twins.' They are close in relationship and share similar humanitarian concerns; yet, their specificity is important and should not be confused. Agencies that acknowledge and engage in PoC have been reluctant to attach their mandate to R2P, seeing the concept as too interventionist. In fact, one needs to be reminded that R2P contains very little interventionism—even within the Pillar Three[12] machinery, military intervention forms only a last option. Adding that R2P has a very large preventative agenda, there is not much to worry about; R2P came into existence as a counter-point to intervention, it is about helping potential victims of atrocities. Although technically not a firm international legal obligation, it has reached global acceptance and every General Assembly debate proves this. R2P, as the 'younger sister', does not undermine action, rather it catalyses it; it can mobilise political will and serve

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[12] The 2009 UN SG Report: 'Implementing the Responsibility to Protect' divided R2P into three pillars: first pillar—states domestic responsibility to protect; second pillar—states and international organizations assist other states to protect; and third pillar—when states manifestly fail to protect, the international community through the UN Security Council adopt timely and decisive measures, including coercion, under Chapter VII of the UN Charter.

the PoC agenda well. The 'sister' concepts, R2P and PoC, can reinforce each other, but also can compete with each other.

R2P and PoC: Libya 2011

One may argue that R2P and PoC merge closer when it comes to very critical situations such as in February-March 2011 in Libya, where R2P rapidly developed from Pillar One to the whole scope of Pillar Three, 'timely and decisive response', when Libya manifestly failed to protect. The categorisation of the situation as civil war brought PoC language into Resolution 1973 and it became a textbook resolution for a parallel application of both PoC and R2P.

Libya 2011 is not the first time when R2P was referred to by the UN Security Council—previous Security Council resolutions on Sudan (Darfur) and Côte d'Ivoire also used R2P language.[13] Also, Libya is not the first time when the Security Council has authorised use of force to protect civilians—the bombing of Bosnian Serb military targets around Sarajevo in 1995 was aimed mostly to protect the Bosnian Muslim civilian population and was under the solid authorisation by the Security Council. I would even question that Resolution 1973 is the first time the Security Council has authorised the use of force for human protection against the wishes of a functioning state, and that the closest the Council came to doing so in the past, was in Security Council Resolution 794 (1992) in Somalia and Resolution 929 (1994) in Rwanda.[14] Let us not forget Security Council Resolution 688 (1991) in the aftermath of the first Gulf War that established a no-fly zone to protect the Kurdish minority in Northern Iraq, certainly against the wishes of a functioning state (Iraq) and in a very similar situation to that in Libya— Saddam Hussein was threatening a huge part of the Iraqi (Kurdish) population with massacre. Although Resolution 688 did not use the language 'all necessary means', the no-fly zone in Northern Iraq was not a paper-tiger—it was supported with limited air strikes several times in the 1990s, with the intervening states referring to Resolution 688 as a justification for their military actions. Resolution 688 was adopted when the R2P did not exist yet as a defined concept, and when PoC was simply a legal requirement from the Fourth Geneva Convention, therefore one can regard the two Security Council Resolutions 1970 and 1973 on Libya as the first real test of utilising the two 'sister' concepts, R2P and PoC, to stop a potential mass slaughter of a civilian population.

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[13] See for example text from Resolution 1962 (2010) on Côte d'Ivoire: "recalling that the Ivorian leaders bear primary responsibility for ensuring peace and protecting the civilian population in Côte d'Ivoire and demanding that all stakeholders and parties to conflict act with maximum restraint to prevent a recurrence of violence and ensure the protection of civilians".

[14] Alex J. Bellamy and Paul D. Williams, 'The New Politics of Protection?', *International Affairs*, vol. 87, issue 4 (2011); also A. Bellamy, 'Libya and the Responsibility to Protect: The Exception and the Norm', *Ethics & International Affairs*, vol. 25, no. 3 (2011).

Resolution 1970

The Security Council invoked R2P immediately when on 26 February 2011 it considered the deadly risk and the urgent need to protect the Libyan population from atrocities, and adopted Resolution 1970, condemning the use of force against civilians, deploring the gross systematic violations of human rights, expressing deep concerns at the deaths of civilians and the incitement to hostility by the Libyan Government. The Council considered that the widespread and systematic attacks against the civilian population may amount to crimes against humanity, referring to one of the four atrocity crimes and triggering the applicability of R2P. In explicit text and in a separate paragraph, Resolution 1970 recalled the Libyan authorities' *responsibility to protect* (emphasis added) its population.

Resolution 1970 demanded an immediate end to violence, urged Libya to act with utmost restraint, to respect human rights, to ensure safety of all foreign nationals, to allow safe passage of humanitarian and medical supplies, and lift media restrictions; and referred the situation to the International Criminal Court (ICC)—an additional signal that R2P crimes might have been committed. It also imposed Chapter VII sanctions on Libya, namely an arms embargo, strengthened with a call upon States to inspect all cargo, that may, upon reasonable ground to believe, contain prohibited items; a travel ban against 16 Libyan officials, listed in Annex I of the Resolution, among them Gaddafi himself, some of his family members and military leaders, involved in violence; and an asset freeze against six designated individuals, listed in Annex II of the Resolution—Gaddafi, four of his sons and one daughter.

