Southern Democracies and the Responsibility to Protect
Perspectives from India, Brazil and South Africa
It is the task of the *Institute of Theology and Peace* to conduct research into the ethical foundations of peace among humans and incorporate them into current political discourse on peace. Through the publication “Studien zur Friedensethik” (Studies on Peace Ethics) the Institute aims to intensify political debate on foreign policy and security with a greater emphasis on peace ethics. In endeavouring to achieve this goal, it answers the question of which policies will be of greatest assistance to people who are threatened by violence, poverty and lack of freedom today and which, at the same time, will help to establish a peaceful international order in the future, in which security, justice and respect for human rights are guaranteed for everyone.
Southern Democracies and the Responsibility to Protect
Perspectives from India, Brazil and South Africa
Foreword

In 2001, the International Commission on Intervention and State Sovereignty (ICISS) presented its report of a “Responsibility to Protect” (R2P). Out of the Commission’s broad proposals, only a minimalist consensus – by some referred to as “R2P-lite” – remained, when in September of 2005 Heads of State and Government agreed on paragraphs 138–140 of the World Summit Outcome Document (WSOD) about the “Responsibility to Protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. The consensus was neither binding under international law nor did it go beyond existing provisions and obligations. Nevertheless, it constituted an important political statement by the then largest Assembly of Heads of State and Government on this issue, and formed the starting point for all further discussions about the conceptual progression and practical implementation of R2P within the United Nations (UN) framework.

2005 is to be seen as the beginning, and not the end, of a long-lasting consensus-building and debate on R2P.

The chances for a deepening and widening of this consensus depend on the readiness of all states to enter into a serious dialogue, in which concerns and criticisms are also taken seriously. Particularly in the countries of the Global South apprehensions are high that R2P could be nothing but a new pretext to legitimate selective interventions of strong and potent Western states in weak, vulnerable, and prone-to-violence Southern states for the pursuit of selfish interests. Moreover, due to painful historical experiences (colonialism, apartheid, Western intervention history), and to different levels of political and social development and integration, there are fundamental differences in the perceptions and notions regarding those norms and principles that constitute the essence of the concept of R2P: sovereignty; the prohibition on the use of force and intervention; questions of the legitimacy and legality of interventions; the prevention of mass atrocities and the protection of human rights; the preservation of peace, international responsibility and accountability as well as questions about a fair share of power in the international system.

A fruitful dialogue on similarities and differences in the understanding of these norms and principles would be of paramount importance not only for R2P, but also for a better and more peaceful future of international
relations as well as for an urgently-needed global cooperation. Such a dialogue should preserve the substance of the R2P-concept, strengthen its preventive dimension and peace-preservation-orientation, broaden and deepen consensus, and try to resolve or reconcile the existing contradictions in the UN Charter and within the fundamental norms and principles of R2P.

These and other considerations led the Institute for Theology and Peace (ithf) and the Chair of International Relations at the Helmut Schmidt University of the German Armed Forces in Hamburg (HSU), under Professor Michael Staack, to conduct an international workshop on the R2P-positions of important democracies of the Global South. Since 2009, both cooperation partners have been working together on an overarching interdisciplinary research project on R2P, which aims to address both ethical questions and topics of international relations. Publications on the intervention in Libya and ensuing debates on R2P as well as on normative and ethical issues of the concept emerged out of this collaboration. In addition, two PhD-projects have been developed one on the preventive dimension of R2P, and the other on the perspectives of Southern democracies on R2P and both have engaged in manifold activities through publications, colloquia, lectures, research stays and thematic workshops.

The international workshop “Southern perspectives on the ‘Responsibility to Protect’: R2P and the foreign policy identities of India, Brazil, and South Africa” took place at the ithf, in Hamburg, at the end of 2015, connecting 16 experts from four continents for two intensive days of fruitful discussions. Its success, the all-round stressed potential, and a shared feeling of the necessity of this dialogue made the idea of a joint publication obvious.

The present volume, created under the editorship of Daniel Peters (ithf) and Dan Krause (HSU), is the insightful result of that idea. The two scholars, who have already been responsible for the workshop, have succeeded in presenting a book that will help promote a better and more comprehensive understanding of the perceptions and perspectives of the Global South, not only on R2P. To this end, they have assembled an excellent mixture of practitioners and researchers, international lawyers, peace ethicists and diplomats with a bright variety of methodological and theoretical approaches – internal and external perspectives that combine a huge interdisciplinary expertise. Thereby, it was possible to sharpen and extend the view on the three states, their constitution, their perspectives and challenges as well as their worldviews. The book could therefore be a small plank in the bridge of understanding between North and South. Also, it might be
a resourceful starting point for further debates and research for academics, practitioners, diplomats, government representatives, activists and interested readers. We wish this volume, its editors and authors the success they deserve, and warmly recommend it to all those who are interested in the concept of R2P and its future as well as in the role of the Global South in international politics.

Prof. Dr. Michael Staack (HSU) and
Dr. Bernhard Koch (Deputy Director ithf)

Hamburg, November 2017
# Table of Contents

**Foreword**

*Michael Staack and Bernhard Koch*

**Introduction: The Distinctive Nature of the IBSA Countries and Their Stance towards R2P**

*Dan Krause and Daniel Peters*

**Rising Powers and Norm Entrepreneurship: IBSA and the Responsibility to Protect**

*Folashadé Soulé-Kohndou*

**It Is More than What It Seems: Understanding India’s Perspective on “Responsibility to Protect”**

*Madhan Mohan Jaganathan*

**Brazil’s Inconsistent Approach towards International Organizations and R2P: Theory and Practice**

*Paula Wojcikiewicz Almeida*

**A Brazilian Perspective on Development and R2P: Analysing the Linkages between Domestic and Foreign Policies under Lula da Silva and Dilma Rousseff**

*Eduardo Gonçalves Gresse, Fernando Preusser de Mattos and Daniel Peters*
# Table of Contents

South Africa’s Foreign Policy and R2P

*Jan Mutton*

Still on Board? South Africa and the Responsibility to Protect

*Dan Krause*

List of Contributors
Introduction:  
The Distinctive Nature of the IBSA Countries and Their Stance towards R2P

Dan Krause and Daniel Peters

At the World Summit in 2005 the Heads of state and government of the United Nations (UN) members reached an agreement on a minimalist consensus on the Responsibility to Protect (R2P) concept. Since then, and irrespective of the Syrian case, the basic obligation of a state to protect its citizens from mass atrocity crimes is nearly unanimously accepted, which is a huge achievement. But beyond the “R2P-lite” agreement from 2005 there is neither a global common understanding nor consensus on the underlying norms and principles of the concept and its implementation. Nevertheless, states also expressed in 2005 their willingness to further discuss, develop, and implement the R2P in the UN framework. The long-drawn-out, but since 2009 annually fueled, debate and the corresponding consensus-building process are an important step forward as well. Since then, R2P is work in progress, and it has been undergoing a long and sometimes controversial consensus-building process.

The endurance of this process results to a large extent from the fact that, by discussing R2P, fundamental issues of international relations and world order as well as their underlying norms and principles are touched. Some of the controversies within this debate are therefore also an expression of a dissatisfaction of (mainly) rising non-Western powers. They question the existing rules of the international relations’ game and are deeply unhappy with their participation and representation in international politics, with existing power structures and their respective institutions, especially the UN Security Council (UNSC).

Among the rising non-Western powers, an investigation of the positions of the three influential Southern democracies of India, Brazil, and South Africa (IBSA) on R2P and its underlying norms and principles seems to be extremely rewarding. Albeit members of BRICS (Brazil, Russia, India, China, South Africa), the IBSA countries differ in various respects from China and Russia. Thus, on the one hand, the IBSA states challenge the existing Western order and its institutions, demand their transformation
and an adequate representation, and are increasingly questioning the interpretative and discursive sovereignty of the West. On the other hand, their democratic constitutions and institutions, their lively pluralism, their adherence to the rule of law and the separation of power, their basic human rights attitude, vibrant civil societies and market economies clearly make them appear much closer to the Western democracies.

The importance of these three states for the international relations arises mainly from three factors: geography, status, and constitution. Within the South, they represent three large and important regions on three different continents. Thus they represent not only the whole geographical range of the “Global South”, but also important sub-regions, regional organizations, and are themselves outstanding regional powers. Combined, they represent 1.5 billion people, are rising powers with regional or even global aspirations to play an important role, and call for a greater voice in shaping global affairs. Despite their accurate characterization as “rising powers”, the IBSA states are in many respects “arrived and established powers”, without whose participation international policies are difficult to shape, influence, or implement, and sustainable solutions for urgent global issues are hard or not at all to achieve.

For a long time, they have been developing countries. Despite their enormous growth and development, their societies still face the constant challenges of many countries in the South that have to cope with poverty, hunger, education and environmental problems, violence and conflict, and more. This has obvious consequences for their world view and their attitude towards norms, values, and principles that are not only important for R2P, but for many aspects of the international order and global governance. This leads to a complex relationship not only with the West and with their more established and better represented BRICS-partners Russia and China, but also with the South, which they have slowly and partly come to outgrow. Nevertheless, their voting records at the UN in many respects, and not only while running for a non-permanent seat at the UN Security Council (UNSC), seems to demonstrate their good global reputation, what suggests them to be able to develop their bridge-building potential in the international arena and in the debate around R2P.

The positions of India, Brazil, and South Africa are also interesting from another perspective. In particular, the US, France, the UK as well as certain human rights lobby groups and other non-governmental organizations (NGOs) have repeatedly argued that there is a clear difference in the handling of human rights issues and the attitude towards human
rights protection between democratic and authoritarian states and societies. Therefore – so goes the assumption – as demonstrated in the past, it might be necessary to (violently) intervene time and time again for the preservation of human rights, even without a UNSC mandate. The international community must not allow authoritarian regimes such as Russia and China to decide (by veto or non-veto) on whether or not to protect human rights or whether or not to avoid serious human rights violations. This argument is not only dangerous, but also ignores the fact that there are considerable differences in theory and practice between the democratic states of the West and Southern democracies such as India, Brazil, and South Africa. Dealing with the positions of the IBSA countries and the context of their genesis seems to be both rewarding and necessary to correct biased, if not false, perceptions and representations in Western discourses.

Finally, some scholars tend to differentiate R2P sceptical or critical countries into two groups: a first group (rejectionists) that rejects fundamental aspects of the concept and questions the whole notion itself; and a second group (cautious supporters) that generally accepts the concept, including the necessity to use force in rare and extraordinary cases, but has apprehensions and concerns regarding its implementation, legitimation, and operational control, keyword “regime change”. The three IBSA countries are mostly categorized as members of the group of cautious supporters. However, they surely represent the whole range of this group: first, South Africa is the most pro-R2P country of the three, even though it favours “African solutions for African problems”; next, Brazil has engaged in norm contestation by putting forward the “Responsibility while Protecting” (RwP) proposal, but is still very cautious and reluctant as regards its implementation; finally, for India R2P is a side issue at best, and sovereignty as well as integrity are almost sacrosanct for this R2P-sceptical country. This volume tries to take a critical look at this classification and its underlying misconceptions.

Overview of the book

In her highly comprehensive, informative, and fact-rich study, Fola-shadé Soulé-Kohndou analyses the norm entrepreneurship of India, Brazil, and South Africa (IBSA) regarding R2P. She mainly focuses on the IBSA-states’ performance during their coincidental common tenure as non-permanent members of the UN Security Council (UNSC) in 2011.
According to her study, IBSA used their term at the Security Council to propose reinterpretations of existing norms in the field of international peace and security, especially in regard to R2P and via the Brazilian “Responsibility while Protecting” proposal. Also, they relaunched important debates around the interdependence between security and development. Through non-interventionist claims, diplomatic language, similar rhetoric, and common initiatives IBSA managed to put forward a pragmatic opposition vis-à-vis the five permanent members (P5) of the UNSC, especially the P3 (Great Britain, France, USA). The reservations against the P3 stem from Western entanglements in apartheid laws in South Africa, different military and autocratic regimes in Brazil, and India’s colonization, as well as from Western intervention policy during the 1990s and early 2000s. US-led Western interventions are the main cause for IBSA states to oppose traditional methods of regime change through armed intervention, sometimes, even worse, carried out unilaterally. Instead, they favour peaceful mediation processes and prevention, which naturally take more time. Nevertheless, due to their lively democratic political system IBSA-states are no natural allies of Russia and China, and thus try to present themselves as a pragmatic alternative, autonomous of all permanent members of the UNSC. Not only do IBSA states refuse clientalisation by the P5, but they are also determined to present their own vision of international responsibility, which differs from that of the established powers. To be internationally responsible, according to the emerging powers, includes the participation in peacekeeping operations and political mediation initiatives, favouring negotiations, delegating the use of force as the last resort, and engaging in international organizations. For IBSA it is decisive to position themselves individually in the international arena and demand a greater say and a more appropriate representation, while preserving distinct identities and their autonomy of decision.

Madhan Mohan Jaganathan questions the common explanations and findings of previous studies on India’s stance on R2P. For him, India is not a unitary and rational actor. Instead, the essence of India lies in its diversity and multiplicity. It sees sovereignty as “morality” and privileges order over justice. This notion not only affects India’s stance on R2P, but also its world view and thinking. Unless human rights violations and atrocities perpetrated by a sovereign state touch the level of genocide, India does not accept the necessity for external intervention. Thus the main argument is that sovereignty significantly influences India’s perspective on the R2P concept. Personality-based individual level factors
also seem to have a significant influence, and decision-makers often exert a disproportionate leverage when it comes to concrete and key foreign policy decisions. In this study this is exemplified by the slight turnaround in India’s stance on R2P that occurred when Hardeep Singh Puri replaced Nirupam Sen as the country’s permanent representative at the United Nations. This change led to a more welcoming and more receptive attitude towards the concept at least for a while. Contrary to common belief, India’s perspective on R2P has less to do with passivity emanating from the principle of non-violence: Mohan stresses that patterns of violence are deeply ingrained through the caste system, patriarchy, communal divide, and other forms of systematic discrimination in the Indian society. According to the author, it is the other way round: widespread tolerance of extreme violence explains the stipulation of a “high threshold level” in the context of the R2P debate.

In the first of two chapters dealing with the Brazilian position, Paula Wojcikiewicz Almeida focuses on the inherent tension between the official rhetoric and practice in Brazil’s commitment to multilateralism and adherence to international law. Almeida highlights several instances that are paradigmatic for a lack of coherence between membership in International Organizations (IOs) and concrete action to implement the organization’s purposes, e.g. the omission to sign a declaration recognizing the jurisdiction of the International Court of Justice as compulsory or the finding of only a partial compliance with judgments of the Inter-American Court of Human Rights by Brazilian authorities. Moreover, the inconsistent approach towards IOs, Almeida argues, is exemplified by the country’s stance on R2P. In her view, the adaptation of the “non-indifference” principle by the Ministry of Foreign Affairs to legitimize Brazil’s robust participation in the United Nations Stabilization Mission in Haiti, while simultaneously emphasizing the notion of non-intervention, appears to be an ambiguous and contradictory attempt to reconcile constitutional principles with the priorities of Lula’s foreign policy. Building on an analysis of the “Responsibility while Protecting” (RWP) proposal, Almeida concludes that RWP did not deliver any substantial input to the further debate on R2P. She sees the reason for that in the lack of detail as to what RWP entails in practice and in the Brazilian withdrawal from championing the proposal. Therefore, the “non-indifference” principle and the RWP proposal serve as additional examples of the above-mentioned lack of coherence between Brazil’s commitment to multilateralism and the failure to act in a logical and consistent way towards the requirements of IOs.
Adding to the discussion of the Brazilian perspective on R2P, *Eduardo Gresse, Fernando Mattos, and Daniel Peters* argue in their chapter that domestic development experiences and a related shift in the country’s foreign policy have shaped Brazil’s stance towards the concept under the administrations of Lula da Silva and Dilma Rousseff. Starting from a summary of the main facets of Brazilian foreign policy between 2003 and 2016, Gresse, Mattos, and Peters state that calls for a more inclusive world order by Brazilian representatives were coupled with the increased willingness to take responsibility for global challenges. Thereby, the country acted simultaneously as norm-maker, e.g. in the global fight against hunger, and a norm-taker in international fora. According to the three authors, this ambiguity is also discernible in Brazil’s alternative understanding of R2P. Additionally, their study shows that domestic socioeconomic policies affected Brazil’s foreign policy projects, as demonstrated by mainly interest-based South-South cooperation initiatives. Moreover, a detailed analysis of Brazil’s domestic development experiences illustrates that the enactment of inclusive domestic policies under Lula da Silva was in line with ambitious commitments to the Millennium Development Goals and contributed to socioeconomic progress in Brazil during the 2000s. Although this progress has turned out to be insufficient and non-sustainable to tackle poverty, inequality, and violence, the authors assert that Brazil’s domestic development experience has resonated with the country’s stance on R2P. Drawing on statements of Brazilian diplomats during informal dialogues about the implementation of R2P at the UN General Assembly, Gresse, Mattos, and Peters highlight that the Brazilian notion of the concept is guided by a restrictive approach to the use of force and the prioritization of structural conflict prevention over mass atrocity prevention, posing a challenge to the fairly established “narrow but deep approach”. Consequently, by analysing the central threads of Brazil’s understanding of R2P, Gresse, Mattos, and Peters reveal that the ambition of the country’s foreign policy elite was to mould the concept according to their own understanding of the instruments and scope of international responsibility thereby introducing the government’s preferences into the contested field of international peace and security.

In his chapter about South Africa’s foreign policy and R2P, *Jan Mutton* scrutinizes the potential of the country to give normative and operational guidance to the future development of the concept. He anchors the potential leadership-role of South Africa in its history of struggle and liberation, in the country’s embeddedness in global institutions and those of the
Global South, and in the central role of the humane dimension in its foreign policy, with a strong focus on the African continent. Furthermore, Mutton highlights that normative principles of South Africa’s foreign policy, such as the idea of sovereignty as responsibility, the diplomacy of “Ubuntu”, and the thinking of an “African Renaissance”, have heavily contributed to the integration of Article 4 (h) in the Constitutive Act of the AU as precursor of R2P and the associated shift of emphasis from non-interference to non-indifference. Nevertheless, South Africa and the AU have a clear preference for “African solutions to African problems” and therefore prioritize the AU as primary actor. From the author’s viewpoint, the preference for regional organizations to handle regional conflicts, for quiet diplomacy and inclusive political processes, or the emphasis on conflict prevention and capacity building have contributed to the country’s inconclusive stance towards the third pillar of R2P. Especially the interpretation and perceived misuse of resolution 1973 by NATO and the allied forces has turned South Africa from a supporter into an R2P-sceptic. As a result, he stresses the need for a better synergy between the UN and AU, which Mutton identifies as the most important issue for South Africa with respect to R2P. Besides, he outlines three additional recurring issues regarding Pretoria’s position on R2P, namely the importance of conflict prevention, the nexus between conflict and development, and the consent-based inclusion of a protection mandate in UN peacekeeping missions. In sum, Mutton stresses that South Africa’s critical stance towards R2P is not a challenge to the substance of the norm, but rather to the procedures of its implementation. Thus, South Africa remains a constructive partner for the further implementation of R2P and should not be confused with the irreconcilable positions of some of its partners in the Global South.

Dan Krause focuses on the Foreign Policy Culture (FPC) of South Africa as an important explanatory variable to analyse Pretoria’s attitude towards the R2P concept. He concentrates on an elite-foreign-policy-culture-approach and identifies as main objects of investigation the role of the presidencies and of the former liberation movement and now ruling party ANC. These factors have dominated the formulation and implementation of South African foreign policy since the end of apartheid in 1994. Krause then carefully investigates the influence of the identified paradigms and guidelines of the FPC on South Africa’s attitude towards the underlying fundamental norms and principles of the R2P concept. He states that this attitude has remained relatively constant over the presidencies of Mandela to Zuma. The finding of a relatively constant position contrasts with some
observations that, first, put South Africa too early on the side of a Western understanding of R2P and, then, after Libya and some harsh criticism from the Cape branded it as an opponent of the concept. The Libyan intervention debate was therefore revealing in regard to SA’s position on global R2P, but no “turning point”. Mandela’s iconic presidency only overshadowed already existing divergences between SA and the West in the understanding of fundamental norms and principles of R2P and the international order. Also, some observers mistakenly confused South Africa’s sponsorship of an African R2P regime with its attitude towards a global one. To the latter, Pretoria has always had apprehensions and has demanded clarification and a greater say. This demand might be mainly caused by the relative impotence of (South) Africa in the global power structures. Divergences are mainly due to the more dominant and determining FPC paradigms such as anti-imperialism, the identity of a (communist-socialist-ideology) liberation movement, and the solidarity with the Global South and befriended liberation movements. Democracy, multilateralism, sovereignty as responsibility, and human rights are likewise important tenets of South Africa’s FPC. But whenever they are in conflict with the paradigms mentioned before, the latter take a back seat. The influence of the more assertive principles of the FPC on concrete foreign policy initiatives becomes clear when one applies these paradigms on other erratic and hardly explainable foreign policy decisions, especially of the Zuma government. Viewed through the lenses of the FPC they become much more rational, clear, and understandable.

