The Justification to Wage War: Libya and UN Security Resolution 1973

Responsibility to Protect (R2P) is a "dangerous concept"

By Ronda Hauben
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I –Introduction

As is customary, a press conference was held by Ambassador Vitaly Churkin to mark the beginning of the Russian Federation's Presidency of the Security Council for the month of December 2011. Ambassador Churkin's comments in this press conference provide insight into an important problem in the structure of the Security Council that became evident in the course of the implementation of the Security Council resolutions against Libya.

The press conference was held on December 2. There is video of the press conference for those who are interested in viewing the conference itself. (1)

Though other issues were brought up, many of the questions asked by journalists related to the Russian Federation's views concerning Security Council action on Libya and Syria.

II– Critique of Implementation of SCR 1973 on Libya

During the press conference Ambassador Churkin revealed that NATO had been asked for a "final report...summing up their view of their complying or not complying, of performing or not performing under the resolutions of the Security Council." But no summary had been received from NATO. Ambassador Churkin said it was his understanding that NATO was not planning to send the Security Council any summary.

The importance of this revelation is that during its military action against Libya, NATO claimed it was acting under the authorization of UNSC Resolution 1973 (SCR 1973). Yet when asked to provide the Security Council with an evaluation of how its Libyan campaign complied with the actual resolution, apparently NATO did not see itself as being held accountable to the Security Council.

This situation reinforces the observation made by some inside and others outside the Council.(2) The Council passed SCR 1973, but it had no means of monitoring or controlling how this resolution was implemented. Thus the implementation of this Security Council resolution on Libya reveals a serious flaw in the structure of the Council itself.

Some members maintained that the resolution called for a cease fire and political settlement of the conflict in Libya.

Other Security Council members began bombing Libyan targets, and brought NATO in to carry out a bombing campaign against military, civilian and infrastructure targets in Libya.

Ironically, NATO claimed such bombing was about the protection of civilians.(3) Similarly a self appointed "Contact Group" on Libya set as its goal, regime change in Libya. Members of the Security Council who expressed opposition to these activities, arguing they were contrary to SCR 1973, had no means to stop such usurpation of Security Council control over the implementation of the resolution.

The December 2 press conference with Ambassador Churkin helped to illustrate and examine this problem.

In an earlier Security Council meeting, Brazil had indicated it was planning to do a concept paper on the "responsibility while protecting" under the Responsibility to Protect (R2P) concept. (4) Brazil's two year term on the Security Council will be over at the end of December, but no such concept paper has yet been presented. When Churkin was asked what he could tell journalists about the progress on this paper, he said, "My understanding is that it is going to be a serious process, a fundamental process of revisiting those things."

On the issue of the Security Council's summary of what had happened in the course of implementing Resolution 1973 against Libya, Ambassador Churkin explained the dilemma this posed for the Council."As to lessons learned, this is a much broader issue which unfortunately I think we cannot put together as council members. It is something for round tables, academics, politicians to discuss in various flora. We discussed that. We have had a number of discussions of the various lessons we have learned, and the things we need to do or not to do."

He recommended looking back at the Security Council meetings held in open chambers, particularly at the statements he had made in his capacity as the Russian Federation Permanent Representative. "I minced no words about some of the conclusions that need to be drawn from our Libyan experience," he said, "But I am sure the Libyan experience is something that will have an impact of such importance that this will be a subject of attention for years to come."

Asked whether the Responsibility to Protect (R2P) concept had been misused by the Security Council, Ambassador Churkin responded, "This is a very dangerous thing." This was not only the view of his delegation, but also of others both on the council and outside of the council, he explained.

"That is something that makes the life and work on the Security Council very difficult because words are no longer what they used to be. They have different meanings," he said, offering as an example the implementation of the No Fly Zone on Libya contained in SCR 1973.

He described how, "No Fly Zone in the good old world, used to mean that nobody's flying. That you prevent aircraft from being used against civilians."

"In the brave new world," though, said Churkin, "No Fly Zone means freewheeling bombing of the targets you choose to bomb in whatever modality and mode you want to bomb. Close air support ok. Bombing a television station, ok. And that is a matter of grave concern."