There was no positive reaction, rather the opposite; Gaddafi not only ignored Resolution 1970, but committed clear breaches of it, refusing to permit humanitarian aid convoys into the besieged Misrata and Ajdabiya, a clear failure by Libya to exercise R2P. The search for a peaceful solution through the UN Special Envoy and the African Union High-Level Committee continued, but gradually most governments and regional organisations realised that the use of diplomatic efforts only would not protect the Libyan people in lethal danger. Acknowledging Gaddafi regime's manifest failure to protect people, the international community shifted to enforcement measures: on 12 March 2011 the League of Arab States (LAS) called on the Security Council to impose immediately a no-fly zone on the Libyan Air Force and to establish safe areas as precautionary measures to protect the civilian population.

Resolution 1973

This demand for a no-fly zone by the LAS proved to be crucial.[15] The United Kingdom, France and Lebanon (the latter representing LAS) introduced a

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[15] Bellamy and Williams, 'The New Politics of Protection?'.

new resolution, Security Council Resolution 1973 (17 March 2011) which urged the parties involved in armed conflict to "bear the primary responsibility to take all feasible steps to ensure *protection of civilians* (emphasis added)". In Resolution 1973, PoC came to life, as the situation moved from a riot—which does not qualify as 'armed conflict'—to a civil war, or a non-international armed conflict, in the language of the Geneva Conventions. This was an important development, as the Security Council could now strengthen its decisions based on obligations under international humanitarian laws, applicable only in time of (civil) war and add war crimes jurisdiction into what has already been established as R2P obligations in Resolution 1970 on the basis of potential crimes against humanity. In Resolution 1973, all the force of PoC (applicable to armed conflict) is added to the force of R2P, previously already activated in Resolution 1970. The 'sister' concepts R2P and PoC in Resolution 1973 were synergised, their legal and political forces merged to urge the Security Council to utilise all its overwhelming power under Chapter VII, including the use of force—to protect the civilian population and civilian-populated areas. This timely and determined decision of the Security Council, a body often accused of being obsolete, can be regarded as a triumph of both PoC and R2P.

Paragraph 4 of Resolution 1973 under the sub-title 'Protection of Civilians' contained the authorisation of the use of force in the well-known formula 'to take all necessary measures'. Paragraph 5 added into the authorisation of the use of force, the establishment of a no-fly zone. Another new measure imposed by Resolution 1973 is a ban on flights where states shall deny permission to Libyan aircraft to take off from, or land in, or overfly their territory. Resolution 1973 in its two Annexes added additional designations of individuals, to whom the travel ban or the asset freeze will apply. Resolution 1973 also strengthened other measures already adopted in Resolution 1970: Paragraph 13 of Resolution 1973, enforcement of the arms embargo, replaced Paragraph 11 of the previous resolution, adding an additional authorisation to use force—after calling upon all vessels and aircraft of flag States to co-operate with the inspections of the arms embargo; the Security Council also authorised UN Member States, to use "all necessary measures commensurate with the specific circumstances to carry out such inspections". Similar precedents can be found in the history of the enforcement of sanctions in Southern Rhodesia in 1966 (Security Council Resolution 221), Iraq-Kuwait in 1990 (Security Council Resolution 665) and others. This additional and limited authorisation to use of force in Resolution 1973 does not, curiously, target Libya only; it can be applied against any other state (including its vessels and aircraft) that may violate the arms embargo.

Here comes probably the most controversial—legally and politically—issue in my analysis: Resolutions 1970 and 1973 not only prohibited the supply of any weapons to Libya, but also authorised limited use of force to intercept such supplies. Therefore, when in late June 2011 the French parachuted

machine guns, rocket-propelled grenades and munitions to the Libyan rebels, could, hypothetically, Russia, officially protesting this as a violation of Resolution 1970,[16] use force against the French aircraft delivering such weapons to rebels in contravention of the Resolutions? Ironically, such hypothetical use of force by Russia to prevent the French supplies of weapons to Libyan rebels, would have been in compliance with Paragraph 13 of Resolution 1973.

Resolution 1973 was adopted with ten votes in favour and five abstentions: Brazil, China, Germany, India and Russia. These five countries—two permanent members and three strong candidates for permanent membership—voiced their preference to seek a peaceful solution when abstaining from the vote. Interestingly, Resolution 1973 does not eliminate efforts for a peaceful solution; in fact it repeats and extends them. In its statement, Russia recalled its own earlier draft resolution, calling for a ceasefire and dialogue, but it is doubtful whether such a mild resolution would have been instrumental. Calls for a ceasefire were never in shortage. Many were made by UN officials and regional organisations, but in vain. On the contrary, announcement of a ceasefire came from Gaddafi immediately after the adoption of Resolution 1973 and this demonstrated how important for the concept R2P is, if the international community is able to utilise the R2P machinery to its deepest scope—threat and use of military measures under Chapter VII.