Acknowledgements

We are indebted to a number of individuals and institutions that supported and enriched this project from its origins almost three years ago to its completion with the publishing of this edited volume. First of all, we thank all participants of the workshop in Hamburg for their willingness to share their insights and reflections about southern democracies and R2P with us, especially Andreas von Arnauld, Lothar Brock, Manuel Fröhlich, Michael Haspel, Bernhard Koch, Savita Pawnday, August Pradetto, Marco Schrage, Michael Staack and Jörn Thießen. We are deeply thankful to our contributors Eduardo Gresse, Fernando Mattos, Madhan Mohan Jaganathan, Jan Mutton, Folashadé Soulé Kohndou, and Paula Wojcikiewicz Almeida not only for their insights and commitment, but also for their patience and responsiveness during the course of the editing process.
Additionally, we owe a debt of gratitude to Fernando Mattos for his sound and smooth proofreading and his valuable comments on the initial manuscript, which helped make this book a much better read, and to Philipp Czogalla for his excellent work on the layout of this volume. In addition, we are thankful to the team at Nomos for their patience and support, including Katharina Melter and Martin Reichinger. Our final round of appreciation goes to WIFIS (Wissenschaftliches Forum für Internationale Sicherheit/ Scientific Forum for International Security) and the Catholic Peace Foundation for their financial contribution to the organization of the workshop and to this volume as well as to Michael Staack and Bernhard Koch for their constant encouragement throughout the whole project.

Dan Krause and Daniel Peters

Hamburg, November 2017
Rising Powers and Norm Entrepreneurship: IBSA and the Responsibility to Protect

Folashadé Soulé-Kohndou

Introduction

As with the General Assembly, the United Nations Security Council confers prestige, legitimacy and potential influence to its permanent and non-permanent members.\(^1\) The importance attached by the countries originates from their collective belief in the Council’s symbolic role as a source of influence in the world. Ian Hurd outlines three ways in which non-member states mobilise their role in the Security Council: (i) by tabling issues relevant to an individual country’s interests; (ii) by seeking appointment as a non-permanent member for a two-year period; and finally (iii) through an investment in UN peacekeeping missions.\(^2\)

Through their respective diplomatic channels and permanent UN delegates, India, Brazil and South Africa have used these methods of influence to varying degrees in their capacities as non-permanent members of the Security Council.

As shown in Table 1, in 2011, Brazil, India and South Africa were simultaneously present at the Security Council as non-permanent members.\(^3\) This coincidental presence, considered as historic by the heads of IBSA delegations at the UN, allowed these countries to seize a political opportunity and collectively draw attention to the principles and objectives of the Global South. In particular, they urged the Security Council to assimilate priorities highlighted in the IBSA declaration, issued in 2003 in Brasília.\(^4\)

---

2. Ibid.
Table 1 – Election of IBSA member states as non-permanent members of the UNSC until 2012

<table>
<thead>
<tr>
<th>YEARS</th>
<th>INDIA (7)</th>
<th>BRAZIL (10)</th>
<th>SOUTH AFRICA (2)</th>
</tr>
</thead>
</table>


An election to the Security Council gives non-permanent members elevated international visibility, despite their limited margin for manoeuvre in decision-making and the inequality between them and the P5. A term as non-permanent member at the Security Council has offered emerging powers a political power-play, albeit temporary, to increase their diplomatic profile and international prestige. Moreover, the appointment as a non-permanent member allows countries to enjoy a temporary “authority-by-association” and a form of legitimacy. Therefore, the ambition to become a non-permanent member is largely driven by the symbolic power conveyed by the associative and temporary proximity to the P5.5

Emerging powers tend to mobilise massive diplomatic and material resources to be elected as non-permanent members. Thus, quite unsurprisingly, the election of India, Brazil, and South Africa as non-permanent members to the Security Council resulted in a remarkable mobilisation of diplomats at the core of certain delegations of IBSA at the UN headquarters in New York. The Brazilian delegation mobilised between 15 and 25 diplomats in 2010 and 2011, and the South African delegation is said to have increased the number of diplomats in a similar manner.

To analyse the multilateral IBSA moves at the Security Council, it is imperative to comprehend “the constraints to the context and the resources and opportunities of the actors before addressing the issue of their action and its consequences”.6 IBSA’s entry into the Security Council coincides with the wave of civil protests across the Arab world. The Security Council

5 Hurd, “Legitimacy, Power and the Symbolic Life of the UN Security Council”, 44.
was frequently faced with these issues, and was meeting almost daily to address them. India, Brazil and South Africa as non-permanent members have used their diplomatic strategies as a pragmatic alternative which is autonomous of the P5, as an intervention against the use of force and as a platform to revive discussions around pre-existing norms. IBSA used their coincidental term at the Security Council to propose reinterpretations of existing norms in the field of international peace and security, specifically concerning the norm “responsibility while protecting”, and to relaunch debates around the interdependence between security and development. Brazil initiated these normative debates and encouraged other IBSA members to follow suit.

Hence, power relations formed the basis of IBSA’s actions at the Security Council in 2011. When faced with the interventionist strategies and practices of the P3, the emerging powers had at their disposal many resources such as strategies to disrupt, to use their autonomy and to contest and defy the P3 (France, United Kingdom and the United States of America), to influence powerful members and widen their margin for freedom. This autonomous diplomatic positioning confers upon IBSA a distinct visibility and serves to legitimise and elevate its diplomatic profile. Meanwhile, it distinguishes IBSA from BRICS, which includes Russia and China as well, who, unlike the IBSA members, occupy permanent seats at the Security Council with the right to veto.

This chapter argues that through non-interventionist claims based on diplomatic language, similar rhetoric and common initiatives, IBSA put forth a pragmatic position vis-à-vis the P5 and, particularly, the P3. IBSA distinguished itself through a mediating mission in Syria and also through disruption strategies, a relaunch of debates regarding established norms, and a resistance to being assimilated by the P3 to serve their purposes. These strategies led these countries to be included among the informal meetings of the P3, but not to an actual integration among the established powers.

8 According to Crozier and Friedberg, to analyse a power relationship, which is primarily a social relation, implies the interrogation of the resources at an actor’s disposal. Such resources, in turn, depend on his social status and define the temporal and social category in which his strategy will play out. Crozier and Friedberg, Actors and Systems, 73–74.
In 2011, the Security Council was almost paralysed in its functioning given the Arab Spring, the challenges arising from the intervention in Libya and the pressure surrounding debates about the Syrian conflict. In order not to appear as sovereign countries obstructing negotiations and opposing resolutions with the sole purpose of protecting territorial integrity, IBSA members pushed for an ensemble of debates and proposed reinterpretations of norms at the Security Council. There are two note-worthy initiatives that can be highlighted: the recommencement of debates regarding the interdependence between security and development by Brazil in February 2011; and the normative reinterpretation of the responsibility to protect, into which Brazil integrated a new dimension of responsibility while protecting following the intervention in Libya.9

1. Pragmatic affirmation and resistance to clientelisation

The diplomatic strategy of India, Brazil and South Africa can be explained through their individual histories, notably the fight against apartheid in South Africa, the different autocratic and military regimes in Brazil, and the colonialism in India, all of which were supported and even encouraged by occidental powers. The US intervention in Iraq in 2003 also united IBSA leaders in opposing the traditional methods of overthrowing regimes through unilateral armed interventions, favouring peace processes through long-term mediation instead.10

This is a pragmatic assertion by India, Brazil and South Africa at the Security Council as it is autonomous, independent and, therefore, refuses clientelisation. The presence of certain countries as non-permanent members of the Security Council, particularly developing countries with little

influence, often results in these countries being co-opted by the P5. Permanent diplomatic representatives of such countries can be easily influenced and co-opted, and their votes are often the result of them being patronised by the P5. They are less likely to challenge concluded agreements and decisions intended to be taken by some or all of the P5 members.\textsuperscript{11} In contrast to such countries, IBSA adopted a more assertive stand and a different diplomatic strategy, while resisting and challenging the P5’s normative behaviour and approaches.

1.1 Non-prescriptive promotion of democracy and human rights

IBSA’s democratic background is at the forefront of the rhetoric adopted by the leaders of India, Brazil and South Africa. It also serves to reaffirm the June 2003 Brasília declaration, where the three emerging powers presented themselves as democracies from three different regions of the developing world, active at the global level and sharing the aim to analyse a host of issues on the global agenda that are of mutual interest to the three of them.\textsuperscript{12} That democracy is anchored in their respective political regimes is apparent from their national constitutions and their subscription to norms as well as regional and international treaties. These emerging powers subscribe to democracy, but do not necessarily prescribe the same in third-party countries nor subscribe to the imposition of the use of force.

India contributes as much as the United States to the United Nations Democracy Fund (UNDEF),\textsuperscript{13} created in 2005 by the Secretary General to support the funding of projects related to democratization processes around the world. It is also part of the committee of directors of Community of Democracies, an intergovernmental coalition created in 2000 and composed of 25 countries to promote democratic norms and to reinforce democratic institutions around the world.\textsuperscript{14} At the regional level, India has adopted the SAARC Charter of Democracy, which was created in 2011 and called for

\begin{itemize}
  \item \textsuperscript{11} Hurd, “Legitimacy, Power and the Symbolic Life of the UN Security Council”.
  \item \textsuperscript{13} http://www.un.org/democracyfund/About_Us/about_us_index.html.
  \item \textsuperscript{14} http://www.community-democracies.org/index.php?option=com_content&view=article&id=1&Itemid=23.
\end{itemize}
the adherence to democratic governance and the support of human rights to ensure development, inclusion and poverty alleviation. In 2005, India boycotted the SAARC summit in Dhaka as an example of its commitment to the charter’s principles. By doing so, it also stated its disapproval of the King of Nepal seizing power and condemned deteriorating security conditions in Bangladesh.

Among the Commonwealth countries, India has engaged in the promotion of democracy by leveraging regional ASEAN and transregional Commonwealth access to exercise diplomatic pressure for the restoration of the constitution in Fiji. India also uses democracy-related platforms to distinguish itself at the international level from non-democratic regimes in the region, such as Pakistan and China. At the multilateral level, India has adopted the role of a “passive promoter” of democratic norms as the basis for international peace, while insisting that it will not support the imposition of force in a third country. India’s human rights diplomacy, on the other hand, oscillates between following democratic principles and resisting intervention in the name of democracy at the international level, as demonstrated by the cases in Libya and Syria.

The consolidation of democracy in Brazil, following a succession of authoritarian regimes, has allowed the country to position itself as a credible, influential and legitimate international actor. Brazil’s foreign policies have progressively included a democratic component, as demonstrated by its support to democratic transitions in the region and also by Brazil’s involvement in regional organisations such as the Organization of American States (OAS), MERCOSUR and the Rio Group. For instance, former

---


18 Piccone and Alnikoff, “Rising Democracies, 11–17. See also the chapter by Madhan Mohan in the present volume.

19 Liberdade e Cidadania Foundation, Brazilian Foreign Policy: Present and Future, (Brasilia: A+B Comunicação, 2010), a report by Rodrigo Maia and José Carlos Aleluia, 5. For a critical assessment, see the chapter by Paula Wojcikiewicz Almeida in the present volume.
president Fernando Henrique Cardoso (1995–2002), who served as Minister of Foreign Affairs between 1992 and 1993, undertook political reforms in the region by adopting democratic criteria for non-permanent members of MERCOSUR. Brazil has also used its leadership position in the region to play a mediating role in regional conflicts, such as the case in Bolivia. Similar to India, at the international level Brazil supports democratic norms and human rights, while opposing armed intervention to promote democracy. This position was adopted by, among others, former foreign minister Celso Amorim, who stated that it is not possible to “bomb a country into democracy”. Beyond its rhetoric of protest and opposition to interventions, Brazil has taken the initiative and contributed to the creation of an enquiry commission for human rights in Syria at the Security Council. The commission is presided by a Brazilian delegate.

In the case of South Africa, the respect for democratic principles and values has been a part of the constitution of different post-apartheid governments. After 1993, the post-apartheid African National Congress (ANC) has established six pillars to its foreign policy, including human rights, the promotion of democracy, respect for international laws, and peace and international security. Like Brazil and India, South Africa has invested in maintaining international peace and security through a contribution of personnel towards UN Peacekeeping missions and mediation roles, the latter of which was prominent during mediations in the Democratic Republic of Congo, Angola, Burundi, Sierra Leone, Mozambique and Somalia.

In 2011 South Africa first authorised a “No-Fly Zone” and later denounced the detour taken from the original resolution during the Libya conflict. The episode demonstrated that the country, like India and Brazil, adheres to human rights at the international level and assumes its humanitarian responsibilities, but refuses to be manipulated and dragged into interventions that favour political objectives – as it was the case in Iraq in 2003 and Libya in 2011. Abstention – rather than opposition – as well as

22 See the chapter of Jan Mutton in the present volume.
their positioning with respect to human rights differentiated IBSA from Russia and China, who opposed a categorical condemnation of the Libyan regime and resorted to their veto power.24

1.2 Necessary involvement of regional structures

The crises in Libya and Syria have underscored the necessary involvement of regional political organisations in conflicts affecting their neighbours, a position firmly adopted by India, Brazil and South Africa. The three emerging powers appear to favour regional organisations that use political solutions as opposed to armed interventions. While the Arab League clearly called for an intervention in Libya and supported a “No-Fly Zone”, the African Union adopted a more nuanced stance, reflecting the uncertainty in opinions of its member states, which varied between supporting the Qaddafi regime and favouring an intervention.25 The P3 and other non-permanent members who voted for the Resolution 1973 in Libya explained their position based on the demands of the Arab League. India and Brazil, while taking this into account, favoured the African Union’s position, which is closer to IBSA’s non-interventionist stance.26 IBSA’s declarations frequently referred to the African Union’s position and to the necessity of reinforcing synergies between the UN Security Council and the African Union’s Peace and Security Council.27

The involvement of regional organisations has also offered emerging powers an opportunity to reinforce their agenda as regional leaders, as demonstrated by South Africa within the African Union. The African Union’s ability to find solutions has caused irritation and frustration among the ruling class in South Africa, who views the African Union as a potential

24 UN Doc. S/PV.6627, October 4, 2011.
challenge to their leadership in the country.\textsuperscript{28} It is important to note that the diplomatic stance adopted by the emerging powers is not a systemic rejection of interventions that undermine territorial integrity or sovereignty. This is particularly evidenced by Ivory Coast’s 2011 post-electoral crisis and the ensuing escalation of violence.

The Security Council, for example, frequently took stock of the situation in Ivory Coast in 2011 and adopted a number of resolutions\textsuperscript{29} which called for an end to violence as well as the recognition of defeat by Laurent Gbagbo’s camp and of the victory of his opponent, also recognised by CEDEAO\textsuperscript{30} and the African Union. The 1975 Resolution (2011) adopted unanimously by the Security Council, “calls upon all parties and actors in Ivory Coast to respect the will of the people and election of Alassane Dramane Ouattara as the President of Ivory Coast, as recognised by CEDEAO, the African Union and the rest of the international community”, and “demands all Ivorian institutions to submit to the new President’s authority (…)”. The resolution also authorised the UN Peacekeeping Mission in Ivory Coast, “to use all necessary means in committing themselves to protecting civilians prone to imminent physical danger within their capacity and zones of deployment including the prevention of the use of heavy arms against the civilian population”, and demands “all parties to fully cooperate with the UN Peacekeeping Missions and the French forces supporting them, specifically with guaranteeing their security and ensuring liberty of circulation with immediate and unimpeded access throughout the Ivory Coast territory in order to help them to accomplish their mission”\textsuperscript{31}.

While voting in favour of intervention and the use of force as the last resort to protect civilians, India, Brazil and South Africa explained their vote after having “applied all efforts towards peacefully resolving the problem through dialogue” and after having “pushed for efforts deployed

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{30} Communauté économique des États de l’Afrique de l’Ouest (ECOWAS – Economic Community of West African States).
\item \textsuperscript{31} S/RES/1975, March 30, 2011.
\end{itemize}
\end{footnotesize}
by CEDEAO and the African Union to find a political solution which would allow the reestablishment of democracy and respect the will of the Ivorian people as quickly as possible”.  

A South African delegate also recalled that “the African Union reaffirmed that it recognises the election which resulted in Mr. Alassane Ouattara as the President of the Republic of Ivory Coast”.  

Likewise, Brazil adopted a similar diplomatic stand and recognised the “efforts deployed by the African Union and other regional actors in this respect (...)” and “is happy about the resolution, in the 1975 resolution (2011) which was adopted (...) disposed towards emphasising the necessity for a political solution which preserves the democracy of the Ivory Coast (...)”.

Finally, South Africa also explained that it voted for the adoption of the 1975 Resolution because it had “put itself in the roadmap elaborated by the African Union”.

IBSA’s arguments demonstrate that they are not strictly against the use of force or an external intervention, but rather that the need for such an armed intervention should be the last resort after political and diplomatic options have been exhausted, and that such decisions should involve regional organisations. The IBSA emerging powers also appear to be in favour of armed intervention when it is exercised as a multilateral decision, as it was the case with the UN Peacekeeping Mission in Ivory Coast. The role and approbation of regional organisations with respect to interventions have thus been a key element conditional to their votes in favour of resolutions. The reticence about the use of force without multilateral decision-making was also actively opposed, in the case of Libya, through several pronouncements from IBSA.

IBSA also appears to favour a middle ground between unconditional national sovereignty and opting for armed interventions, by promoting political mediation solutions between different protagonists in the place of immediate coercive measures. Alongside their pragmatic assertiveness on

32 UN Doc. S/PV.6508, explanation for the vote of Mr. Hardeep Singh Puri, permanent delegate of India, March 30, 2011.
34 UN Doc. S/PV.6508 – explanation for the vote of Ms. Viotti, permanent delegate of Brazil, March 30, 2011.
36 IBSA, “IBSA Ministerial Joint Statement on the Margins of the UN General Assembly”.

https://doi.org/10.5771/9783845285672
international security issues, IBSA countries have adopted, through collective opposition, a strategy of protest against procedures and processes of the Security Council, particularly closed-door meetings of the P5 which exclude non-permanent members. Their time at the Security Council has also established them as non-permanent members who resist clientalisation.

1.3 Strategy of disruption and resistance to co-optation

The majority of consultations at the Security Council is conducted among the P5. Such closed-door practices exclude non-permanent members and also create hierarchical relationships at the Council year after year. The demand for Security Council reforms and notably the question of transparency in its procedures have been taken up in turns by the emerging powers, particularly India, Brazil and South Africa, who seek a permanent seat at the Council. IBSA countries used the opportunity of their term at the Security Council to publicly denounce such practices through joint statements. The permanent delegate from India, during the debates on the 1975 Resolution (2011) on Ivory Coast, used the opportunity to express his discontent:

“we are increasingly concerned with, and we wish that this should be noted, the tendency to expedite the process of adopting resolutions. There should be enough time for everyone to deliberate over and consult with the concerned nations. In dealing with situations which call for a decision such as Resolution 1975/2011, it is imperative that Troop Contributing Countries should be consulted first on the mandate of UN Peacekeeping”.

The propositions for resolutions regarding a ‘No-Fly Zone’ in Libya, co-written by France and the United Kingdom behind closed doors, also sparked criticism from India, Brazil and South Africa. On India’s initiative, IBSA declared publicly during the 7th Ministerial Meeting in New Delhi in March 2011, that “a ‘No-Fly Zone’ in Libya’s flying space, or all additional coercive measures which fall under the 1970 Resolution (2011) can be legitimised only if they are in accord with the Charter of the United Nations and within the framework of the United Nations Security Council”.