The significance of there being such a big difference in how words are being used, Churkin explained, was that, "Now we have to think not only about the words and concepts, but about the enormous ability of some of our colleagues to interpret the world out of them. And

this is a very serious issue."

"We need to return to the Council, to our interaction and cooperation with our colleagues, a clear understanding of what we mean," maintained Churkin.

Demonstrating the significance of this discrepancy between how different members of the Council interpreted the words of resolutions, Churkin pointed out that in the case of Libya, there had been reports that the Gaddafi regime was using airplanes to bomb civilians. (But no evidence was ever presented to support these claims, at the time, or since.-ed) (5)

There were, however, no such reports about Syria. How then could there be "such uncritical enthusiasm" for setting up a No Fly Zone for Syria, Churkin wondered. Where was this enthusiasm coming from?

"Is it," he asked, "an indication that in fact when they are saying that they don't plan any military action (against Syria-ed), they don't really mean it? When they talk about a No Fly Zone, they are already planning targets to bomb in Syria?"

Referring to the implication of this problem, Churkin noted, "On various issues which can have dramatic repercussions for regions and countries, and unfortunately this is clearly the case about Syria and about Iran and about some other issues, so it is not a perfect day for diplomacy, a perfect day to work in the Security Council."

III- Security Council Action Against Syria

In response to several questions from journalists asking about the Russian Federation's view of what action was appropriate with respect to Syria, Churkin explained the principles that should guide such action.

"We think it's the role of the international community to try to help resolve internal crises by promoting dialogue," Churkin told journalists, "This is what we have been doing with our contacts with the Syrian authorities, opposition, and the Arab League."

Referring to the proposal of the Arab League to conduct a monitoring mission in Syria, he explained, "We think that the Arab League has a unique opportunity to play a constructive role in Syria."

This required, however, that the Arab League be willing to consider Syria's proposed amendments to the Arab League proposal, rather than just offering Syria an ultimatum that it had to accept the Arab League proposal with no negotiations over it, said Churkin.

"We think the Syrian government's proposed amendments to that plan could have been considered," he explained. "Personally I looked at the two texts. I haven't seen in the texts anything which couldn't have been bridged there with some negotiations on the modalities of the deployment of that mission."

Concerned that, "this opportunity to really mediate between the government and the opposition is not lost," Churkin proposed that the Arab League economic sanctions imposed on Syria were "counterproductive."

Comparing Security Council action on Syria with its action on Yemen, Churkin said that

Russia was able to "exercise our position of principle" in Security Council Resolution 2014 (2011) about Yemen, "by encouraging dialogue and political accommodation on the basis of the Gulf States initiative."(6) In the case of Yemen, Churkin noted, the Security Council and the international community had rallied in support of the action that Russia proposed.

But when it came to Syria, he described how Russia and China had proposed a resolution that "had many of the same elements which were contained in the resolution which was adopted on...Yemen." In the case of Syria, however, the Russian-Chinese sponsored Resolution, was not supported by several other members of the Council.(7)

"So I think in Yemen the international community can be proud that even in a situation with bloodshed and very serious conflict in a country we were giving a strong signal in favor of dialogue and of political accommodation and this is what we achieved," said Churkin.

"What we don't understand," he noted, "is why if that can be done in Yemen, why that can't apply to Syria."

Furthermore, in the case of Syria, he said, the Security Council met with opposition from some of the capitals, to any form of dialogue to resolve the Syrian conflict. The governments opposed to dialogue, he reported, took the position that there was, "no way dialogue can help. That those who go into dialogue they should stop it immediately," and that "there is no future in the Arab League initiative."

Such action is, he proposed "something very counterproductive. And this is something that has acerbated the situation in Syria."

While maintaining that there is "no prescription for different countries" since they are all structured differently with regard to their traditions and political set up, Churkin proposed that there is a general attitude and principles that can be applied in a general way. This is that "the international community is not there to smell blood and to fan confrontation. But the international community is there to prevent further bloodshed and to encourage dialogue."

Reflecting on the importance of such an international effort in favor of domestic dialogue, Churkin said, "This is what the United Nations is all about. This is what the Security Council is about."

IV-Concerns about Libya

With respect to Gaddafi, Churkin said members of the council, including Russia, thought that what happened to Gaddafi is something that shouldn't have happened."