R2P and PoC after Libya

I share views expressed by various scholars[17] that Security Council Resolutions 1970 and 1973 represent a triumph of R2P and PoC. It would have been a defeat of R2P and PoC, if Resolutions 1970 and 1973 were not adopted and Gaddafi could massacre the citizens of Benghazi. The Resolutions are a triumph of R2P, because for the first time since the concept emerged 10 years ago, the full and deepest scope of its implementation was utilised. The Pillar One domestic responsibility to protect was referred to in Resolution 1970, and when this responsibility was manifestly flouted and the regime threatened its own population with massacre, the responsibility shifted to the international community; and, both the UN and regional organisations engaged in the full scope of Pillar Three measures: negotiations, diplomatic pressure, sanctions and, when all these proved to be ineffective, the authorisation for the use of force came from the only legal authority—the Security Council.

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[16] Statement by Russian Foreign Minister Lavrov, 'Russia Criticizes France over Arming Libyan Rebels', RT, 30 June 2011, <http://rt.com/news/france-supplying-rebels-country/> [Accessed 19 November 2011].
[17] See Gareth Evans, 'Ending Mass Atrocity Crimes: The R2P Balance Sheet After Libya', the Second Renate Kamener Oration, Leo Baeck Centre, Melbourne, 31 July 2011; Alex Bellamy, Tom Weiss, Jennifer Welsh and other authors in the Roundtable: Libya, RToP, and Humanitarian Intervention, *Ethics & International Affairs*, vol. 25, no. 3 (2011).

The removal of Gaddafi from power was nowhere stated as an aim in the Resolutions; Gaddafi was mentioned but in terms of referral to the ICC, the freezing of his assets and the ban on travel. Also, the military action was only one part of the whole coercive regime established by the Resolutions. A common mistake is to see R2P simply as a military intervention. In fact, the international community has a lot of options before it comes to military intervention: Chapter VI dialogue and mediation, non-military sanctions (Article 41), and only if these fail, military intervention (Article 42). What the responses to the crisis in Libya show, is that the Chapter VI and the Article 41 measures could be shortened to move faster towards a 'timely and decisive' military response. Libya also showed that consensus can often be difficult, particularly when it comes to the last resort. It was the extraordinary coincidence of many factors in Libya[18] that allowed the triumph of R2P and PoC.

If Libya demonstrated the fullest opportunity and the triumph of R2P and PoC, Syria showed the opposite—the limits of the 'sister' concepts. The difficult question from Kosovo in 1999 (that triggered the debates that gave birth to R2P), 'How to save people from mass atrocities, when a state manifestly fails to protect them and the UN Security Council is paralysed?', is back on the table. The biggest R2P triumph so far, in Libya, could be followed by probably the biggest R2P failure so far—to protect people in Syria and elsewhere. If the UN and regional organisations do not act with the same determination as they did in Libya, the danger of selectivity in the application of R2P and PoC will continue to cloud international law. In the words of Dr. Simon Adams, Executive Director of the Global Centre for the R2P: "While tanks, troops and even warships have been unleashed against ordinary Syrians, the Security Council has so far failed in its responsibility to protect civilians. Syria has become a stain upon the conscience of the world."[19]

Conclusion

The concepts R2P and PoC originated from a similar concern, potential human suffering and innocent victimhood from wars or mass atrocities, and developed in parallel over the last decade. I presented in the comparative analysis above the commonalities and differences between the two concepts and emphasised that they can reinforce each other, but they can also enter into competing agendas.   Although collaboration is always preferable, ignorance of the differences between the two concepts may create confusion and counter-productivity.

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[18] Bellamy, 'Libya and the Responsibility to Protect'.

[19] Global Centre for R2P Media release 'Syria at the Crossroads: UN General Assembly Must Uphold their Responsibility to Protect', <www.globalr2p.org/media/pdf/Syria_Press_Release_ 21_November_2011.pdf> [Accessed 3 December 2011].

Professor Ed Luck, the Special Representative of the UN Secretary-General on R2P, called the two concepts 'cousins, but not sisters'; but this was before Resolutions 1970 and 1973 on Libya. After Libya, which demonstrated the important of progress in the development of awareness, adoption and implementation of both R2P and PoC concepts, I would not hesitate to define R2P and PoC as 'sisters, but not twins'. The two concepts may exist separately in normal circumstances, but when the lives of people are gravely threatened in critical situations, as occurred in Libya in February-March 2011, they should reinforce each other and merge closer as to avoid gaps in order to protect the innocent people at risk.

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