37 UN Doc. S/PV.6508, explanation for the vote of Mr. Hardeep Singh Puri, permanent delegate of India, March 30, 2011.
The 2011 Ministerial Meeting, in the context of the Arab Spring and many debates regarding the situation in the Middle East, offered higher visibility to the common stand taken by India, Brazil and South Africa. As affirmed by the Brazilian Minister of Foreign Affairs, “India, Brazil and South Africa should not authorise a self-proclaimed team of countries to monopolise discussions regarding peace in the Middle East”.\(^3\)

The collective abstention by IBSA during the vote on a resolution on Syria\(^4\) brought the permanent UN delegates from Brazil to a disapproval protest against secondary engagement, which included Brazil’s late association: “(...we would have liked them to push for broader support before calling for a vote on the text. Given Syria’s central role with respect to stability in the region, it is even more important that the Council reacts with prudence, and preferably, in unison. We are convinced that more time would have allowed overcoming of differences and focus on legitimate concerns.”\(^4\)

This delayed association led to frustration among certain delegates of IBSA, causing a sense of contempt:

“the members of P3 and P5 come to us with proposals of resolutions and tell us that this is a resolution of ‘P5’. They inform us that they have managed to strike a delicate balance after private consultations and ask for our vote the following day without asking for our creative inputs. IBSA has informed them in a clear manner that such kind of practices do not apply to us. We have let them know that they should treat us with respect. Since then, they do consider us more, but the Security Council cannot be changed in a year. Such practices are the result of six decades of traditions”.\(^4\)

The IBSA diplomacy has also made their presence felt through resistance and refusal to clientalisation by the P5. This refusal of clientalisation is part of the quest for autonomy by these emerging powers. The P5 frequently applies the practice of clientalisation towards small countries, specifically developing countries. According to certain diplomats:

\(^3\) Antonio Patriota “Let’s Not Make the Situation in Libya Worse”, The Hindu, March 10, 2011.
\(^4\) Interview with a Brazilian diplomat, November 7, 2011, New York.
“these countries may be pressured and their votes are influenced in favour of the P3 or the P5. The structural limits to their economies or weak political influence prevent these countries from playing a leadership role in certain initiatives of the Security Council. In certain problems submitted to the Council, some countries have no connection to the subject – neither a historical link nor a diplomatic representation in the country; hence, they have no strategy concerning the problem they have been presented”.43

IBSA countries are capable of resisting that kind of pressure and do not hesitate to make their opinion heard. A South African diplomat, questioning the legitimacy of the P5, stated that: “we are the elected members of the Security Council, we have more legitimacy than the P5 members who are not elected to occupy this position”.44 Stances like these illustrate the autonomy and independence the emerging powers seek.

The goal to increase their level of autonomy is also present in an implicit manner in the individual foreign policies of the IBSA members. Besides, it explicitly figures in India’s foreign policy doctrine of “strategic autonomy”. The quest for strategic autonomy features as a strategic objective in India’s perception of its role on the international stage. It does not have a theoretical definition, but the concept refers to an autonomous foreign policy practiced towards the big powers, i.e. not to bandwagon directly to American interests without questioning the bilateral relationship. Strategic autonomy is also a part of the non-alignment doctrine in search of a more “equitable global order” including India as a global actor independent of a major power in the conduct of its foreign policy.45

Hence, India’s participation in IBSA at the Security Council has not hampered its foreign policy intention to pursue strategic autonomy, but instead has enabled an independent stance. In practice, the quest for international autonomy leads India to adopt stances that are in line with its interests and even go against certain strategic partners such as the United States of America. As an illustration of the said posture, India decided to support and vote for a resolution on the Goldstone report criticising Israeli military intervention in Palestinian territories at the General Assembly in December 2008. Although this vote may not have been favourable for the country’s interests, India decided to cast it despite lobbying from the

43 Interview with a Brazilian diplomat, November 7, 2011, New York.
45 Interview with V. Krishnappa, Head of IDSA National Strategy project, Institute for Defence Studies and Analysis (IDSA), February 9, 2011, New Delhi.
United States. Indeed, the resolution presented by the Non-Aligned Movement not only spoke to India’s historic support for Palestine; it also allowed the country to gather support among non-aligned states for its campaign for a non-permanent seat at the Security Council between 2011 and 2012.\textsuperscript{46}

Emerging powers’ autonomous positions entail unforeseen protests and demands. This unpredictability is sought after because it contributes to their autonomy and offers them the visibility of having a distinct stance. It is also part of the strategy to disrupt and obstruct the practices of the P5 and the interventionist policies of the P3 members. These disruption strategies also correspond to what certain analysts term “soft balance” strategy, which allows emerging powers to defy the American predominance not with military might, but through economic manipulations, the use of international organisations and diplomatic arrangements to thwart, undermine or delay policies of the big powers.\textsuperscript{47}

IBSA countries’ term as non-permanent members at the Security Council created new political dynamics, but also tensions between them and the P3. According to other non-permanent members present at the Security Council during 2011, particularly Portugal, “[t]he dynamics of the Security Council are not what they used to be. There are new forces, different groupings and of course, one must take account of them”.\textsuperscript{48} Such communal diplomatic practices of IBSA is attributed to a broader objective of reform of practices at the Security Council and the United Nations in general. IBSA members pushed for reforms by adopting different strategies. They did so not only by collectively proposing resolutions that restart debates on reforms at the United Nations, and particularly at the Security Council, but also by showing norm entrepreneurship concerning the use of force and the responsibility to protect.


2. An alternative understanding of the ‘international responsibility’ norm

IBSA’s time at the Security Council in 2011 favoured many collective initiatives. Brazil resumed the debate around the interdependence between security and development during its presidency in February 2011. It also took the opportunity to launch a slew of initiatives and foresaw in its programme the opening for a debate on the interdependence between security and development. The debate, chaired by Foreign Minister Antonio Patriota, brought together not only IBSA countries and an ensemble of member states of the United Nations, but also other non-permanent members of the Security Council. Yet it also drew criticism from many established powers. These normative reinterpretations were nevertheless approved and promoted by IBSA, which was thereby able to disassociate itself from Russia and China and to show initiative and resolve despite contestation. Besides, the approval of such reinterpretations has not only reflected the understanding that the emerging powers have regarding international security, but also has been part of a broader, global objective to reform UN governance.

2.1 IBSA’s rallying around the Brazilian initiative of “responsibility while protecting”

The international context in 2011, marked by the intervention in Libya and the resort to force by the Security Council, pushed certain IBSA member states, notably Brazil, to propose normative initiatives. Resolution 1973 (2011) marks the first authorisation for the use of force by the Security Council against a functioning government de jure. The adoption of this resolution marks an important step in international relations, especially as it was taken under the responsibility to protect norm. In 2005, at a world summit of the United Nations, the final declaration laid the foundation for a number of principles grouped under the responsibility to protect, which rests on three pillars: the primary responsibility, incumbent on the state, to protect civilians facing genocide, war crimes, ethnic cleansing and crimes against humanity; the role of the international community to cooperate with states and help them acquire the means to exercise their responsibility; and the right of the international community, when measures taken to protect the first two pillars have visibly failed, to take collective
measures with respect to norms and procedures according to the Charter of the United Nations.\cite{49}

The principle of the responsibility to protect was then discussed and promoted by an ensemble of resolutions by the Security Council, declarations at the Assembly General and a series of reports published by the Office of the Secretary General of the United Nations. Although this group of principles has called for the reinforcement of capacities to prevent and respond efficiently and effectively to mass atrocities, it has not prescribed measures to be taken in contexts such as Libya. Big and medium powers such as Canada, France and the United Kingdom as well as international organisations such as the United Nations have promoted these principles for over a decade. Three key elements aided the adoption of the resolution: the principle that foreign governments have the responsibility to stop mass atrocities; recurring debates about how the use of military force can aid during a humanitarian crisis; and the support provided at the domestic level by an epistemic community of think-tanks and expert committees advocating the importance of protecting civilians outside the national territory.\cite{50}

In the case of Libya, once the No-Fly Zone had been authorised, scepticism grew around the actual implementation of the resolution on the ground. Some of the obstacles were the actual capacity of the aerial forces to protect civilians; the delivery of arms to rebels contravening Resolutions 1970 and 1973, which had imposed an embargo on arms; the training given to anti-Qaddafi forces; and the deployment of special forces by the UK, France, Italy, Qatar and the United Arab Emirates to evacuate their respective nationals, aid the aerial forces and secure key installations.\cite{51} The rationale for an intervention to protect civilians under the responsibility to protect does not obey other principles under the same notion, namely


preventive diplomacy, peacekeeping, sanctions and coercive legal measures.\textsuperscript{52} The regime change, called for explicitly by France, the UK and the US\textsuperscript{53}, was actively criticised by IBSA countries and by the emerging powers within the P5, Russia and China. Following the concerted challenges to the implementation of Resolution 1973 (2011), India, Brazil and South Africa then denied and obstructed the vote on a set of resolutions condemning the Assad regime during the civil uprisings in Syria.

2.1.1 An initiative influenced by the Arab Spring context

It was in this context of the Security Council’s paralysis that Dilma Rousseff, then President of Brazil, declared during her speech at the General Assembly in 2011 that, “[m]uch is said about the responsibility to protect; yet we hear little about responsibility in protecting”,\textsuperscript{54} and called for further development of these concepts. During the debate on the protection of civilians at the Security Council on November 9, 2011, Brazilian delegates brought a series of works to advance the concept put forth by their President. The Permanent Representative of Brazil to the United Nations, Maria Luiza Ribeiro Viotti, stated that the international community “must demonstrate a high level of responsibility while protecting” as it exercises its responsibility to protect.\textsuperscript{55} She also sent a letter to the Secretary General

\textsuperscript{52} Williams and Bellamy, “Principles, Politics and Prudence”, 56.

\textsuperscript{53} See the tribune co-signed by David Cameron, Barack Obama and Nicolas Sarkozy, “Libya’s Pathway to Peace”, The New York Times, April 14, 2011 : “our duty and our mandate under U.N Security Council Resolution 1973 is to protect civilians, and we are doing that. It is not to remove Qaddafi by force. But it is impossible to imagine a future for Libya with Qaddafi in power (…) it is unthinkable that someone who has tried to massacre his own people can play a part in their future government (…) so long as Qaddafi is in power, NATO must maintain its operations so that civilians remain protected and the pressure on the regime builds. Then a genuine transition from dictatorship to an inclusive constitutional process can really begin, led by a new generation of leaders. In order for that transition to succeed, Qaddafi must go and go for good.”

\textsuperscript{54} Speech by President Dilma Rousseff, opening of the 66th session of the General Assembly, September 21, 2011: “Much is said about the responsibility to protect; yet we hear little about responsibility in protecting. These are the concepts that we must develop together”.

\textsuperscript{55} Maria Luiza Ribeiro Viotti, Remarks during the Security Council Meeting on Protecting of Civilians in Armed Conflict, UN Doc. S/PV/6650, November 9, 2011.
at the same day, elaborating the key elements and principles for developing the concept of responsibility while protecting, which would complement the existing principle of the responsibility to protect.56

Addressed to the members of the Security Council and the Assembly General at the same time, the text proposes a distinction between collective responsibility and collective security. While the former regroups non-coercive measures, the latter includes the use of force when all diplomatic solutions have been exhausted and when violence against civilians qualifies as a danger against peace and international security. The delegate notes: “we increasingly consider that the concept of responsibility to protect can be diverted for means other than the protection of civilians, for example to provoke a change of regime”, and estimates that, “when exercising that responsibility, the international community must be fully responsible”.57

In order to avoid future misinterpretations about the responsibility to protect, the proposal breaks down the concept of responsibility while protecting into seven principal measures: (1) to emphasise preventive diplomacy in order to reduce the risk of armed conflicts and engendered human costs; (2) to exhaust all possible peaceful mediations to protect civilians envisaged in the UN Charter and the final document of the World Summit in 2005; (3) multilateral use of force – which includes the responsibility to protect in its authorisation – approved by the Security Council or, in exceptional cases, by the General Assembly; (4) military intervention must abide by the letter and spirit of the mandate and be conducted strictly in respect of international laws, particularly international humanitarian laws and those of armed conflicts; (5) an intervention that is judicious, proportionate and within the limits of the objectives fixed by the Council, in compliance with the guiding principles throughout the period of intervention; (6) to strengthen monitoring and evaluation of resolutions and how these are interpreted or implemented so that protection is exercised responsibly; and (7) finally, the establishment of monitoring mechanisms to the Security Council by those authorised to deploy force.58

57 Ribeiro Viotti, “Responsibility While Protecting”.
58 Ribeiro Viotti, “Responsibility While Protecting”, para. 11.
Brazil’s proposal to reinterpret the responsibility to protect norm by including the notion of responsibility while protecting demonstrates the country’s willingness to be a norm entrepreneur. Brazilian diplomacy would also like to demonstrate that its stance is not just about being an emerging power that protests and contests the responsibility to protect norm, but also about being an emerging power that is responsible and takes initiative, over and above contesting, and contributes to the evolution of the normative debate. This stance is also in line with Brazil’s principle of non-indifference and leadership of the UN mission MINUSTAH in Haiti since 2004. Brazil’s stance towards non-indifference, which is guided by the principle of non-intervention, marks an evolution in the country’s traditional non-interventionist, ultra-sovereign posture. This stance was initially in accordance with regional precepts in South America recognised by the institutional agreements of the Organisation of American States in 1948, and is written into the Charter of the Organisation.

This evolution aligns with Brazil’s strategy to position itself as an emerging power beyond its regional relevance. Brazil has progressively evolved from its scepticism about the responsibility to protect, regarded by Celso Amorim as “the right to intervene in new clothes,” to a gradual and strategic adherence. This strategic adherence was strengthened through continuous investment and participation in UN peacekeeping operations. Brazil’s turn to a less sceptical standpoint might be attributed to a strategy of diplomatic visibility, given that the original standpoint could lead to isolation in the face of international subscription to the responsibility to protect. Isolation, in turn, has not corresponded to the strategy sought by Brazil’s diplomatic decision-making circles, so Brazil has adopted an evolving rhetoric according to which these principles deserved their proper place in the international system.

However, Brazil’s strategy is that of a cautious support, and its engagement with the responsibility to protect is based on the possibility of an international responsibility without the use of force. Instead, the country

61 Declaration of Minister Celso Amorim at the opening of the 60th session of the United Nations General Assembly, September 17, 2005.
Folashadé Soulé-Kohndou has favoured dialogue and peaceful, diplomatic solutions in case of conflict, which includes an emphasis on development and international aid.\textsuperscript{62} Brazil’s proposal of a normative reinterpretation of the responsibility to protect is part of its ambition to emerge responsibly, while maintaining a portion of traditional regional precepts of non-intervention and the use of force as the last resort.

2.1.2 Socialising India and South Africa on the initiative

During the 5th IBSA Summit of Heads of State and Government, the Brazilian President reaffirmed the necessity to reinforce the existing responsibility to protect with measures on responsibility while protecting.\textsuperscript{63} This IBSA summit offered Brazil a platform for the socialisation of the proposal with India and South Africa. The measures proposed by Brazil in the concept of responsibility while protecting also included a group of arguments that were collectively presented by IBSA during debates on the Middle East and on the protection of civilians at the Security Council. In particular, the necessity to favour diplomatic rather than military options, and the use of force as a last resort when all diplomatic and mediation measures have been exhausted.

During the informal debate on the responsibility while protecting,\textsuperscript{64} organised on February 21, 2012, by minister Antonio Patriota, the Brazilian initiative had the support of the permanent delegates from South Africa and India,\textsuperscript{65} who “welcomed with satisfaction the initiative of responsibility

\textsuperscript{62} Kenkel, “Brazil and R2P”.
\textsuperscript{63} Statement by Dilma Rousseff during the 5th IBSA-summit, Pretoria, 18.10.2011: “Nossa postura frente aos acontecimentos políticos recentes no Oriente Médio e no norte da África é prova disso. Muito se fala sobre a responsabilidade de proteger; pouco se fala sobre a responsabilidade ao proteger. Esta responsabilidade ao proteger foi objeto das iniciativas da África do Sul, da Índia e do Brasil dentro do Conselho de Segurança da ONU”.
\textsuperscript{65} The countries present at the informal meeting of 21.2.2012 were the following: France, Germany, the United Kingdom, the United States of America, China, Australia, Portugal, Denmark, the Netherlands, Norway, India, South Africa, Egypt,
while protecting” and considered that the measures of “the initiative allow the promotion of accountability among interventionists in case of use of force (...) and if these measures were conducted properly, the initiative will favour better cooperation between the international community and the United Nations”\(^66\), while recalling the relevance of the initiative in “selective application of the responsibility to protect which should absolutely be avoided in the future”\(^67\).

India’s permanent delegate at the United Nations also saw in the responsibility while protecting a “way for the responsibility to protect to win back the respect of the international community”, and estimated that “the responsibility while protecting should be anchored in the norm of responsibility to protect”\(^68\). Even though the initiative emanated from Brazil, and not from a collective IBSA initiative, the 2011 summit allowed Brazil to network with India and South Africa, which then allowed the latter two to become the vectors for promoting the initiative. This common rhetoric also resulted in planned speeches at informal IBSA meetings and served as a bridge between this informal circle and the one regarding the debates on norms.

The Brazilian initiative has, however, faced several reservations from Germany, France and the United Kingdom, who viewed it primarily as an initiative to obstruct discussions at the Security Council on the Syrian crisis\(^69\). A permanent delegate from Germany at the United Nations stated that the Brazilian approach to responsibility while protecting “lacks proper definition, and does not put in place decisive solutions in case of extreme

---


\(^{69}\) Benner, “Brazil as a Norm Entrepreneur”.

Edward Luck, Special Advisor to the United Nations Secretary General on the responsibility to protect, who participated as a co-president in the informal discussions on responsibility while protecting, also shared his scepticism: “when millions of lives are at stake, it is imperative to put in place decisive measures in a timely manner, as recommended by the World Summit in 2005, and not engage in philosophical debates.” He also considers that “the responsibility induces an advance engagement, a proactive prevention, and agile deployment of non-coercive measures (…) delaying a reaction is not a form of responsibility”. Some analysts have considered European states’ and Edward Luck’s criticism of the Brazilian initiative as amateurish. And yet they have also referred to it as a sign of resistance to emerging powers’ norm entrepreneurship.

Such reservations from the established powers have contributed to the belief according to which the normative work, and hence norms’ lifecycle, are a privilege of the North, with little margin of manoeuvre for non-established actors such as Brazil.

The amount of criticism received by the initiative supported by IBSA eventually compromised the norm’s promotion, and the group has only made periodic rhetoric mentions of it. While originally taking the lead to organise conferences and hold debates on norm initiatives, the Brazilian

---


72 See particularly Benner, “Brazil as a Norm Entrepreneur”, 5.

73 In their analysis of the ‘life cycle’ of norms, Martha Finnemore and Kathryn Sikkink determined three stages: emergence of the norm through the role played by norm entrepreneurs; the socialisation of the norm through its diffusion so that a group of actors would subscribe to it and allow a norm to “cascade”; and internationalisation of the norm corresponding to its application at the international level and favoured by the subscription to the norm by state-actors desiring to improve their image and reputation. Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change”, International Organization 52 (1998), No.4: 887–917; See also Benner, “Brazil as a Norm Entrepreneur”, 6.

74 Ibid., 9.
diplomacy progressively abstained from key debates organised on the side-lines of the Assembly General in September 2012. 75 According to Brazilian diplomats, the end of Brazil’s mandate as a non-permanent member made it no longer possible for the country to exercise a leading role in the initiative, even though they regard the diplomatic attention attracted to the norm as a success. 76

This failed leadership, however, raises questions on the approach to norm entrepreneurship by IBSA countries in the field of international security. Beyond garnering support and making the responsibility while protecting norm visible through debates, questions arise on whether emerging powers can carry their norm entrepreneurship to the end of a norm’s “life cycle”, mobilising its “socialisation” and “internationalisation”. 77

2.2 An alternative positioning on international responsibility

The common positioning of IBSA on Libya and Syria drew a lot of criticism not only from the established powers of the P3, but also from a number of civil society organisations.

2.2.1 Criticism of sovereigntist stance

IBSA was accused by non-state actors, including the NGO Human Rights Watch (HRW), of a sovereigntist and irresponsible position. The international stance taken by India, Brazil and South Africa on human rights issues drew criticism and led to the perception that these emerging powers are anchored in ancient democratic ideas. In particular, their abstention on resolutions condemning human rights violations in Myanmar, Sudan, Iraq and Zimbabwe between 2003 and 2012 was met with disapproval. Furthermore, the passive promotion of human rights internationally and the resistance to socialise norms promoted by the P3 has given the impression

75 Oliver Stuenkel, “Brazil as a Norm Entrepreneur”, 59–62.
77 Finnemore and Sikkink, “International Norm Dynamics”.
that these emerging powers are part of an “axis of sovereignty”\textsuperscript{78}, “swing states that are coming closer to the sovereigntist axis”\textsuperscript{79}, particularly South Africa, or countries that are adopting international liberalism adhering to European standards, like Brazil.

IBSA, in spite of adherence to democracy and respect of human rights within respective domestic borders, is considered ultra-sovereigntist when it comes to defending democracy and human rights outside their respective borders, like Russia and China. For some analysts like Jorge Castaneda\textsuperscript{80}, IBSA countries have shown international irresponsibility by resorting to the principles of sovereignty, non-intervention and autonomy.\textsuperscript{81} IBSA’s position is also seen as a defiance of the global governance system, and their quest for global influence is not accompanied by international responsibility. Some analysts such as James Traub have even perceived IBSA’s diplomatic positioning as obstructionist and uncooperative, adopting third-world ideological reflexes dating back to the bipolar era. For instance, these analysts argue, their abstention on resolutions on Syria at the Security Council resulted in a double veto from China and Russia as a consequence.\textsuperscript{82}

IBSA’s mediation mission in Syria was initially welcomed by a group of civil society organisations, including HRW, who viewed it as a means to end human rights violations perpetrated by the government against its citizens. NGOs asked the IBSA mission to urgently demand Syrian authorities to implement responsibility to protect and authorise ground access to humanitarian missions, foreign journalists and independent human rights

\begin{itemize}
\item \textsuperscript{79} The “swing voters” are states that adopt similar votes to the European Union at a margin of 26–50\%.
\item \textsuperscript{80} Jorge G. Castaneda, “Not Ready for Prime Time – Why Including Emerging Powers at the Helm Would Hurt Global Governance”, \textit{Foreign Affairs} 89 (2010), No. 5: 109–122.
\item \textsuperscript{81} Patrick Stewart, “Irresponsible Stakeholders? The Difficulty of Integrating Rising Powers”, \textit{Foreign Affairs} 89 (2010), No. 5: 44–53.
\end{itemize}
Rising Powers and Norm Entrepreneurship

groups. IBSA’s positioning on Syria and its abstention on resolutions condemning the Syrian regime made these organisations, including HRW, start criticising IBSA for a lack of leadership on the promotion of human rights in Syria. A lack of confidence in the West’s motivations should not mean, so the organisations, an alignment of these emerging powers with the abusive Syrian government. The NGOs criticised the results of the August 2011 mediation mission as an unproductive “private dialogue” and contrasted it with the death of hundreds of Syrians that occurred at the same time.