Ambassador Churkin was asked whether the Security Council was concerned about the conditions in Libya for those who had supported the Gaddafi government and particularly, about the situation of Saif al Islam Gaddafi and whether it was conceivable he could get a fair trial in Libya when there was no functioning legal system in the country.

Churkin responded that these concerns about the situation in Libya had been discussed very often and the delegation of the Russian Federation and of a number of other countries had raised these concerns. Also he spoke to concern over the plight of migrant workers in Libya. "We directed the UN mission in Libya to pay proper attention to these issues," he said.

He indicated that they would continue to follow these issues closely.

V-Conclusion

Ambassador Churkin's press conference was an important and all too rare example of a press conference held by a member of the Security Council which helps to shed light on the workings of the Council. All too often the problems that develop in the course of Security Council activity are shrouded in shadows and kept from public view. This is contrary to the obligations of the Council, which is obliged to report on its actions to the General Assembly in annual and special reports under the UN Charter, Article 15(1). Members of the General Assembly responding to the annual report from the Security Council ask for more analytical reports, rather than just summaries of the activities that have gone on over the year.

In his December 2 press conference, Ambassador Churkin shared some of the problems that developed in the Security Council over the course of the implementation of the resolutions on Libya. In the process he has helped clarify what future difficulties in the Security Council will be given a failure to understand and resolve the problems he has outlined. By helping to reveal the difficulties in the functioning of the Security Council, Ambassador Churkin has provided important details that need further attention and consideration.

Notes

1) Ambassador Vitaly Churkin, Permanent Representative of the Russian Federation and President of the Security Council for the month of December 2011 on the Programme of Work of the Security Council for the month.

http://www.unmultimedia.org/tv/webcast/2011/12/press-conference-ambassador-vitaly-churkin-president-of-the-security-council.html

2) See for example the critique of Resolution 1973 by the Concerned Africans, "An Open Letter to the Peoples of Africa and the World from Concerned Africans," July 2011.

http://www.concernedafricans.co.za/

See also Mahmood Mamdani, "A Ugandan's Perspective: What Does Gaddafi's Fall Mean for Africa."

http:// www.unaatimes.com/2011/10/

3) For some of the examples of NATO's bombing of civilians that went on during its military campaign against Libya see:
Global Civilians for Peace in Libya

http://globalciviliansforpeace.com/tag/bombing/

"Libya: War Without End" by Stephen Lendmain, ThePeoplesVoice.org, October 30, 2011.

http://www.thepeoplesvoice.org/TPV3/Voices.php/2011/10/30/libya-war-without-end

4) See Nov. 9, 2011 meeting of the Security Council on Protecting Civilians in the Situation of Armed Struggle, S/PV.6650, pg. 16

Ambassador Viotti said:

"The Brazilian delegation will shortly circulate a concept paper. It elaborates on the idea that the international community, as it exercises its responsibility to protect, must demonstrate a high level of responsibility while protecting."

http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N11/585/43/PDF/N1158543.pdf?OpenElement

5)Actually no evidence was ever presented that airplanes were ever used to bomb civilians under the Gaddafi government. It was only under NATO that there is evidence that airplanes were used resulting in the bombing of civilians. See for example:

http://globalciviliansforpeace.com/reports

"Despite detailed investigation we could not find any evidence that the three regions of Tripoli cited in UN resolution 1973 had been subjected to government forces bombardment nor that their had been fighting between government troops and the people, we received many testimonies to the contrary."

6) See Security Council Resolution 2014 (passed October 21, 2011)

7) See for example Ronda Hauben, "UN Security Council Challenges Hidden Agenda on Syria," taz.de/netizenblog

http://blogs.taz.de/netizenblog/2011/10/27/security_council_veto_on_syria/

Ronda Hauben has been a resident correspondent at the UN for the past 5 years covering the UN first for the English edition of OhmyNews International, and more recently as a blog columnist at taz.de . She is co-author of the book "Netizens: On the History and Impact of Usenet and the Internet."

This article appears on my blog.
http://blogs.taz.de/netizenblog/2011/12/14/lessons-from-unscr-1973-on-libya

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