2.2.2 Differing perceptions on the application of international responsibility

IBSA’s positioning at the Security Council raises the question of these emerging countries’ potential with regard to international responsibility, most importantly their understanding thereof. Suffering from a lack of theorisation, international responsibility and its practices vary according to the interpretation of those practising it. Established powers such as the United States and a group of EU member states have extended international responsibility to defend human rights violations in third world countries and enact a rapid reaction, often requiring intervention in such countries, in the name of protecting civilians. This is one of the principles behind the concepts of responsibility to protect and “sovereignty as responsibility”. In this perspective, emerging powers that demand a similar status than that of the established powers are expected to socialize with the normative practices of the latter.

85 Human Rights Watch, “IBSA: Push Syria to End Bloodshed”.
86 Stewart, “Irresponsible Stakeholders?”. 

https://doi.org/10.5771/9783845285672
Generiert durch IP '54.70.40.11', am 11.04.2019, 06:02:16. 
Das Erstellen und Weitergeben von Kopien dieses PDFs ist nicht zulässig.
Conclusion

The diplomatic positions from India, Brazil and South Africa at the Security Council can be explained by their individual historical trajectories, specifically the apartheid laws in South Africa, the different military and autocratic regimes in Brazil, and India’s colonisation, which were supported, if not established, by Western powers. The US intervention in Iraq in 2003 also led IBSA leaders to oppose traditional methods of regime change that are triggered rapidly and unilaterally through an armed intervention, instead favouring peaceful mediation processes, which take more time. 87

This assertiveness by India, Brazil and South Africa, which falls under their strategy of autonomy and independence, and hence of refusal to clientalisation, is pragmatic. In effect, the presence of certain countries as non-permanent members at the Security Council, notably less influential, developing countries, creates a phenomenon of co-optation by the P5. Permanent representatives of some developing countries are easily influenced and co-opted, and their votes are often the result of clientalisation by the P5. Such diplomats do not obstruct accords and decisions that all or certain P5 members want to pass. 88 Contrary to these countries, IBSA nations undertook a more assertive position through a different diplomatic stance, resisting P5’s norms and approaches, and defying its normative conducts, operating modes and processes at the Security Council.

In practice, the emerging powers of IBSA are determined to present their own vision of international responsibility, which diverges from that of the established powers. This vision brings back into focus politically-motivated interventions by the established powers in the name of protecting civilians. Their arguments for, and principles of, non-interference and non-intervention can therefore be considered as strategies to contradict and hamper ambitions that serve such political interests.

Being internationally responsible, according to these emerging powers, also includes the important participation in peacekeeping operations and political mediation, favouring negotiations and delegating the use of force as the last resort. Besides, it also relates to increasing financial contributions to such causes. International responsibility, for these emerging powers,

88 Hurd, “Legitimacy, power and the symbolic life of the UN Security council”. 
Rising Powers and Norm Entrepreneurship

also includes reinforced engagement in international organisations, so that they can respond to development issues and instigate normative debates, specifically on the interdependence between security and development.

Last but not least, the collective international responsibility advocated by IBSA countries is also a means for these emerging powers to position themselves individually in the international arena and enjoy greater importance, while preserving distinct identities and their autonomy of decision.

Bibliography


Rising Powers and Norm Entrepreneurship


It Is More than What It Seems: Understanding India’s Perspective on “Responsibility to Protect”

Madhan Mohan Jaganathan

Introduction

What explains India’s perspective on “Responsibility to Protect” (R2P)? What is it in terms of values, culture, domestic politics and world view in the context of India that influences its stance on R2P? So far, several explanations have been given so as to address these central questions. These include amongst others, “a risk-averse strategic culture”,1 “a tale of ambiguity”2 and passivity flowing from the principle of non-violence.3 This paper argues that these interpretations are weak, tentative and unconvincing. Risk-averse strategic culture as a variable does not capture the depth of India’s position and ambiguity as an expression is often a convenient caricature than an apt and sensitive characterisation. Instead, the paper makes a case for unpacking and understanding the manner in which several of the variables – sovereignty, domestic politics, “personality-based individual level factors”4 and culture – impact or influence the phenomenon under investigation, i. e. India’s perspective on R2P.5

5 A discussion of the subject in terms of delineation of different phases is seen in Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 461–487.
Furthermore, this paper posits that India’s perspective on R2P could not be fitted into an elegant theoretical explanation. The very nature and character of India defies any simplistic theoretical engagement. In any case, interest-driven explanations of the mainstream perspective miss the basic point about India. It is not appropriate to consider India as “a unitary and rational actor”. The essence of India lies in its diversity and multiplicity.

Ironically, culture based interpretations such as those that stress on “risk-aversion” or lay emphasis upon “non-violence” also remain tangential to the phenomenon under investigation. The everydayness of violence in society raises questions about the academic engagement with non-violence. In other words, the rhetoric of non-violence and the reality of violence complicate such a simplistic attribution to culture.

In effect, a notorious mix of factors including the anchorage in sovereignty, the vagaries of domestic politics and personality based individual level factors seem to have influenced India’s stance on R2P. The paper argues that the above-mentioned factors or variables are more nuanced than otherwise suggested.

Unpacking these variables leads to the following inferences:

(i) Sovereignty is seen as “morality” thereby reflecting a world view which privileges order over justice. In practical terms, this translates into considerable “benefit of doubt” to the sovereign state. It is this viewpoint that manifests as an insistence on the “consent” of the target state, scepticism about external involvement and discomfort vis-a-vis the third pillar of R2P.

(ii) Domestic politics matters but not very much. In other words, domestic factors are relevant but not unduly significant. It is interesting to note that in spite of coalition politics, say from 1989 until 2014, domestic politics

8 Jaganathan, “India in international society”.
10 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 480.
11 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 461 and 480.
exerts only a limited influence and not a profound impact. In concrete terms, this means that domestic constituencies are taken into consideration but given importance in purely symbolic terms.

(iii) Personality based individual level factors seem to be significant in influencing India’s perspective on R2P. In other words, decision-makers in India often exert “disproportionate influence” when it comes to concrete cases, prime moments and key decisions. Examples include Indira Gandhi, Rajiv Gandhi, I.K. Gujral, Nirupam Sen, Hardeep Singh Puri and Narendra Modi.

(iv) In terms of social and cultural factors, India’s perspective on responsibility to protect has less to do with passivity emanating from the principle of non-violence and more to do with patterns of violence which are deeply ingrained through the caste system, patriarchy, communal divide and other forms of systematic discrimination in society. To say that non-violence constitutes the central tendency is to distort the social and cultural reality of India. In a way, it could be argued that it is the tolerance of violence that explains the stipulation of a “high threshold level” in the context of the R2P debate. The rest of the paper elaborates and substantiates the above-mentioned inferences.

1. Sovereignty: still an enduring fixation?

The extent to which sovereignty matters in India’s foreign policy, in particular on the issue-area of R2P is severely contested. At least two significant strands of opinion emerge. The first strand, which is perhaps not the dominant one, still attaches considerable importance to the value of sovereignty in India’s policy matrix or more broadly in India’s outlook and world view. The second strand, which is increasingly becoming popular, posits that India is no longer as much wedded to the notion of sovereignty as it was in the past. In other words, this strand almost says that India is no longer constrained by the normative barrier of sovereignty. It is willing to

---

12 To be precise, the period of coalition government in the centre (federal level) existed between 2 December 1989 and 25 May 2014.
circumvent the principle of sovereignty, if need be. Scholars argue that it is this pragmatism that eventually paved the way for India’s engagement with R2P despite its initial fierce opposition.

Herein, it needs to be stressed that sovereignty as a factor cannot be wished away – be it in the context of India’s stance on R2P or in the larger context of India’s world view and thinking. Neither can sovereignty and its significance be considered as a given and accepted uncritically.

The point is to probe the salience of sovereignty in India’s world view. This paper sets out to do precisely this. Contrary to the interpretation that India clings on to sovereignty and abandons the same depending on the interests at stake, the attachment to the principle of sovereignty echoes a fundamental value “preference in favour of order” and reflects a world view that provides wide latitude to the sovereign state. For India, sovereignty is not just a convenient platform or a symbolic rhetoric; it signifies a substantive moral position. At the core of this moral position is the firm belief that the autonomy of the sovereign state should be left unaltered and unfettered. The only exception to this principled position is the outbreak of horrendous events such as genocide or mass killings. Short of such events, the sovereign state remains as the prime “arbiter” on all matters within its territorial space. In India’s view, this is as much a morally defensible position as the insistence, say, on fundamental human rights.

It is not difficult to trace the genesis of India’s position on sovereignty. As a post-colonial state with bitter memories, India has developed a considerable degree of aversion to anything that is tantamount to external interference. In this line of thinking, intervention, howsoever, benign it may be, seems unpalatable and unacceptable. In fact, intervention by definition is bereft of noble intentions. It is an act of manipulation driven by vested political interests. It is for this reason that India has always been a first rate sceptic of the pursuit of humanitarian intervention. Critics point out the case of India’s intervention in East Pakistan in 1971 to demonstrate the glaring inconsistency: the reservations about intervention and yet undertaking the role of an intervening actor in certain circumstances. It needs to be noted that the case of East Pakistan is an exceptional case and constitutes an exception to India’s general emphasis on the principle of sovereignty and territorial integrity. The extremely high rate of violence in terms of

17 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 479.
18 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 479.
atrocities committed on the population in East Pakistan renders the case as exceptional. The exact rationale for India’s intervention in East Pakistan is not clear-cut. However, India’s involvement in the region has been characterised and judged differently by various scholars; they range from “humanitarian intervention” to “strategic game plan of dismembering and partitioning Pakistan” to “mixed motives.” Nevertheless, it is clear that India is moved into action whenever there is an outbreak of genocide. It is this line of reasoning that helps to explain India’s intervention in East Pakistan which resulted in the eventual creation of Bangladesh.

Again, it is this reasoning that enables an understanding of India’s position on Vietnam’s intervention in Cambodia. India did not mince words and strongly criticised the spectre of genocide which was perpetrated by the Pol Pot regime in Cambodia. The then prime minister of India, Indira Gandhi, remarked: “Vietnam’s intervention in Kampuchea cannot be isolated from the context of the barbarous dictatorship of Pol Pot and the external interest in sustaining it.”

In 1987, India intervened in Sri Lanka; it considered the actions of Sri Lanka as “almost genocidal in their objective.” By and large, the intervention was undertaken with the consent of the Sri Lankan state. The exception to this modus operandi was the initial Operation Poomalai on 4 June 1987 which involved the delivery of food and medicine through air and entailed “humanitarian action violating the airspace of Sri Lanka”

---

Subsequently, the conclusion of the Indo-Sri Lankan Agreement on 29 July 1987 resulted in the deployment of Indian Peace Keeping Force (IPKF) in Sri Lanka.\(^{27}\) However, India’s intervention in Sri Lanka turned out to be an utter failure.\(^{28}\) As a result, India ended its intervention and the IPKF was withdrawn in March 1990.\(^{29}\)

During the 1970s and the 1980s, India had undertaken several interventions in its neighbourhood. Such a high frequency of intervention is not to be seen thereafter. As the paper demonstrates in subsequent sections, India’s proclivity for intervention has to do with a pro-interventionist preference of leaders such as Indira Gandhi and Rajiv Gandhi.\(^{30}\) Individual leaders have played and continue to play a significant role in India’s decision-making on matters of humanitarian intervention and R2P.\(^{31}\)

An analysis of India’s stance on humanitarian intervention in the 1990s seems to indicate a pattern. It is that India is extremely wary of any intervention that violates the sovereignty of the target state. The sole exception to this principle is the occurrence of extremely high levels of violence which is almost tantamount to genocide. Barring this exception, India favours an intervention only if it satisfies certain core criteria: these include amongst others, the consent of the target state and the mandate and authorisation of the United Nations.\(^{32}\) By and large, India seems to have adhered to these principles and caveats. In the case of the first Gulf War which occurred in the early 1990s, India voted in favour of the United Nations Security Council (UNSC) resolution 678 but abstained from UNSC resolution 688. India had no qualms in supporting UNSC

---


30 The role of Indira Gandhi is mentioned in Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 465. In this paper, the role of Rajiv Gandhi is added as well.


resolution 678 as it condemned Iraq’s invasion of Kuwait. By rendering support to that resolution, India acted in defence of the sovereignty and territorial integrity of Kuwait. However, it was not forthcoming in its support to UNSC resolution 688 and chose to abstain. UNSC resolution 688 was more coercive and expansive than UNSC resolution 678 and hence India’s abstention.

In the case of Somalia, India voted in favour of UNSC resolution 794. The resolution authorised “to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia”. The logic behind India’s stance on Somalia is discernible. Reeling under a crisis, Somalia was considered as a state without a government wherein there is no sovereignty to override. Thus in the opinion of India, the situation in Somalia necessitated an “immediate and exceptional response” but clarified that the mission must “not set a precedent”.

In India’s world view, human rights violations or atrocities perpetrated by the sovereign state on its ethnic minority population, howsoever gruesome it may be, unless it touches the level of genocide, does not necessitate a case for external intervention. The legitimacy of such an intervention suffers furthermore if it is carried out without the mandate of the United Nations. India’s response to the NATO-led Operation Allied Force, which

---

35 See also, Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 467.
38 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 467.
was initiated on 24 March 1999, did not come as a surprise; it was very much along the expected lines. India termed the operation, “illegal”. It is worthwhile to mention India’s statement on the issue: “…the crisis could only be resolved through consultation and dialogue, and not through military action. The attacks clearly violated Article 53 of the United Nations Charter... the attacks now taking place had not been authorized by the Council acting in that capacity and were therefore completely illegal.”

India has consistently expressed concern about the erosion of sovereignty whenever humanitarian intervention has taken place. As mentioned earlier, its own intervention in East Pakistan is attributed to the outbreak of genocide in which case, the barrier of sovereignty ceases to operate. It is pertinent to note that India’s emphasis on sovereignty seems to be enduring through the R2P phase, to date. Critics point out that India’s stance on R2P, especially in the Libyan case has nothing to do with principles or values; it is being driven by “a cold calculus of national interest”. They seem to miss a fine point. A holistic examination of cases rather than an isolated episodic analysis suggests that India is supportive of R2P only to the extent that it complies with the principle of sovereignty and territorial integrity. It is this central tendency that seems to emerge not just from a single case but case after case.

India’s position on the Libyan case is telling. It voted in favour of the UNSC resolution 1970 but abstained from the subsequent UNSC resolution 1973. The reason for the variation in voting behaviour is not difficult to decipher. Resolution 1970 which was adopted by the United Nations Security Council on 26 February 2011 expressed “grave concern at the situation in the Libyan Arab Jamahiriya” and condemned “the violence and use of force against civilians” but reaffirmed “its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya”. Seen from the standpoint of India, the thrust of the resolution on respecting the sovereignty of the state is significant. Moreover,
India was primarily concerned with the evacuation of its people who were entangled in a difficult situation. In its explanation of vote on the resolution, India made the submission: “...we also have concerns about the safety of Indian nationals and their assets in Libya”. Hence, India voted in favour of UNSC resolution 1970.

The UNSC resolution 1973 expanded the scope of coercion considerably thereby placing it beyond the ambit of India’s endorsement or support. No doubt, the resolution was a response to the deteriorating situation in Libya. In fact, it “deplored the failure of the Libyan authorities to comply with resolution 1970” and “expressed grave concern at...the escalation of violence, and the heavy civilian casualties”. Nonetheless, the nature of response envisaged in the resolution such as “deciding to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians” was way beyond India’s limits of acceptance. Explaining the rationale for its abstention from UNSC resolution 1973, India stated thus: “The resolution that the Council has adopted today authorizes far reaching measures under Chapter VII of the UN Charter”. The stress on sovereignty was conspicuous: “it is, of course, very important that there is full respect for sovereignty, unity and territorial integrity of Libya”. In the words of Kanti Bajpai, “finally, and most crucially, there is India’s insistence on the sanctity of sovereignty”.

---


50 Ibid.

Amidst all these declarations, India’s concern for the people in Libya seemed to be intact. The following statement is revealing: “…India continues to be gravely concerned about the deteriorating humanitarian situation in Libya and calls on the Libyan authorities to ceasefire, protect the civilian population and address the legitimate demands of the Libyan people.” The bottom line is worth considering seriously: the practice of R2P which neatly fits into the framework of sovereignty is acceptable to India.

The case of Myanmar is pertinent. Cyclone Nargis struck Myanmar on 2 and 3 May 2008 devastating the Ayeyarwady (formerly Irrawaddy) delta. Considered as “the most powerful cyclone to strike Myanmar”, the damage caused was terrible and irreparable. Approximately 2.4 million people were affected; an estimated 140,000 people were either dead or missing. The State Peace and Development Council (SPDC) regime resisted “the entry of naval forces of the US, the UK and France into the territory of Myanmar”. Considering the gravity of the situation, India appeared to tread carefully on the issue. India neither explicitly criticised the SDPC regime in Myanmar nor did it invoke R2P as certain other states such as France. Rather, it adopted a “low-key” strategy and provided the much-needed humanitarian assistance to the suffering population.

India’s position on the situation in Syria is intriguing. A stylistic difference, if not a substantive change, is discernible in India’s voting pattern at the Human Rights Council and the United Nations Security Council. Initially, India abstained from the resolution on Syria at the Human Rights Council in August 2011. The rationale for the abstention was stated: “we do not regard spotlighting and finger-pointing at a country for human
right (sic) violations as helpful." Thereafter, India’s voting behaviour has changed considerably. It became more vociferous in expressing concerns about the worsening situation in Syria. Explaining its support for the draft solution in the UN Security Council on 4 February 2012, India pointed out that it “is concerned with the present situation in Syria that has resulted in the deaths of thousands of civilians and security forces personnel over the last ten months.” The draft resolution was vetoed by Russia and China. India continued to support subsequent resolutions in the UN Security Council and the Human Rights Council. It voted in favour of UNSC resolution 2043 and explained its decision: “We have voted in favour of resolution 2043 with the expectation that UNSMIS (United Nations Supervision Mission in Syria) will implement its mandate impartially, objectively and fairly...”

With the passage of time, India’s concerns about the situation in Syria became more pronounced. It clarified thus: “We strongly condemn the El-Houla incident, which has resulted in death of over a hundred innocent civilians including women and children and have therefore intended to vote for this resolution.” No doubt, India sounded quite proactive in responding to the crisis in Syria. Nevertheless, India stayed firm in its core commitments.


principle – that the sovereignty and territorial integrity of Syria needs to be fully respected. While mostly voting in favour of the resolutions barring the initial abstention, India did not dilute its basic stance, which is to consider coercive external intervention and regime change as unnecessary and counter-productive. The following remark captures India’s perspective very well: “we have also clearly articulated our position that there should be no outside military intervention and the peace process should be Syria-led.”63

The analysis makes it clear that India’s invocation of sovereignty in the context of the R2P debate is not just simple rhetoric; it is deeply embedded in a world view that accords considerable leeway and manoeuvrable space to the target state.64 In this view, solutions to pressing problems including gross human rights violations will have to be found within respective states. Any external attempt to deal with the crisis situation is fraught with undesirable consequences. Therefore, India has been relentlessly emphasising on the imperative to safeguard the sovereignty of the concerned state. A cursory content analysis of the statements and speeches made by the officials of India on matters of R2P says it all: sovereignty is certainly one of the recurrent themes. The reverberation of sovereignty indicates that it constitutes the anchorage on matters of India’s foreign policy including R2P. Incidentally, India’s concerns about sovereignty, which is often cast in moral and normative terms dovetails with its apprehensions about external interference in its own territorial space.65 There is a merit in the argument that India does not relish external meddling in its internal affairs and hence projects itself as an ardent advocate of sovereignty and territorial integrity. It is to be noted however that the underlying basis of India’s position is not instrumental gain but a “moral” perspective.66 India continues to be

64 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 480.
vocally critical of the third pillar of R2P especially the prospect of regime change for the same reason.

Critics often point out the seeming inconsistency in India’s track record on matters of intervention and R2P.\footnote{C. Raja Mohan, “India, Libya and the Principle of Non-Intervention”, 3.} To expect a complete consistency is unrealistic. The broad inference is that generally sovereignty stays intact in India’s world view and practice. The only exception is the outbreak of extremely high levels of violence that reaches the threshold of genocide.

2. Domestic factors: do they matter?

The entry of domestic factors into the discussion on India’s perspective on R2P is recent. It is now acknowledged that domestic factors play a role in influencing India’s stance on R2P.\footnote{Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 461–87.} This paper examines the extent to which domestic factors matter in the context of India’s position on R2P. The enthusiasm over analysing the appropriateness and the impact of domestic politics on matters of India’s foreign policy is a trend which has been visible since the early 1990s. The ascendancy of this trend in recent years can be attributed to the persistence of coalition politics (which existed until 2014 in the centre),\footnote{Some scholars consider the current National Democratic Alliance (NDA) government as a coalition government. However, the current NDA government, which came to power at the centre in 2014, is a qualitatively different form of coalition. The Bharatiya Janata Party (BJP) alone has 281 out of the total of 543 seats in the Lok Sabha and hence not dependent on any other political party for proving its majority, if need be. This was not the case earlier, say between 2 December 1989 and 25 May 2014.} the initiation and deepening of social churning and the emergence of the idea and the process of decentralisation, which has apparently moved the locus of decision-making away from the corridors of Delhi.\footnote{Varun Sahni, “The Protean Polis and Strategic Surprises: Do Changes Within India Affect South Asian Strategic Stability?”, Contemporary South Asia 14 (2005), No. 2: 220–21.} It is indeed pertinent to probe into the domestic influences of India’s perspective on R2P, if any.

The case of Sri Lanka is a litmus test case given the potential influence of domestic pressure emanating from Tamil Nadu. A careful reading of India’s response to the situation in Sri Lanka – during the period beginning

\url{https://doi.org/10.5771/9783845285672}
from 2008 to date – suggests that domestic factors in the form of pressure from Tamil Nadu played a limited rather than a significant role. It has been argued in my earlier co-authored paper that “domestic considerations are influential” in the context of India’s stance on R2P. However, it was also pointed out in that paper that “domestic considerations are tied to electoral calculations and swing considerably”. This paper extends the engagement with domestic factors and nuances the inferences even further. It shows that domestic factors have not had an impact on India’s stance on R2P beyond the realm of symbolism. In terms of tangible and concrete outcome, domestic factors do not seem to matter very much.

A narration of India’s response to the crisis in Sri Lanka is deemed pertinent at this juncture. During the fourth and final Eelam war in Sri Lanka, India did not contribute substantively to ameliorate the condition of suffering Tamil population. At best, India seems to have influenced Sri Lanka to announce “three forty-eight hours unilateral ceasefires”. Also, it is reported that India derived a commitment from Sri Lanka in late April 2009 to the effect that the “armed forces would stop using heavy weapons.” Beyond these incremental measures, India did not accomplish much in terms of rescuing the suffering population. Rather, India has “actively helped Sri Lanka in defeating the LTTE.” It is now established that the Sri Lankan state has inflicted atrocities of various kinds on the suffering Tamil population under the pretext of eliminating the LTTE. India’s active assistance to Sri Lanka needs to be seen in this context. For instance, India has “provided intelligence and defensive equipment that helped locate the LTTE’s floating ware-houses.” In terms of concrete action, this is India’s

74 Moorcraft, Total Destruction of the Tamil Tigers, 140–44 in Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 472.
75 Happymon Jacob, “Neo-classical Realism and Indian Foreign Policy”, in Shaping India’s Foreign Policy: People, Politics and Places, ed. Amitabh Mattoo and Happymon Jacob (New Delhi: Har-Anand Publications, 2010), 96.
response to a crisis which led to the killing of approximately 40,000 civilians\textsuperscript{77} and the displacement of about 290,000\textsuperscript{78}

In terms of articulation of its stance and the pattern of voting especially at the United Nations Human Rights Council, India has vacillated considerably. In May 2009 at the special session of the UN Human Rights Council, India “aligned with Sri Lanka against a European draft resolution”\textsuperscript{79} Nevertheless, at the UN Human Rights Council in 2012 and 2013, India “voted in favour of the resolutions which were critical of Sri Lanka”.\textsuperscript{80} In yet another shift, India abstained from the resolution at the United Nations Human Rights Council in 2014.\textsuperscript{81} Notwithstanding a lack of coherence and consistency, the thrust of India’s voting dynamics suggests that “India did not want to antagonise Sri Lanka” beyond a point.\textsuperscript{82} Even at the time of voting in favour of a resolution which was critical of Sri Lanka, \textit{i.e.} in 2012, India clarified: “A democratic country like Sri Lanka has to be provided time and space to achieve the objectives of reconciliation and peace.”\textsuperscript{83} While abstaining from the resolution on “promoting reconciliation, accountability and human rights in Sri Lanka” in 2014, India insisted: “Sri Lanka should be provided all assistance it desires in a cooperative and collaborative manner. It has been India’s firm belief that adopting an


\textsuperscript{79} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 472.

\textsuperscript{80} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 476.

\textsuperscript{81} India, Ministry of External Affairs, Explanation of Vote by the Permanent Representative of India to the UN Offices in Geneva, Amb. Dilip Sinha at the UNHRC on Agenda Item 2 on the resolution on Promoting reconciliation, accountability and human rights in Sri Lanka, March 27, 2014, accessed 20 August 2016, http://www.mea.gov.in/Speeches-Statements.htm?dtl/23150/Explanation_of_Vote_by_the_Permanent_Representative_of_India_to_the_UN_Offices_in_Geneva_Amb_Dilip_Sinha_at_the_UNHRC_on_Agenda_Item_2_on_the_resolution.

\textsuperscript{82} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 472.

intrusive approach that undermines national sovereignty and institutions is counterproductive."

It is reasonably clear that India’s voting behaviour – in terms of voting in favour of the resolutions that were critical of Sri Lanka at the UNHRC in 2012 and 2013 – is nothing more than a symbolic gesture. It is reliably learnt that domestic pressure especially from the Dravida Munnetra Kazhagam (DMK) from Tamil Nadu, seems to have influenced India’s decision to vote in favour of the above-mentioned resolutions. However, domestic factors such as these have had nothing more than a limited or marginal impact on India’s response to the situation in Sri Lanka. India did in Sri Lanka what it originally envisaged to do – to provide the much-needed assistance to Sri Lanka to eliminate the LTTE. The outpour of grievances and the articulation of demands that were voiced from Tamil Nadu for the sake of rescuing the suffering Tamil population hardly made any dent in the strategic game plan of India. India invoked the language of R2P rather incidentally when the External Affairs Minister made a pointed reference to Sri Lanka: “The Sri Lankan government has a responsibility to protect its own citizens.”

The timing of this statement is linked to the electoral dynamics in India, especially the state of Tamil Nadu.

The bigger picture is revealing. India, in spite of vociferous demands from the population in Tamil Nadu to rescue the embattled population in Sri Lanka, refrained from undertaking any concrete action. At best, India voted in favour of resolutions which were critical of Sri Lanka and even this was done only on certain occasions and not always. At worst, India assisted Sri Lanka in carrying out the operation to eliminate the LTTE. Domestic influence, say, from the DMK or elsewhere in Tamil Nadu, was kept at bay and did not matter beyond a point. It is therefore important not to overstate the influence of domestic factors on India’s perspective on R2P.

84 India, Ministry of External Affairs, “Explanation of Vote by the Permanent Representative of India to the UN Offices in Geneva, Amb. Dilip Sinha at the UNHRC on Agenda Item 2 on the resolution on Promoting reconciliation, accountability and human rights in Sri Lanka”, March 27, 2014.
85 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 476.
87 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 471.
Yet another case which is often cited to illustrate the influence of domestic factors on India’s R2P policy is Libya. Herein, the domestic factor is the presence of the Muslim population within India. In certain quarters, India’s abstention from the UNSC resolution 1973 is attributed to the preference of the sizeable Muslim population. Commenting on India’s stance on the Libyan crisis, a noted analyst remarked: “The fact that Mulayam Singh Yadav kicked off the discussion points to its true nature – the search for the Muslim vote.” What exactly did Mulayam Singh Yadav say? He stated: “The Lok Sabha has to condemn the attack on Libya. Innocent civilians have been killed and Parliament cannot keep quiet.” It would certainly be naïve to assume that the domestic calculus such as the Muslim constituency is unlikely to influence India’s stance on R2P. The domestic dynamics of this form will certainly influence India’s perspective. A recent article on the subject succinctly captures the trend: ‘…As a poly-ethnic state, with a substantial Muslim minority, it will continue to pay close heed to the needs and exigencies of domestic politics before lending uncritical support for Western military intervention in the Islamic world.’ The critical question is: to what extent are the needs and exigencies of domestic politics significant? A simple but useful answer is that it depends on the nature, ideology and preferences of the party in power. The United Progressive Alliance (UPA) coalition comprised primarily the Indian National Congress (INC) which has been receptive to the grievances and the demands of the Muslim community in the country. The same cannot be stated for the Bharatiya Janata Party (BJP) which is currently in power with Narendra Modi as the prime minister. The BJP alludes to a revisionist ideology and is not necessarily sympathetic to the voices of the religious minorities in the country. It is thus aptly observed: “…the BJP is pursuing a politics that is effectively blind to the presence of minorities of any sort, but particularly religious minorities. The implication of this is that the sentiments of India’s vast

88 See also the discussion in Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 475.
91 Ganguly, “India and the Responsibility to Protect”, 10.
Muslim population no longer matter in the same way as they once did.”

Therefore, the probable influence of domestic considerations – in terms of the sentiments of Muslims or even in the crude form of vote-bank politics – on India’s stance on R2P cannot be taken for granted. These considerations are linked to several other variables, as the above-mentioned analysis clearly demonstrates.

It is curious to note that domestic factors seemed to have played only a limited role on India’s R2P policy even in the era of coalition politics. Though the days of coalition politics are not fully over and still active in several states within India, the experimentation at the centre (at a federal level) lasted from 2 December 1989 until 25 May 2014. India’s initial engagement with R2P and subsequent interaction with the same coincided with the era of coalition politics at the centre. From 22 May 2004 onwards until 25 May 2014, the UPA was the ruling coalition at the Centre. During this period, it is logical to expect that domestic factors would have substantially influenced India’s perspective on R2P. The reason is that the UPA coalition consisted of several so-called regional parties such as the DMK which would articulate their respective domestic sentiments. As the aforementioned analysis clearly indicates, this did not happen; domestic considerations merely exerted a minimal influence especially in the form of symbolism. In the case of Sri Lanka, the reading of the crisis in New Delhi and Chennai (Madras) were diametrically different. Whereas the viewpoint from Chennai – which was articulated amongst others by the DMK – insisted on the urgent need to rescue the suffering Tamil population who were trapped in the final phase of the Eelam war, the world view from Delhi considered the plight of the suffering population as a non-issue, immersed as it were in “strategic” considerations and the memories of the assassination of Rajiv Gandhi. At the end of the day, the dominant narrative of New Delhi prevailed thereby silencing the voices from Chennai. This experience


94 Jaganathan, “Interpreting the Contemporary History of Tamil Nadu”, 83.
stands in marked contrast to that which prevailed during the single party rule of the INC in the Centre during the 1970s and the 1980s.

In a stark irony, the single party rule of the INC led by Indira Gandhi and subsequently by Rajiv Gandhi in the 1970s and the 1980s was relatively more receptive and accommodative to the considerations of domestic constituencies within India—be it the “humanitarian intervention” in East Pakistan in 1971 in favour of the suffering Bengali population or the intervention in Sri Lanka in 1987 in support of the Tamil population. The intervention in Sri Lanka became immensely controversial and ended in a disaster. Nevertheless, the fact of the matter is that India intervened by plunging into action. This is ironical as the logical expectation is that a single party rule with a comfortable majority tends to become centralised and insensitive to the so-called regional sentiments. Thankfully, that did not happen in India’s case thus heralding a spate of interventions throughout the 1970s and the 1980s. Also, the personality and leadership style of both Indira Gandhi and Rajiv Gandhi have defied the conventional understanding of a single party government and ushered in policies which were at least receptive, if not entirely sensitive, to the so-called regional constituencies.

It is becoming increasingly clear from this analysis that individuals in the form of political leaders and other personalities constitute a significant variable. This is true of India’s stance on R2P as much as it is true of India’s foreign policy.

3. Individual level factors: do they influence?

Individuals in their capacity as political leaders, officials and decision-makers have been exercising considerable influence in Indian polity especially in the realm of foreign policy but most notably on matters of humanitarian intervention and R2P. It is now firmly established and well documented that Nirupam Sen, India’s permanent representative to the United Nations, raised his concerns and voiced pointed criticisms at the very text of R2P and its inclusion in the World Summit Outcome document in 2005. Amongst other issues, Nirupam Sen agreed to the idea that “atrocity crimes could justify international intervention, but he insisted that the threshold for this be very high.” During the final stage of the negotiations, “Sen tried to

95 Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 469.
change at least the title of the concept” of R2P.\textsuperscript{96} Eventually the pursuit of diplomacy which included the British Foreign Minister and the Canadian Prime Minister ensured that Sen could not continue with his objections to R2P any further.\textsuperscript{97} It is for these reasons that India’s approach to the initial formulation of R2P has been interpreted as “the most dangerous”; after all “the attack” by India “was launched in the eleventh hour”.\textsuperscript{98} These interpretations which tantamount to caricaturing India are eminently problematic; they do not sufficiently contextualise the predicament in which India is placed and the perspective it holds.

The slight turnaround in India’s attitude towards R2P occurred after the entry of Hardeep Singh Puri as the permanent representative of India at the United Nations in April 2009. Hardeep Singh Puri replaced Nirupam Sen; India became more receptive and accommodative to the spirit of R2P for a while. At the General Assembly Plenary Meeting on 24 July 2009, Puri remarked: “It has been India’s consistent view that the responsibility to protect its population is one of the foremost responsibilities of every state.”\textsuperscript{99} However, he added: “In this context, responsibility to protect should in no way provide a pretext for humanitarian intervention or unilateral action. To do so would not only give responsibility to protect a bad name but also defeat its very purpose.”\textsuperscript{100} The episode clearly indicates that “a change in the personality”, from Nirupam Sen to Hardeep Singh Puri, has made the difference in terms of India’s articulation on R2P.\textsuperscript{101} This point however cannot be overstated as India’s warmth towards R2P lasted only briefly, until 2011 when the phase of the Libyan

\begin{itemize}
\item \textsuperscript{97} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 470.
\item \textsuperscript{100} Hardeep Singh Puri, “Statement on Implementing the Responsibility to Protect”, July 24, 2009.
\item \textsuperscript{101} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 472.
\end{itemize}
crisis turned controversial with the prospect of regime change looming on the horizon.\textsuperscript{102}

In order to understand the reasons for which individual decision-makers matter so much, in fact so disproportionately in India’s polity, it is necessary to historicise India’s experience from the time of its independence in 1947. Right from the days of Mohandas Karamchand Gandhi and Jawaharlal Nehru, individuals in their capacity as leaders or ministers have occupied larger than life roles or characters. Amongst other phases or periods, it was during the tenure of Indira Gandhi as prime minister that the idiosyncrasies or rather the preferences of a leader seemed to weigh heavily on the formulation of a state’s policy – be it the economic or foreign policy. For our purpose, it is of significance that a series of interventions, some of them labelled as “humanitarian” such as those in East Pakistan and Sri Lanka were undertaken during the prime ministerial tenure of Indira Gandhi and Rajiv Gandhi. In a way, the preferences of these leaders generated the much-needed momentum for India to respond during moments of humanitarian crises. In a different way, the world view of these leaders was so overwhelming that it eventually prevailed over and trumped India’s usual adherence to non-intervention.

The legacy seems to continue. Inder Kumar Gujral was the minister for external affairs for a period of approximately eleven months (1 June 1996 till 20 April 1997) and the prime minister for approximately yet another eleven months (21 April 1997 until March 1998) during the United Front government. During his stint as prime minister, he continued to retain the portfolio of external affairs. A prime minister, who was not so popular among the masses and working under the pressure of a coalition government, Gujral, could wield considerable influence at least on matters of India’s foreign policy. The outcome was a normatively innovative “Gujral doctrine” which primarily stressed on “non-reciprocity” in India’s relations with its smaller neighbours.\textsuperscript{103} It needs to be stressed that I.K. Gujral was neither dominating nor encouraged any hero worship; rather, he was fairly accommodative of the viewpoints of other constituent political parties in the coalition

\textsuperscript{102} For a discussion on India’s position on R2P in terms of various phases, see Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 461–487.

\textsuperscript{103} Inder Kumar Gujral, “Aspects of India’s Foreign Policy”, in Nehru’s Foreign Policy: Fifty Years On, ed. Surjit Mansingh (New Delhi: India International Centre and Mosaic books, 1998), 157–66. See also, Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 466.
government. The current tenure of Narendra Modi as prime minister also suggests a trend of governance wherein substantive policy formulation is tied to the preferences of a single leader. Thus, a careful construction of leadership cult and the continuing practice of hero worship seem to be amply evident in India’s society and polity. The ensuing section will dwell on the social and cultural roots of India and their implications for humanitarian intervention and R2P, if any.

4. Social and cultural factors: how to interpret?

There is a tendency to suggest that the principle of “non-violence is deeply embedded in the Indian way of thinking.”104 It is further added that “this form of nonviolence does not try so much to actively provide protection, but rather to passively avoid causing damage.”105 However, this point which stresses on non-violence being grounded in Indian world view is taken for granted and grossly exaggerated. The key question that deserves scrutiny is as follows: how is Indian thinking or culture interpreted? Certainly, it is not singular as it is made out to be. At best, the culture of India constitutes a mix of violence and non-violence.106 At worst, the culture of India demonstrates the central tendency of violence. It is this pattern of violence that is witnessed along the lines of caste, religion, class, gender and region and continues to date.107 The point could be extended further. Having witnessed and experienced violence on a large scale and as a matter of routine, India – in terms of the larger society, the political psyche and the decision-making apparatus – is not moved into concrete action whenever

104 Krause, “It is Changing After All: India’s Stance on ‘Responsibility to Protect’”, 16.
105 Krause, “It is Changing After All: India’s Stance on ‘Responsibility to Protect’”, 16.
atrocities are reported elsewhere unless they reach a very high threshold.\textsuperscript{108} Short of that very high threshold, India’s position – during moments of outbreak of violence – has been to find a solution within the framework of the sovereign state.\textsuperscript{109}

It is pointed out in a section of the literature that “the cultural values that have the greatest impact” in the context of India are “non-violence, pluralism and tolerance.”\textsuperscript{110} Furthermore, it is suggested that “hierarchy plays a more facilitating role.”\textsuperscript{111} However, it is difficult to explain India’s behaviour – in terms of its culpability in gross human rights violations and its lukewarm response to instances of human rights violations reported elsewhere – through the values of non-violence and tolerance. The invocation of values such as “non-violence and tolerance” is theoretical, at best. At a practical and empirical level, the reality of Indian society demonstrates regular and systematic violence, which is by now “normalised”.\textsuperscript{112}

This point has been mentioned elsewhere as well in a co-authored article on R2P.\textsuperscript{113} It is in this paper that the point linking violence in society and India’s response to R2P is duly elaborated. Along the lines discussed earlier, the pertinent question to be raised is simple: from whose vantage point is the society and culture of India seen or interpreted? Seen from the standpoint of the socially and economically marginalised sections of Indian society, the culture of India represents violence and not non-violence. There is nothing more violent than the prevalence of the caste system. It is apt to reproduce probably the viewpoint that Ambedkar has expressed which may be considered as a response to Mohandas Karamchand Gandhi. In the words of Gandhi, “the doctrine of non-violence is more natural for the people at large than that of violence.”\textsuperscript{114} Ambedkar points out the stark reality of India: “the perpetration of violence is a fact...though not many

\begin{thebibliography}{99}
\bibitem{108} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 479.
\bibitem{109} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”.
\bibitem{110} Pethiyagoda, “India’s Approach to Humanitarian Intervention and the Responsibility to Protect”, 7.
\bibitem{111} Pethiyagoda, “India’s Approach to Humanitarian Intervention and the Responsibility to Protect”, 7.
\bibitem{112} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 478.
\bibitem{113} Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 461–487.
\end{thebibliography}
will readily believe this."\textsuperscript{115} It is pertinent to point out the impact of the caste system on the psyche of the society. Arundhati Roy’s observation is incisive: “The real violence of caste was the denial of entitlement: to land, to wealth, to knowledge, to equal opportunity”.\textsuperscript{116} In the words of Ambedkar, “There cannot be a more degrading system of social organisation than the caste system. It is the system that deadens, paralyses and cripples the people, from helpful activity”.\textsuperscript{117}

It makes sense to understand India for what it is and not being carried away by what it is not. For instance, there is no dearth for a disproportionate praise of India. “Where else around the world, and especially in that region, could a country simultaneously have a Sikh as Prime Minister (Manmohan Singh), a Muslim as President (Abdul Kalam), and an Italian-born Catholic woman (Sonia Gandhi) as leader of the most traditional political party, as was the case in India at the turn of the millennium?”\textsuperscript{118} This description reflects nothing more than a superficial symbolism or an empty tokenism. In terms of substance, India has a long way to go especially on matters of representation for the religious and linguistic minorities and for those who are at the margins. It is further argued that “India is also likely to continue to successfully maintain a relatively non-violent, pluralist and tolerant image in the medium term.”\textsuperscript{119} As a response to this point of view, it must be stated that observers of contemporary India will attest to the opinion that the trajectory of the country seems to be heading in a different direction – drifting towards an increasing intolerance of dissent and moving away from a pluralistic way of life.

\begin{itemize}
\item \textsuperscript{119} Pethiyagoda, “India’s Approach to Humanitarian Intervention”, 29.
\end{itemize}
5. Conclusion

In short, this paper has made an attempt to unravel the complex dynamics – in terms of delineating the key variables such as sovereignty, domestic factors, individual level factors and social and cultural factors – which eventually shapes India’s perspective on R2P. Herein, it may be added that the interaction of these variables appears to drive India’s stance on R2P. It is perhaps difficult to determine the degree to which each of the variables, viz. sovereignty, domestic politics, personality based individual level factors and social and cultural factors influences India’s perspective on responsibility to protect. Nonetheless, it is not impossible to draw inferences pertaining to the relative influence of the above-mentioned variables. In comparison to my earlier co-authored publication on the subject, this paper stresses more on the dimension of sovereignty.\textsuperscript{120} The argument is that sovereignty significantly influences India’s perspective on R2P. The exception to this rule is the outbreak of extremely high levels of violence which tantamount to genocide, as illustrated in the case of former East Pakistan. With regard to domestic politics as a variable in influencing India’s perspective, this paper clearly lessens the emphasis as compared to my earlier publication. The point is simple: domestic politics matters but not very much. The lessening of the role of domestic politics, amongst other reasons, has to do with the changing contours of Indian politics. The re-emergence of the dominance of a single party in conjunction with the pursuit of a unilateral and exclusionary style of governance by the current ruling BJP dispensation has in effect severely restricted the leeway for considerations of domestic politics. In addition, India’s perspective is sufficiently anchored in personality based individual level factors and social and cultural characteristics. This influence stays intact and is likely to endure and continue in the near and distant future. In a way, this inference is in continuation with that drawn from the earlier publication. Quite often, individual level factors play a decisive role in shaping India’s official position on R2P. The influence of social and cultural factors is considerably more complex and nuanced than the prevailing simplistic interpretation, which tends to harp on to a singular and convenient image of India thereby foreclosing the space for plurality. As it emerges from this paper, appreciating India’s viewpoint

\textsuperscript{120} The earlier co-authored publication is Jaganathan and Kurtz, “Singing the Tune of Sovereignty?”, 461–487.
or stance on R2P seems to be useful in enabling a holistic interpretation and arriving at a nuanced understanding about India.

Bibliography


India’s Perspective on “Responsibility to Protect”

delhi/govt-opposition-united-against-air-strikes-on-libya/story-4hAO0mJNL5KieJBrcSaGIL.html.


Madhan Mohan Jaganathan


India’s Perspective on “Responsibility to Protect”


Madhan Mohan Jaganathan


Brazil’s Inconsistent Approach towards International Organizations and R2P: Theory and Practice

Paula Wojcikiewicz Almeida

Introduction

This article deals with Brazil’s participation in International Organizations at several levels of governance, universal, multilateral, and regional, as well as its respective challenges. Additionally, a case study about Brazil’s position towards the “Responsibility to Protect” (R2P) serves as an example of the country’s inconsistent position towards the United Nations (UN).

International law is a product of time and reflects the intention of states. International law and politics are intrinsically connected. For a brief overview of the state of the art of foreign policy in Brazil, it is important to recall its basis. Brazil has traditionally based its foreign policy on a principle of non-intervention in other states’ domestic affairs, as is the case of other Latin American states. Historically resistant to any kind of external interference, these countries have tended toward the principles of national sovereignty, non-intervention, and peaceful settlement of disputes that are deeply embedded in their political and juridical cultures. These principles were recognised in agreements that established the basic principles of what would later become the Organization of American States (OAS) and have also been codified in the OAS Charter. Such resistance to intervention by external actors was largely due to European colonization and US intervention in the hemisphere and continued even after 1980, when many

1 This article was last updated in December 2016.
3 The article 2 of the Charter proclaims the promotion and consolidation of representative democracy, with due respect for the principle of non-intervention as one of the essential purposes of the organization. The principle of non-intervention was also reiterated by article 3 and by article 19.
Latin American states underwent a process of democratization following military regimes.\(^4\) Non-intervention is also strongly rooted in the regional diplomatic and legal cultures as well as in public opinion.\(^5\) Indeed, this principle is enshrined in many Latin American constitutions, including that of Brazil (Article 4).\(^6\) Apart from non-intervention, article 4 of the Brazilian constitution contains nine other principles guiding its foreign policy:

“The international relations of the Federative Republic of Brazil are governed by the following principles: I – national independence; II – prevalence of human rights; III – self-determination of the peoples; IV – non-intervention; V equality among the States; VI – defense of peace; VII – peaceful settlement of conflicts; VIII – repudiation of terrorism and racism; IX – cooperation among peoples for the progress of mankind; X – granting of political asylum”.

There is no hierarchy among these principles\(^7\). They all guide Brazilian foreign policy and tend to be interpreted in a flexible way in order to allow the country to participate in UN peacekeeping operations and undertake other forms of commitments before International Organizations.

With this in mind, Brazil has been an active participant in International Organizations and Institutions. Multilateralism and adherence to international law are the main pillars of Brazilian foreign policy. However, as will be discussed below, there is an inherent tension between the official rhetorical discourse and practice. Current challenges relate to the lack of sustainable commitment to International Organizations and law-abiding challenges (1). This particular path is also visible when it comes to the United Nations and the Brazilian approach to R2P (2).

---

1. An overview of Brazil’s contradictory attitude towards International Organizations

1.1 Universal Organizations

1.1.1 United Nations

Brazil has historically been very active at the universal level: the country was one of the UN founding parties and currently participates in 345 treaties adopted under the auspices of the organization. It has already acted ten times as non-permanent member of the Security Council and has also actively cooperated with the UN through the deployment of peacekeeping missions. The country has participated in more than 40 peacekeeping operations since 1948, ceding troops and police officers to five of them: Suez (UNEF I), Angola (UNAVEM III), Mozambique (ONUMOZ), East Timor (UNTAET/UNMISET), and Haiti (MINUSTAH). Brazilians have also acted as heads of UN peacekeeping forces on several occasions: Brazil assured the Head of the Maritime Task Force (MTF) of the United Nations Interim Force in Lebanon (UNIFIL) and the Head of MONUSCO by General Carlos Alberto dos Santos Cruz (2013). It currently participates in nine peacekeeping operations with 1303 personnel.

---


One operation that deserves special attention is MINUSTAH (United Nations Stabilization Mission in Haiti), established in June 2004 in Haiti by Security Council resolution 1542, as it was the first time Brazil exercised the non-indifference principle. According to the Brazilian government, the country established its commitment since its creation, following an official invitation from the interim president of Haiti, as well as support from other member states of the Security Council. In spite of not being the first time Brazil took part in a peacekeeping operation, several factors explain the exception that was MINUSTAH. Firstly, the Brazilian contingent was one of the largest Brazil has ever sent for peacekeeping operations under the UN. Secondly, most of the members of the peace operation were from South American countries. Thirdly, Brazil undertook, for the first time, the command of an international peacekeeping operation, which nowadays Lieutenant General Ajax Porto Pinheiro (Force Commander) represents. Finally, Brazilian participation went beyond restoring security.
Brazil’s Inconsistent Approach towards International Organizations and R2P in Haiti— which the earthquake of January 2010 and the cholera outbreak have severely affected— the mission also aimed to ensure the freedom of the Haitian people to elect their own leaders.

Brazil’s more general diplomatic position in the international arena clearly demonstrates an intention to actively participate in actions taken within the UN and, in particular, to obtain a permanent seat on the Security Council. The Brazilian initiative regarding “Responsibility while Protecting” (RwP), as analysed below, aims to reinforce this pattern.

### 1.1.2 International Court of Justice

As for the International Court of Justice (ICJ), the main judicial organ of the UN, Brazil has historically opted for the peaceful settlement of international disputes. The Brazilian presence, along with other Latin American states, at the 2nd Hague Peace Conference and its contribution to the work and outcome of the conference is well known: they all encouraged recourse to arbitration and non-use of force, the principle of equality of states, the strengthening of international jurisdiction, and the direct access of individuals to international justice.

During the 1907 Hague conference, Brazil and Latin American states advanced the idea that international courts should not operate on the exclusive basis of the consent of

---

19 See Augusto Heleno Ribeiro Pereira, *Operação de Paz no Haiti*, 38.
disputing states. The majority of Latin American states made it clear that they desired compulsory jurisdiction and not a case-by-case acceptance of the jurisdiction of the Court, as is the rule today.

Concretely, Brazil has advanced recognition of the jurisdiction of the Permanent Court of International Justice (PCIJ) and the future ICJ. The formula known as “declarations recognizing the jurisdiction of the Court as compulsory” was proposed by the Brazilian jurist Raul Fernandes in order to overcome a deadlock within the Advisory Committee of Jurists responsible for drafting the statue of the PCIJ. The aforementioned formula contributed to attracting the acceptance of compulsory jurisdiction of the PCIJ by a total of 45 states and was firmly supported by Latin American states.

The same Brazilian formulation of 1920 was maintained in the present statute of the ICJ. This historical contribution combined with the active participation of Brazilian jurists acting as judges of the ICJ. Brazil has already had 5 Brazilian judges elected to the Court. Judge A. A. Cançado Trindade, the current Brazilian judge, has a background at the Inter-American Court of Human Rights, where he acted as judge and president.

Apart from this positive historical background, Brazil has not been very active since then before the Court. It proposed the formula on compulsory jurisdiction of the court, but never signed a declaration itself, demonstrating a contradictory position towards the International Court. The lack of support for the court’s compulsory jurisdiction was not compensated with the ratification of international treaties containing jurisdictional clauses allowing for the dispute to be solved by the ICJ. According to the ICJ website, only a few treaties signed by Brazil contain jurisdictional clauses, such as

---

25 Ibid.
the “American Treaty on Pacific Settlement”, known as the “Pact of Bogota”, from 1948, which serves as a basis of jurisdiction in several cases involving Latin American states before the Court.27

Also, Brazil has recently ratified the 1969 Vienna Convention on the Law of Treaties,28 but made a reservation to the article that conferred jurisdiction to the Court.29 Latin American states have been very active before the Court in recent years, having been involved in 29 cases since the creation of the ICJ, most of which concern maritime and territorial disputes. Brazil stands as an exception to this rule. The country has never submitted or acted as respondent in a contentious case before the ICJ. The only case where Brazil acted as defendant was the one initiated by Honduras in 2009, known as “Certain Questions concerning Diplomatic Relations”.30 However, this case was rapidly removed from the Court’s list at the request of Honduras, perhaps due to diplomatic negotiations.

Among the 4 possibilities for the Court to exercise its jurisdiction, the 3rd one, which consists of a special agreement between states accepting the ICJ as a competent authority to resolve disputes, has never been applied by Brazil. Indeed, it was invoked as a basis of jurisdiction for only three cases involving Latin American countries. Latin American states applied the possibility of forum prorogatum as the 4th ICJ basis of jurisdiction in only two cases. The first consisted of the application filed by Argentina against the US in 2014 regarding a “Dispute concerning judicial decisions of the United States of America relating to the restructuring of the Argentine sovereign debt”. However, to date, the US has not accepted the Court’s jurisdiction and is certainly not likely to do so. The second concerned a dispute involving sovereignty over the Antarctic between the United Kingdom, Chile, and Argentina. This was removed from the Court’s list in 1956, since Chile and Argentina did not accept the request.

29 The Brazilian executive made a reservation to article 66 of the referred convention, which conferred jurisdiction to the ICJ.
There are several examples according to which Latin American cases clearly prompted the material development of international law.\(^3\) Ultimately, the Court’s decisions have significantly affected the region, allowing the effects of international adjudication on domestic governance to become visible.\(^2\) This is particularly applicable to Latin American cases before the ICJ as the Court’s decisions have significantly affected the course of regional relations and the construction of a regional legal framework.

1.2 Multilateral Organizations

1.2.1 World Trade Organization (WTO)

Brazil is also a founding member of the WTO. The first Director-General from Latin America is currently a Brazilian: the diplomat Roberto Azevêdo. Very recently, in December 2014, Director General Shark awarded the WTO Chair to the Getulio Vargas Foundation, São Paulo School of Economics. It is the first chair in Brazil.

Among international dispute settlement mechanisms, the WTO Dispute Settlement Body (DSB) is the most popular among Brazilian lawyers. Brazil has indeed been very active before the WTO DSB: 30 cases as complainant and 16 as respondent.\(^3\) Luis Olavo Baptista, a very well-known law professor in Brazil, has already joined the Appellate Body as chair and member. Judging by the cases available on the WTO website, Brazilian authorities complied with most of them.

In terms of retaliation procedures, Brazil has never retaliated in a case before the WTO; this despite being authorized to do so by the DSB in the case concerning the Byrd Amendment,\(^4\) and the Bombardier case against

---

34 “Decision by the Arbitrator, United States – Continued Dumping and Subsidy Offset Act of 2000, Original Complaint by Brazil – Recourse to Arbitration by the United States under Article 22.6 of the DSU, WT/DS217/ARB/BRA, 31 August
Brazil’s Inconsistent Approach towards International Organizations and R2P

Canada.35 In the cotton case (2002),36 although the US maintained the disputed Farm Bill, Brazil decided not to retaliate (the authorization to retaliate dates from 2009 and consists of 830 million dollars) and negotiated an annual financial compensation. This negotiation is said to take place every time the US Congress is called to renew the subsidies applicable to Brazilian farmers.

1.2.2 BRICS

Brazil also participates in other multilateral forums such as BRICS. Since the creation of BRICS, Brazil acted as a Chair from July 2014 until March 2015. On April 2015, Russia assumed the chairpersonship. Several important meetings of the group have taken place in Brazil. For instance, the Think Tanks Council and the Academic Forum in Rio in March 2014. During the 6th Summit of the Heads of State and Government of BRICS, held in Fortaleza and Brasilia in July 2014, a series of important documents was adopted, such as the Agreement on the New Development Bank and the Treaty for the Establishment of a BRICS Contingent Reserve Arrangement. In June 2015, the Brazilian Senate approved the statute of the BRICS New Development Bank (NDB), which will be headquartered in Shanghai. The incorporation of international treaties can take a very long time. In the BRICS case, a domestic fast track procedure along with pressure from political and economic interests played a fundamental role in ensuring a time record for the incorporation of the treaties: the whole process before the executive and the legislative took less than one year.

Also in June 2015, the BRICS Parliamentary Assembly was held in Moscow, bringing together approximately one hundred legislators from the five

---

member countries to discuss ways to strengthen intra-BRICS cooperation. Several academic meetings were conducted in order to broaden the economic benefits of its membership in BRICS. Brazil has also nominated Paulo Nogueira Batista as the BRICS Bank Vice-President.

Regarding the system’s leadership, after Russia’s mandate ended, India became chair of BRICS from February to December 2016. According to the India’s Chairmanship’s official website – guided by the slogan “building responsive, inclusive & collective solutions” – the main proposals presented were: “(i) institution building to further deepen, sustain and institutionalize BRICS cooperation; (ii) implementation of the decisions from previous Summits; (iii) integrating the existing cooperation mechanisms; (iv) innovation, i.e., new cooperation mechanisms; and (v) continuity, i.e., continuation of mutually agreed existing BRICS cooperation mechanisms”.37 What is more, India has also intended to focus on enhancing people-to-people contacts of BRICS member states, especially youth.38 Brazilian President Michel Temer attended the 8th BRICS summit, held in Goa, on 15 and 16 October 2016, when all of these issues were discussed.39 On 1 January 2017, China officially took over the BRICS Chairmanship.40

1.3 Regional Organizations

At the regional level, Brazil is also a founding member of OAS (Organization of American States), having ratified 48 conventions under its auspices, 16 of which concern topics of Private International Law. On February 3rd, 2014, Brazil deposited an instrument of ratification to the Inter-American Convention on Forced Disappearance of Persons. This was the last convention ratified by Brazil.

38 “In this context, India has planned activities like U-17 Football Tournament, Youth Summit, Young Diplomats’ Forum, Film Festival etc”, ibid.
However, at times this support for the regional system seems ambiguous. In 2011, dissatisfaction over the Inter-American Commission’s decision in the Belo Monte case led to the recall of Brazil’s OAS Ambassador from Washington. In May 2015, Dilma’s nomination for the OAS Brazilian Permanent Representative, Guilherme Patriota, failed to be approved by the Senate. This was the first rejection of a career diplomat by the Senate in Brazil. A possible reason stems from the simultaneous approval of the Federal Supreme Court minister indicated by the President; the OAS’s candidate would be the price to pay for the approval of the Supreme Court’s minister.

Lastly, there is a recurrent lack of payment of Brazilian contributions to the OAS system, especially to the Inter-American Commission of Human Rights. Indeed, in 2016, due to the lack of funds, the Commission announced the severe financial crisis it endured, which ultimately led to the suspension of hearings and imminent layoff of 40% of its staff. Yet, as a result of donations from Member States (Brazil not included) and other donors, the IACHR was able to overcome the crisis on September 2016.

The Inter-American system of human rights is formed by the Inter-American Commission, created in 1959 by the Charter of the OAS, and the Inter-American Court, created in 1965 by the American Convention on Human Rights (Pact of San Jose) and installed in 1979. One of the functions of the Inter-American Commission includes the examination of complaints or petitions regarding specific cases of human rights violations. This comprises the processing of cases involving countries which are not party to the American Convention.

From 1997 to 2016, the IACHR received 27,024 petitions. Individuals do not have direct access to the Inter-American Court; instead, their petition must be addressed to the Inter-American Commission. The lack of a

solution may lead to the case being submitted to the Inter-American Court. Indeed, only the Commission and those parties to the American Convention that have recognized the jurisdiction of the Court are authorized to submit a case on the condition that procedures before the Commission have been exhausted. Also, in order for a case to be brought before the Court against a state, the party must recognize the Court’s jurisdiction.

Brazil only ratified the 1969 American Convention in 1992. This delay was the result of the dictatorship in Brazil, which lasted between 1964 and 1985. Then, in 1998, the country recognized the compulsory jurisdiction of the Inter-American Court. As an OAS member that ratified the American Convention, Brazil falls under the Court’s jurisdiction. Since the Commission acts as a filter to Inter-American disputes, many cases are already judged by the Commission, whose decisions are not binding to member states. As a consequence, compliance difficulties are often reported by the Commission: the abovementioned decision on the Belo Monte case over the construction of a hydroelectric dam in Xingu, an Indigenous community in the state of Pará, led to diplomatic contention. Brazil criticized the decision that determined the end of construction, arguing that the Commission had exceeded its powers. It did not comply with the decision and recalled its ambassador from Washington.

Less than 5% of cases before the Inter-American Commission go to Court. For example, between 2006 and 2015, from 812 Brazilian petitions received by the Commission, one resulted in a friendly settlement, 28 became archive decisions, 5 led to published merits reports and only 5 were sent to the Inter-American Court. Brazil was involved in 9 cases before the Court, three of which are under analysis now. According to the Court’s System of Monitoring Compliance, there is only partial compliance of judgments

---

48 Vladimir Herzog and others, Brazil: Case 11.482, Date of submission to the Court: May 21, 2016. Xucuru Indigenous People, Brazil: Caso 12.728, Date of submission to the Court: March 16, 2016. Cosme Rosa Genoveva, Evandro de Oliveira et al. (Favela Nova Brasília), Brasil: Case 11.566. Date of submission to the Court: May 19, 2015.
by Brazilian authorities. These comprise mainly indemnization payments. However, there is no investigation or punishment of the accused.49

Such an inconsistent behavior – being part of an International Organization and not fully complying with its judgments – is visible in different levels of governance. Within the UN, in particular, the Brazilian approach to R2P illustrates this phenomenon.

2. A case study of Brazil’s inconsistent position towards the UN

2.1 From non-indifference to responsibility to protect

The humanitarian crises that emerged in the 1990s in Rwanda and the Balkans represented a major challenge to the principle of non-intervention. States could no longer stand by in the event of grave abuses of human rights committed by sovereign states against their own citizens. Whereas the international community recognized the principle of responsibility to protect, Brazilian leaders still feared major powers could use R2P as an excuse to intervene at their discretion and impose their will on weaker countries.

In this context, Brazil only reconsidered the pre-eminence of human rights over principles of national sovereignty and non-intervention when it recognised that it ran the risk of isolation from the international community. Since attaining a permanent seat on the Security Council was a constant aspiration of former President Lula’s government, the principle of non-intervention was reinterpreted by Brazilian diplomats in order for the country to demonstrate its effective engagement in peace operations.

It was necessary to reconcile the existing contradictions between the Brazilian constitutional principle of non-intervention and the priorities of Lula’s foreign policy. The Ministry of Foreign Affairs therefore needed to find a compromise to avoid the apparent contradiction in official discourse.50 Brazil then simultaneously reinforced the importance of

49 The Gomes Lund case is an example of this, since the Brazilian Amnesty Law adopted in 1979 did not comply with the Court’s decision. However, Brazil decided to maintain it and did not judge or punish those involved in crimes committed during the dictatorship.

non-intervention while seeking to demonstrate the need to intervene according to an active international solidarity. This ambiguous strategy had as a result the formulation of the principle of “non-indifference”, which means that the country cannot be indifferent to the suffering of people who request its intervention. Thus, according to Brazilian diplomacy, the country has the obligation to intervene, in the name of solidarity, in order to protect those who suffer from serious violations of human rights. Upon this affirmation, Brazil demonstrated its intention to play a more active role in the international arena, even though official discourse has barely made reference to R2P.

The non-indifference concept was first adopted by the African Union as a concern about the development of a security culture. Although almost a decade after its adoption by the African Union, the principle of non-indifference emerged from the foreign policy of former President Lula’s government as an attempt to obtain a more significant role in the international arena. This new principle results from an adaptation of the African Union’s context and is construed according to existing solidarity between Southern states, non-military conflict resolution and prevalence of humanitarian aid over national interest.

It was first exercised under the Brazilian-led mission to intervene in Haiti, MINUSTAH, which represented an opportunity for Brazil to demonstrate its new intentions to participate in peacekeeping operations. The government’s objective was not to uphold intervention as a general doctrine, but only to justify Brazilian participation in peacekeeping operations, particularly in Haiti. Although it was not the first time Brazil took

54 Hermann, Soberania, não intervenção e não indiferença, 20.
56 When Brazil voted for the approval of Resolution 1542 of the UNSC, the main guidelines of the country’s foreign policy suffered no change. Fernando Cavalcante, “Rendering Peacekeeping Instrumental? The Brazilian Approach to United
part in a peacekeeping operation, several factors explain the exception that MINUSTAH constituted, among which the fact that the Brazilian contingent was one of the largest Brazil has ever sent for peacekeeping operations under the UN; and that Brazil undertook, for the first time, the command of an international peacekeeping operation.

On 25 May 2004, less than a month after the adoption of Resolution 1542, former President Lula gave a speech at a conference held at the University of Beijing in which he claimed that the Brazilian government was “oriented by the principle of non-intervention, but also by an attitude of ‘non-indifference’”. From that point on, the idea of non-indifference became part of the diplomatic discourse. Former President Lula stated before the UN General Assembly in September 2004 that “We do not stand for interference in domestic affairs, but neither can we condone omission and indifference in face of situations that affect our neighbors”.

Non-indifference was specifically related to the intervention in Haiti only after September 2005, when it was elevated to a principle. Analysis of official discourse demonstrates, however, that all references to non-indifference, whether mentioned as an attitude or as a principle, are followed by the notion of non-intervention. This appears nothing short of contradictory. Several official statements have attempted to contrive a relationship between these two concepts, while always avoiding open mention of the

---

60 See Eduardo Uziel, O Conselho de Segurança, as operações de manutenção da paz e a inserção do Brasil no mecanismo de segurança coletiva das Nações Unidas (Brasília: Fundação Alexandre de Gusmão, 2010), 104.
61 For example, see “Opening of the General Debate of the 60th Session of the UN General Assembly”.

---

85
principle of R2P. It appears, therefore, that non-indifference lies somewhere between non-intervention and R2P.\(^\text{62}\)

As a concept that remains undefined and ambiguous, non-indifference could be applied to a wide variety of situations, in a discretionary and flexible way in order to justify intervention into any country – most preferably in the event of a request for assistance from the country concerned. Apparently, the many manifestations in public discourse about non-indifference serve only to justify a policy that has already been put into practice, while trying to reconcile it with the constitutional principle of non-intervention. The ambiguity of the concept of non-indifference, the difficulty of translating it into tangible actions that are capable of guiding the country’s foreign policy, and the desire to have a more active role in decision-making processes under the UN together led Brazil to consider a new label for an already well-established concept: the RwP proposal.

2.2 The responsibility while protecting proposal (RwP)

A second major change in Brazilian diplomacy stems from the country’s proposal of the novel concept of RwP, a twist on the aforementioned concept of R2P. This results from the renewed commitment of Dilma Rousseff’s government to participate more actively in the Security Council’s decision-making processes.

The Brazilian initiative found fertile ground in the events of the Arab Spring of 2011. Indeed, the new strategy was developed as a response to alleged excesses committed during the implementation of Security Council Resolution No. 1973 regarding Libya.\(^\text{63}\) Although Brazil had voted in favour

---


\(^{63}\) The origins of the 1973 resolution lie in events that spread across the Middle East and North Africa in the preceding months. The so-called Arab Spring began in Tunis on 3.1.2011 when a 26-year old vegetable seller set himself on fire in protest at the way his vegetable cart had been confiscated by a local policewoman. His actions sparked massive protests that spread across the region. See Paul D. Williams, ‘The Road to Humanitarian War in Libya’, *Global Responsibility to Protect* 3 (2011), No.2: 250.
of Resolution No. 1970, it reacted strongly against what it considered an abuse of the Security Council’s authorization to use force under Resolution No. 1973. Brazil abstained (along with India, Lebanon, and South Africa) from voting for a Security Council resolution condemning the violence in Syria on 4 October 2011, since it considered that NATO had been given a “blank cheque” for bombing operations against Colonel Qaddafi.

This criticism has paved the way for the Brazilian version of R2P, which emphasized the subordination and chronological order of the three pillars of R2P. The Brazilian proposal of R2P, put forward by President Dilma Rousseff in a statement addressed at the opening of the 66th Session of the General Assembly in September 2011, suggests that the use of force should not take place without a case-by-case analysis of the consequences of military action and under no circumstance should the use of force cause greater harm to civilians than it was authorised to prevent.
This position ensures that interventions do not contribute to the worsening of pre-existing conflicts, putting the civilian population at risk. Brazil stressed – while bearing the Libyan situation in mind – that the concept of R2P could be used for purposes unrelated to the protection of civilians, such as forcing a regime change.

In order to avoid this risk, the core contribution of RwP consists in separating the debate on R2P’s principles from their implementation. The proposal focuses on 3 main concerns: the first is to establish criteria guiding the decision-making process on the use of force within the Security Council; the second is to establish criteria guiding the implementation of resolutions authorizing the use of force by mandated states; and the third is to monitor and review mechanisms for the implementation of Security Council resolutions by member states.

2.3 Current challenges

2.3.1 Criteria for decision making-process

Regarding the adoption of criteria to guide the decision-making process at the Security Council, Brazil has highlighted the particular importance of a legal, operational and temporal limitation for the Security Council to authorize the use of force to avoid actions ultra vires.69 These criteria, however, are not new: they result from the Report by the International Commission on Intervention and State Sovereignty (ICISS) of 200170 and from the Report by the Secretary-General of 2005.71 They also derive from an interpretation of the UN Charter, notably articles 40–42, which indicate

---

69 Ribeiro Viotti, “Responsibility while Protecting, para. 1ld.

---
that the Security Council should be guided by the principle of necessity and the principle of proportionality when authorising the use of force. Both principles are deeply ingrained in international law and can be found on article 42.72 Still, the UN Charter confers a large discretion on the Council with regard to the proportionality of its measures for the aims pursued.73

It is an old debate, pre-dating the R2P, and has always been under scrutiny in cases involving authorization of the use of force. A question might be: should the proposed criteria be subject to a binding resolution of the Security Council or a non-binding resolution of the General Assembly? Or thirdly, can criteria be adopted in the form of informal guidelines that the Security Council should take into consideration when making decisions to authorize the coercive use of military force under Chapter VII? In the case of rigid criteria, it is highly unlikely that the Security Council or the General Assembly would adopt such criteria. There are two reasons for this. One is that official discourse on such restrictions states that real situations requiring the use of force differ widely and require flexibility in approach; the second has to do with the general and historical origins of the Security Council, which was designed by the UN Charter to have very broad powers and to be subject to very few express limitations.74 Such a proposal could lead to political deadlock on the Council. Moreover, a non-binding approach would hardly be effective in limiting the Security Council when acting on the basis of Chapter VII.

74 By virtue of Chapter VII of the UN Charter, the SC enjoys very broad powers as a reaction to the failure of the League of Nations sanctions system. After the failure of the League, states decided to create an organization with strong coercive powers to be able to immediately counter threats of war. The central organ within the organization would be empowered to reach the main goal of peace maintenance and should have broad freedom of action, as proposed in Dumbarton Oaks, see Krisch and Frowein, “Chapter VII”, 702–705.
2.3.2 Criteria for implementation of Security Council resolutions

In reference to the adoption of certain criteria to guide the implementation of a resolution authorizing the use of force, Brazil asserted that the use of military action must be judicious, proportionate and limited to the letter and spirit of the mandate given by the Security Council or the General Assembly. Brazil’s key proposal concerns the creation of a monitoring and review mechanism for the implementation of Security Council resolutions by Member States.

Debates about implementation are as old as the United Nations. This measure would ensure the legitimacy of any action authorised by the Security Council, by enabling the wider membership to be properly informed on, and maintain scrutiny of, the manner in which its mandates are actually implemented. But, in practice, how to control State actions under Chapter VII of the Charter when acting on the basis of R2P? Brazil’s proposal is vague in this sense. In order to evaluate possible excesses committed by Member States mandated by the Security Council, one must first analyse the terms of the resolution in question. An authentic interpretation is borne by the Security Council or by an organ authorized by the latter to do so.

The International Court of Justice, as the main judicial organ of the UN, 75

Although proportionality was included in the ICISS report, there had not been enough public discussion about how to apply it, for fear of jeopardizing the fragile compromise reached in 2005 concerning R2P. According to Louise Arbour, the Security Council is not exactly the form of choice for the delicate application of a very complex proportionality test, which is properly done in courts of law after years, see Anne Arbour, “Statement during the Stanley Foundation Conference ‘R2P: The Next Decade’”, 18.1.2012, video at, accessed 20.12.2016, http://library.fora.tv/2012/01/18/R2P_as_a_Tool__Identifying_Past_and_Potential_Value.


can only perform this task indirectly or incidentally since the Charter does not allow for any automatic review of the Council’s decision.\textsuperscript{78}

In any event, Chapter VII resolutions should, in general, be narrowly interpreted\textsuperscript{79} and they must include the establishment of a monitoring and reviewing mechanism capable of evaluating any action \textit{ultra vires} on the ground.

2.3.3 Monitoring and review

Existing mechanisms within the Security Council could be strengthened to provide detailed information about military action taken in the field by authorized States or multinational operations. More specifically, the Security Council could issue an express reporting demand on those States or regional organizations seeking to implement its Chapter VII mandates in R2P situations.

The Australian government, for instance, considers that existing reporting mechanisms within the Security Council could be strengthened to provide detailed operational briefing to member states on military actions in the field.\textsuperscript{80} Moreover, cooperating with military experts would be

\begin{itemize}
\item \textsuperscript{80} Quinlan, “Statement”.
\end{itemize}
a constructive step towards controlling the implementation of Security Council mandates.\textsuperscript{81} Indeed, the Netherlands ambassador to the UN has suggested that the UN Department of Peacekeeping Operations (DPKO) “could play an advisory role with support from military experts”.\textsuperscript{82}

There is a need to investigate and develop practical suggestions on the procedures in order to implement R2P. How might a new monitoring and review body operate in the Security Council? Who might compose such a body and how can its impartiality be preserved? Or, how might existing mechanisms be enhanced? These questions remain unanswered.

Firstly, however, it appears that such a mechanism could be used to discourage states to implement Security Council mandates on the basis of the R2P. Secondly, double standards should be avoided, that is to say, more restrictive rules for the use of force in R2P situations than in other situations requiring the use of force in general.\textsuperscript{83} Finally, every attempt to control implementation of Security Council mandates by other organizations or coalitions of the willing will be difficult for the reasons already highly debated on the doctrine.\textsuperscript{84} Since the states did not place contingents of armed forces at the disposal of the Security Council, the latter began to authorize states willing to implement its mandates by military force.\textsuperscript{85} This reality shows

\begin{itemize}
  \item \textsuperscript{81} Herman, Schaper. “Informal Discussion at the United Nations on the ‘Responsibility while Protecting’”, 21 February 2012, \url{http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/4002-informal-discussion-on-brazils-concept-of-responsibility-while-protecting}.
  \item \textsuperscript{82} Ibid.
  \item \textsuperscript{83} Edward C. Luck, “Informal Discussion at the United Nations on the ‘Responsibility while Protecting’”, 21 February 2012, \url{http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/4002-informal-discussion-on-brazils-concept-of-responsibility-while-protecting}.
  \item \textsuperscript{84} As pointed out by Robert Kolb, “the choice between complete inaction and imperfect action was made”, in Robert Kolb, \textit{An Introduction to the Law of the United Nations}. (Oxford and Portland, Oregon: Hart Publishing, 2010), 86.
  \item \textsuperscript{85} The original idea of the UN Charter assumed that military action taken under Article 42 would be carried out by military forces placed under the exclusive command of the Security Council. The entire action would be centralised. Article 43, however, has never been operational because states did not place contingents at the disposal of the Security Council. The UN did not of itself have the capacity to exercise the coercive military action provided under Article 42; hence during the 1990s a finalistic interpretation of the UN Charter (particularly Articles 42–43) led to a system of substitution through which the Security Council began to authorise action by those states willing to implement its mandates by military force. The fact
\end{itemize}
that the expectations of monitoring decentralized actions by member states should be limited in practice.

If there are general limitations on the delegation of Chapter VII powers, including a precise definition of the scope of the delegated powers and effective supervision of their implementation by a delegating body, these limitations may not apply in practice to operations authorised by the Security Council. The Council tends to exercise effective control over peacekeeping operations deployed under the auspices of the DPKO by establishing time limits and requiring periodical reports. In other authorised operations led by states or regional organizations willing to implement its mandates, the Security Council has sometimes limited itself to authorizing the use of force in broad and imprecise terms, as became apparent in the aftermath of the Second Gulf War. Only recently it has opted for more precise definitions of the aims of the operations, establishing time limits and reporting requirements.

Brazil failed to offer clarification on how such mechanisms would be developed, as well as what their practical implications might be. However, it then became clear that implementation and precepts are now separate, this being the major contribution of RwP.

2.4 The outcome of the debate

The Brazilian proposal on RwP has caused much debate at the UN. The US and some European countries, however, have given RwP a somewhat negative reception, insisting that the Libyan intervention was successful and dismissing the Brazilian initiative as an attempt to delay or block

---

86 According to Nico Kirsch and J.A. Frowein, “further limits on the delegation of powers are not expressly provided for in the Charter but can be deduced from general principles and from the object and purpose of the SC’s delegation authority”, Kirsch and Frowein, “Introduction to Chapter VII”, 713. According to article 53, the regional organization authorized to use military force on behalf of the UN must submit full information to the SC. The same obligation applies to states when they are authorized to act individually or in coalitions.

87 Frowein and Krisch, “Introduction to Chapter VII”, 758–759.


interventions that were necessary to prevent mass atrocities. Brazil was not able to achieve alliances with other BRICS countries in pursuit of its interest in promoting its RwP agenda. China, Russia, and India did not back the proposal, although all three have shown themselves less reluctant than Brazil to intervene in the affairs of a foreign state under the auspices of the Security Council. The principle of RwP, however, resonated well with countries from Southeast Asia and Africa. 

The RwP proposal should have been openly debated and discussed at the General Assembly and in forums such as BRICS and IBSA, in order to clarify what practical mechanisms need to be put in place, especially given the lack of detail from Brazilian authorities as to what RwP entails in practice. Nonetheless, the Minister of Foreign Affairs stated in August 2012 that Brazilian diplomats did not intend to further develop the idea of RwP.


91 An article from The Economist exposed some reasons why the situation in Libya represented a challenge for China, avoiding its veto of the SC resolution authorizing “all necessary measures to protect civilians.” According to the article, “These included demand at home for prompt action to ensure the safety of more than 35,000 Chinese working in the country; widespread support among (China-friendly) Arab countries for tough action against Muammar Qaddafi; and economic interests in Libya that might be threatened by supporting the wrong side”, “The Libyan dilemma”, The Economist, September 10, 2011.

92 Indian representatives recently emphasized that the country is increasingly willing to play a major role as a permanent member of the SC, while also recognizing the historical roots and deep imprints that the principles of sovereignty and non-interference have left on India’s foreign policy, which is unlikely to change in the near future, in Britta Klemmer, “The Responsibility to Protect, Views from South Africa, Brazil, India and Germany, Konrad-Adenauer-Stiftung Conference Report, June 2012, accessed 20.12.2016, http://www.kas.de/wf/doc/kas_31398–1522–2-30.pdf?120621123952.

93 For more details about emerging powers and the R2P, see Oliver Stuenkel, “Emerging Powers and the Responsibility to Protect”, Post-Western World, 8 April 2012.


95 Ibid.
It was stressed that Brazil does not seek to impose a solution but rather to garner the opinions of other countries with respect to its proposal, and to rebuild consensus around situations involving R2P.

If Brazilian diplomats were pleased to see RwP included in the July 2012 “Report of the Secretary-General on the Responsibility to Protect: Timely and Decisive Response”, the debate appeared to have stagnated later on. Several arguments can justify the political position that resulted in the Brazilian withdrawal from patronizing RwP. The first is the fact that Brazil was no longer a member of the Security Council and was therefore no longer in a position to have its voice heard as loudly or to influence how matters related to international peace and security were shaped normatively. Secondly, there was limited support of the permanent members of the Security Council – the cost was too high. Thirdly, the continued impasse over Syria and the conditions on the use of force.

As for the domestic context, there are also some possible justifications. Firstly, Antonio Patriota’s personal interest in issues of sovereignty and intervention. Patriota personally took the lead in drafting the RwP note and in handling its presentation and furthering at the UN. RwP’s prominence was tied to Patriota’s person and position as Foreign Minister. Then, according to internal sources, Patriota was asked by the President to refrain from pursuing the issue further and left the position of Foreign Minister for domestic reasons in August 2013.

Secondly, another possible reason is linked to the lack of institutional capacity and the diplomatic tradition. It is often said that Brazil’s Foreign Ministry lacked the institutional capacity to promote RwP systematically. They would note that the initiative was handled by a small group of individuals close to the Foreign Minister, and that no special structure was created to co-ordinate the efforts. Also, the global response to RwP was a surprise to Brazilian diplomats. The country’s representatives were unaccustomed to the level of criticism RwP initially drew and reasoned that the political costs resulting from that were too high. The third argument is broadly related to President Rousseff’s view of foreign policy, showing notorious disinterest and being more focused on the upcoming elections.

While this initiative seems innovative, it did not make any substantial contribution to the R2P debate, since several fundamental questions
remained unanswered, as indicated above. However, one might extract some contributions of the Brazilian proposal to the general debate on R2P, such as: regulation on the use of force under Chapter VII since criteria for the use of force as a last resort measure was not clear enough; need for accountability in workings of the Security Council, providing greater transparency and information; shift the focus of the debate to prevention and avoid using force unless when there is no other available means; reform of the working methods and procedures of the Security Council, which have not changed at all.

It was also argued by political scientists that there was indeed a political contribution to this debate, since: emerging power can now be seen and act as “norm shapers”, being able to exercise an important role while acting as members of the Security Council, such as the Chinese initiative on “Responsible Protection” somewhat similar to the Brazilian proposal.97 Being lately supported by China during the September 2013 UNGA informal interactive dialogue on R2P, the Brazilian initiative appears to remain in line with long-standing foreign policy objectives.

3. Conclusion

In conclusion, despite the fact that Brazil has been very active at different levels of governance, its participation is thwarted in several important ways. These challenges refer not only to Brazil’s domestic legal order, which is not ready to allow the country to comply with international obligations and all their consequences, but are also related to political and financial support for the organizations in which Brazil participates as a member. The example of universal and regional organizations, such as the United Nations and the Organization of American States, demonstrates the lack of coherence between international political membership and concrete and legal internal action to implement the organization’s purposes. There

Brazil’s Inconsistent Approach towards International Organizations and R2P

is indeed an inherent tension between the official rhetorical discourse and practice, which seems evident when dealing with concepts such as the RwP proposal.

Should Brazil assume international obligations, domestic legal and political change seem necessary in order for the country to be taken seriously by its international partners. It would require not only a more efficient and coherent constitutional mechanism in order to allow the country to assume international obligations with the participation of the executive and legislative powers, but also the pursuance of its state strategies as part of a long term consistent project, by gaining international support and openly discussing the implications of its proposals in global forums aimed at clarifying the practical mechanisms thereof. In addition, Brazil’s effective participation in international forums certainly requires some form of financial engagement vis-à-vis the organization concerned, which has not been the case in several instances as pointed out above. To be part of an international organization is a discretionary choice, but not an arbitrary one. Its consequences must be not only logical, but consistent too.

Bibliography


Paula Wojcikiewicz Almeida


Brazil’s Inconsistent Approach towards International Organizations and R2P


A Brazilian Perspective on Development and R2P: Analysing the Linkages between Domestic and Foreign Policies under Lula da Silva and Dilma Rousseff

Eduardo Gonçalves Gresse, Fernando Preusser de Mattos and Daniel Peters

Introduction

In 2013, at a conference celebrating ten years of foreign policy accomplishments since Lula’s Workers’ Party (Partido dos Trabalhadores – PT) had won the elections for president in 2002, Brazilian foreign minister Antonio Patriota referred to the fight against hunger and extreme poverty in Brazil as one of the greatest diplomatic innovations of former president Lula. For Patriota, tackling the deep-seated causes behind widespread impoverishment and famine became, after 2003, not only a policy priority at the domestic level, but also a fundamental part of Brazil’s international agenda. Besides, by successfully including the eradication of extreme poverty and hunger into the global development agenda, Lula’s administration marked a “turning point” in foreign policy issues and “completely transformed” international debates on this topic.¹

Indeed, domestic development policies adopted during the PT-administrations affected in many ways Brazil’s foreign policy from 2003 to 2016. That is certainly not to say that foreign policymaking under Lula da Silva and Rousseff did not result from a wide range of domestic and external sources – quite the contrary. However, despite persistent structural challenges, relative socioeconomic progress achieved throughout most of these years clearly resonated with Brazil’s broader foreign policy goals and, in particular, with the country’s multifaceted attempt to increase its status within the contested field of international peace and security.

This chapter investigates how domestic development experiences and a related shift in foreign policy shaped Brazil’s stance towards the notion of “Responsibility to Protect” (R2P) in this period. The first part outlines the broader picture of Brazil’s foreign policy since 2003, especially as regards the promotion of socioeconomic development via South-South cooperation initiatives. Part 2 provides an overview of Brazil’s historical approach to development issues and explores how domestic sources influenced Brazil’s commitments with global development goals. In the third part, the focus turns to Brazil’s alternative understanding on R2P, analysing official statements on this concept during the UN General Assembly interactive dialogues on R2P and exploring the “Responsibility while Protecting” (RwP) approach introduced in 2011. Underlying the discussion in this part are questions such as which norms and principles were underscored in these statements, what is the country’s genuine contribution to the dialogue about international responsibility, and how should R2P be implemented according to Brazil.

1. Brazil’s foreign policy under Lula da Silva and Dilma Rousseff (2003–2016)

1.1 Brazil’s rise and fall from the global stage

Brazil’s rise in world affairs gained remarkable momentum during the first decade of the 21st century, in particular under former president Luiz Inácio Lula da Silva (2003–2010). To mention but a few statements that seem to capture the enthusiasm aroused by Brazil’s diplomatic performance over the 2000s, Lula’s foreign minister Celso Amorim was celebrated by Foreign Policy CEO and editor David Rothkopf in a 2009 article as “the world’s best foreign minister”, “who has masterminded a transformation of Brazil’s role in the world that is almost unprecedented in modern history”.2 Earlier that year, Newsweek reported that former US president Barack Obama had referred to Lula as “the most popular politician on earth” at

a G20 summit in London. Likewise, in July 2010 the headlines of David Usborne’s contribution to The Independent read “On Top of the World: Why Brazil Is Booming”.

Besides, a surge in literature on Brazil’s new role as a “rising”, “emerging”, or “regional power” investigated the country’s foreign policy shift and compared it to similar experiences in other parts of the world. The scholarship on rising powers paid increasing attention to what Brazilian foreign minister Amorim referred to as “the new kids on the block”. For him, these were countries as diverse as Brazil, China, India, South Africa, and a few others who were willing to “redefine world governance” through innovative diplomatic mechanisms, and who had a legitimate claim to greater participation in international institutions, “which still suffer from a ‘democratic deficit’”.

Under Lula, Brazil’s foreign policy ambitions stretched beyond South America over the entire Global South, up into the United Nation’s Security Council in New York or the headquarters of the World Trade Organization (WTO) in Geneva. Brazilian diplomats were vocal in condemning power imbalances that prevail in post-1945 multilateral institutions and eager to see Brazil’s prominence acknowledged at the highest diplomatic levels of global economic, political and security affairs. Demands for a more

---

7 Ibid.
inclusive world order were coupled with a stronger, albeit selective, political will to take responsibility for global challenges. Brazil’s increased participation in UN peacekeeping operations, most prominently in the case of the UN Stabilization Mission in Haiti (MINUSTAH), reflects this.

Far from engaging in hard balancing strategies for which the country lacked both interest and military muscle, Brazilian diplomacy extensively resorted to soft balancing initiatives in order to make its voice heard in global decision-making processes. Within less than a decade the country helped create a wide range of foreign policy networks, or flexible coalitions, such as BRICS, BASIC, IBSA, the G20 and the G4, and became one of the “champions of the networked world order”. As other “candidate states for graduated status”, Brazil showed the ambition for international prominence and the will to act as a rule-maker. Meanwhile, it often employed its “bridge diplomacy strategy” whereby it also accepted the role of rule-taker in the international regime. Brazil’s alternative understanding of R2P, as we argue in this chapter, illustrates this ambiguity.

---


Whereas Brazil’s foreign policy shift under Lula was mostly celebrated among Southern partners, it amassed its fair share of critics as well, especially in developed countries. For EU policymakers and European analysts, for example, some of the main challenges revolved around Brazil’s “inflexible views on non-intervention and a traditional notion of sovereignty”, as well as its “detachment from the West” in certain foreign policy initiatives. Among these, the increased activism alongside other BRICS countries and the diplomatic efforts that culminated in the signing of the Tehran Declaration in 2010 raised particular concerns and eventually “led some foreign analysts to express doubt about whether Brazil is a rival or an ally of the US and the EU.” Likewise, a deep-seated Brazilian diplomatic belief that “intrusive norms of humanitarian intervention will corrode the principles of sovereignty and national autonomy and threaten international stability” has been regarded by U.S. and European authorities time and again as the typical behavior of an “irresponsible stakeholder” or a “rising spoiler”.

The transition from Lula to his anointed successor Dilma Rousseff entailed a perceptible decline in foreign policy terms, to say the least of it. Foreign policy under Rousseff certainly did not enjoy the same level of

---

12 Nicole de Paula Domingos, “Brazil as an EU Strategic Partner: A Shared Preference for Multilateralism?” (PhD thesis, Institut d’Etudes Politiques de Paris, Ecole Doctorale de Sciences Po, 2014), 313. During her PhD research, de Paula Domingos conducted more than 100 interviews with government representatives, diplomats, EU officials, and think tank experts, among others, which enabled her to “capture the main challenges faced by Brazil as a rising power, the nature of its strategies at the multilateral level and perceptions of the EU as a global actor” (Ibid., 65).

13 Brazil, Turkey, and Iran signed a declaration on May 17, 2010 in Tehran through which the Islamic Republic of Iran agreed to deposit 1,200 kg of low-enriched uranium (LEU) in Turkey while expressing its commitment to negotiate with the Vienna Group (US, Russia, France and the IAEA) a later exchange of 120 kg fuel allegedly needed for Iran’s medical nuclear reactor. By that time Brazil and Turkey were non-permanent members of the UN Security Council. The agreement was promptly rejected by the P5.

14 de Paula Domingos, “Brazil as an EU Strategic Partner”, 65.

activism witnessed during Lula’s administration. Instead, it was clearly
marked by a “reactive character” and by different levels of discontinuity or
retreat.\footnote{For a more detailed comparison between Lula and Rousseff and an account of
Rousseff’s foreign policy accomplishments (or lack thereof), see Amado Luiz
Cervo and Antônio Carlos Lessa, “O declínio: inserção internacional do Brasil
Miriam Gomes Saraiva, “Balanço da Política Externa de Dilma Rousseff: Perspec-
tivas Futuras?”, Relações Internacionais 44 (2014): 25; Miriam Gomes Saraiva,
“The Brazil-European Union Strategic Partnership, from Lula to Dilma Rousseff:
A Shift of Focus”, Revista Brasileira de Política Internacional 60 (2017), No. 1:
1–17; Danilo Marcondes and Emma Mawdsley, “South-South in Retreat? The Tran-
sitions from Lula to Rousseff to Temer and Brazilian Development Cooperation”,
International Affairs 93 (2017), No. 3: 681–699.} Although there was no essential foreign policy shift, and despite
Rousseff’s rhetorical commitment to the maintenance of Lula’s regional
and global strategies, her administration failed to meet the challenge of
successfully managing the diplomatic assets and liabilities inherited from
previous governments. Crucial for that were not only economic and polit
ical adversities that dominated the agenda and eventually undermined her
government, but also a remarkable disinterest in international affairs and a
whole different approach to presidential diplomacy – which was virtually
nonexistent during her terms.

This trend was further aggravated during Rousseff’s interrupted second
term (2014–2016), which culminated in an eight-month impeachment pro-
cess leading to her eventual ousting from power in August 2016 on charges
of violating budget laws. Michel Temer, Rousseff’s vice-president, has since
then ruled the country amid widespread corruption investigations that tar-
get the entire party political system, recession economic figures, and a state
of social turmoil. Consequently, the enthusiastic climate celebrated until
recently by investors, foreign observers, and Brazilian officials alike has
soured in the last couple of years, and the present state of affairs seems to put
in jeopardy Brazil’s once internationally acclaimed diplomatic momentum.

However, leaving aside a more detailed account of the ongoing crisis,
this chapter concentrates its focus on foreign and domestic policy initia-
tives carried out under Lula’s and Rousseff’s administrations. Among the
international initiatives, the relationship with South American and African
countries deserves a closer look, in particular as it concerns the interplay
between domestic socioeconomic policies and Brazil’s norm entrepreneur-
ship at the global level.
1.2 South-South cooperation: foreign policy towards South America and Africa

Under Lula da Silva, Brasília was at the forefront of different initiatives towards regional cooperation in South America that went far beyond the scope of trade agreements signed during the 1990s. Interestingly, regional strategic planning and policy-making were officially based on the geopolitical assumption that South America, the South Atlantic and the western coast of Africa were part of Brazil’s so-called “strategic interest surrounding area”.

This resonated with a strong belief that, by leading a stable and closer connected region, Brazil would be able to leverage its bargaining power at bilateral and multilateral negotiations, particularly vis-à-vis developed countries. Initiatives such as the South American Community of Nations (CASA), the Union of South American Nations (Unasur), and the South American Defense Council (CDS), among others, certainly illustrate this. Convergence resulted to a great extent from a rather friendly political environment in the region, where center of left parties arrived in power in most countries throughout the decade. Besides, shared past experiences such as the Foro de São Paulo, a network of Latin American and Caribbean leftist political organizations established in 1990, had paved the way to closer cooperation once South American governments from Argentina to Venezuela sought alternative routes to neoliberalism. Brazilian foreign policy elite was thereby able to establish a relative consensus on the importance of enhanced diplomatic channels between South American countries. Cordial relations notwithstanding, cooperation evolved amid different views on regional integration and occasional suspicion and distrust about Brazilian leadership in the region.18

---

17 The first official document to define a “Brazilian strategic interest surrounding area” comprising these regions was Brazil’s 2005 National Defense Policy. Later reformulated as “immediate geopolitical surrounding area” by the 2012 Defense White Paper, the concept reveals an explicit acknowledgement by civil and military elites regarding the need to extraterritorial protection of Brazil’s national defence interests. See Reginaldo Mattar Nasser and Rodrigo Fracalossi de Moraes, O Brasil e a segurança no seu entorno estratégico: América do Sul e Atlântico Sul (Brasília, DF: IPEA, 2014).

18 See, for example, Andrés Malamud, “A Leader Without Followers? The Growing Divergence between the Regional and Global Performance of Brazilian Foreign Policy”, Latin American Politics and Society 53 (2011), No. 3: 1–24; Daniel Flemes
South-South cooperation arguably became “the cornerstone of foreign policy” during the PT-administrations, Brazil’s special focus on South America being perhaps the single most important case in point. Yet, cooperation with African states, in particular with Portuguese-speaking and West African countries, increased remarkably by the time and became another vivid illustration of Brazil’s both quantitative and qualitative leap in development cooperation initiatives with the Global South. In comparison to a rather “decreasing trend” witnessed during the 1990s, the eight years of Lula da Silva’s presidency marked the “rebirth of Brazilian Atlantic Policy”. In addition to a steep rise in trade relations with Africa, which multiplied more than six-fold between 2000 and 2008, during his two terms former president Lula visited 27 African countries and Brazil established 16 new embassies in the continent.

As the thought-provoking study of Inoue and Vaz (2012) attests, Brazilian South-South cooperation with the continent witnessed a steady increase under Lula, ranging from humanitarian assistance and debt forgiveness to the provision of scholarships to foreign students, or technical and scientific cooperation initiatives. Education, health, agriculture, telecommunications, and social development were among the issues on which Brazil’s assistance projects concentrated their focus in Africa.


22 Inoue and Vaz, “Brazil as ‘Southern Donor’”, 518.
and the Fight Against Hunger and of Agriculture, Livestock, and Food Supply; by the Brazilian Agricultural Research Corporation (EMBRAPA), the Brazilian Micro and Small Business Support Service (SEBRAE), or by Brazil’s largest engineering and construction companies Odebrecht SA, Camargo Corrêa SA, and Andrade Gutierrez SA.\(^{23}\)

Similarly to Brazil’s South American policy, defence and security issues were also part of cooperation initiatives with Africa, in that Brazilian armed forces frequently interacted with their counterparts in countries like Namibia, Angola, Guinea-Bissau, Nigeria, Gabon, Mauritania, Cape Verde and Sao Tome and Principe, providing knowledge and arms transfers, and conducting joint exercises. Furthermore, Brazil played an active role in 2007 in imbuing the South Atlantic Zone of Peace and Cooperation (ZOPACAS), established in 1986, with new life, thereby reaffirming its determination to preserve the region as a nuclear-free zone.\(^{24}\) All that evolved against the background of massive investment plans in naval defence capabilities such as the Submarine Development Program (PROSUB), which is intended to provide the means necessary to protect Brazil’s on- and off-shore resources in the so-called “Blue Amazon”.\(^{25}\)

While Brazilian representatives repeatedly emphasized that solidarity with partner Southern countries was the guiding principle underpinning cooperation, Inoue and Vaz suggest that South-South initiatives cannot be “completely divorced from national, sub-national or sectoral interests and cannot be viewed apart from Brazil’s broader foreign policy objectives and the power shifts in the international system.”\(^{26}\) Nevertheless, a pragmatic,
interest-oriented use of South-South initiatives does not necessarily imply that motivations of altruism or solidarity were completely absent from Brazil’s Africa policy. Several human and institutional capacity-building projects, which made a “positive difference”, indicate this – not to mention Lula’s plea for his successors to meet Brazil’s “moral, political, and ethical obligations to do much more” for Africa due to a “historic debt” to the continent.

Under Rousseff Brazil’s South-South cooperation might not have experienced a dramatic slump, but one thing was clear from the very beginning: the new government would emphasize commercial relations and strive for a “results-oriented diplomacy”, one “with more concrete achievements and less ‘symbolism’”. As Marcondes and Mawdsley argue, Brazilian foreign policy under Rousseff reflected a slightly different view of the South than the one envisaged under Lula: “For Rousseff, the South mattered not so much for the geopolitical considerations that had loomed so large for Lula and Amorim, but more as a market for Brazilian goods.”

Notwithstanding a “partial contraction” and the “shift in narrative framing”, one should not overestimate the retreat of South-South cooperation under Lula’s successor: there were several initiatives carried out during Rousseff’s administration that reveal a certain level of continuity despite budget constraints and a far less enthusiastic presidential diplomacy. Among others, Marcondes and Mawdsley highlight the establishment of an “emblematic experimental station to provide technical support for Mali, Chad, Benin and Burkina Faso” in Sotuba, Mali, in 2013 as well as an increase in contributions to the UN Office of the Coordinator of Humanitarian Affairs (OCHA).

Furthermore, cooperation with Southern countries was still deeply related to Brazil’s nationwide poverty-eradication policies first implemented under Lula and continued under Rousseff, if not to an ambition to portray the country as a “role model” for inclusive development. To illustrate this, in 2011 the Brazilian government and the World Food Programme inaugurated a Centre of Excellence Against Hunger in Brasília, and from then on

27 Ibid., 532.
29 Marcondes and Mawdsley, “South-South in Retreat?”, 689.
30 Ibid., 687.
31 Ibid., 688.
until 2016 455 delegations from 107 countries visited Brazil “to familiarize themselves with the country’s poverty reduction strategy”. 32

Successful domestic socioeconomic policies, which will be examined in detail in the following section, indeed resonated through Brazil’s foreign policy initiatives throughout this period. During the early 2000s, Lula da Silva’s commitment and activism with the fight against hunger and poverty turned this a priori national agenda into a moral concern that, at least to some extent, has helped set an agenda for the global fight against hunger and poverty. 33 Socioeconomic development eventually fell short of expectations under Rousseff, and Brazil’s once applauded economic growth seemed to erode as critical economic figures went into free fall. As a result, the country entered its most serious crisis in decades.

Brazil’s foreign policy and global position will certainly experience long-lasting effects resulting from the current crisis. As Matias Spektor 34 argues, the sudden erosion of a “foundational consensus” around the pursuit of social democratic policies under Temer marks a turning point for the country, for this consensus had been shared by governing elites from different ideological backgrounds at least since the adoption of Brazil’s current Constitution (1988-). Moreover, long-established and particularly vicious forms of internationalization of Brazil’s big business now unveiled by the ongoing Operation Car Wash 35 have just started to be investigated—and no doubt will their political and economic outcomes have likewise an impact on future foreign policy projects.

32 Ibid.
35 Known in Portuguese as “Lava Jato”, the investigations into kickback, bribery, and money laundering schemes involving the state-run oil company Petrobras have been under way since March 2014, with several businessmen and politicians from almost the entire party political spectrum on trial or already in prison for corruption. Aggravating even further Brazil’s slowdown, the scandals have dramatically affected planned or ongoing projects in many different areas such as energy infrastructure, defence capabilities, and deepwater oil extraction.
2. Brazil’s stance on development: from narrow to broad understandings

Notwithstanding recent commitments with global development goals, Brazil has been engaged in development concerns since long ago. Facing numerous internal economic, social and environmental problems, and driven by the widespread perception that the country remains at the receiving end of a highly unequal and discriminating international system, Brazil has traditionally been one of the most active countries within the UN system and has prominently participated in several international debates over development issues on the global stage. Against this background, and following the transformations in global and national scenarios, Brazilian foreign and domestic development policies have fundamentally changed over time.

2.1 Brazil’s stance on development in retrospective

In fact, one can better understand the interplay between Brazil’s norm entrepreneurship at the global level and the development policies employed at the domestic level under Lula da Silva’s (2003–2010) and Dilma Rousseff’s (2011–2016) administrations by looking backwards. Since the exceptional economic growth in Brazil between 1968 and 1973, which was even regarded as a “Brazilian miracle” (or Milagre Econômico Brasileiro, in Portuguese), Brazilian attitudes towards development affairs have fundamentally changed. During the military regime that ruled the country for 21 years (1964–1985), development was perceived in a narrow way and mostly, if not entirely, relegated to its macro-economic aspects. At that moment,

38 See André Aranha Corrêa do Lago, Conferências de Desenvolvimento Sustentável (Brasília: Fundação Alexandre de Gusmão, 2013).
Brazil’s top priority was to maintain the economic policies and the economic growth that underpinned the regime. At the international level, Brazil was often the leader of developing countries who insisted that their economic growth should not be limited by environmental measures and by any foreign impositions on domestic politics.

In the aftermath of two “oil shocks” (the first in 1973 and the second in 1979), Brazil’s former development model eventually collapsed. Narrow understandings of development, in turn, would be increasingly challenged in the late 1980s as the regime gradually transitioned to democracy. Facing both an unprecedented inflation crisis and national as well as international pressures over environmental degradation, Brazilian diplomats perceived the prominence of environmental issues as a strategic opportunity for the country’s foreign policy. In this context, Brazil offered to host the United Nations Conference on Environment and Development (UNCED), also known as Earth Summit or ECO92. The mega-conference was held in Rio de Janeiro in 1992 and marked a turning point in the country’s stance on development.

The comprehensive notion of development, which includes social, economic, and environmental aspects, gained momentum in Brazil with the organization of the Earth Summit in Rio and the establishment of the Agenda 21 for Sustainable Development. At the international level, this

40 Corrêa do Lago, *Conferências de Desenvolvimento Sustentável*, 93–98.
43 It is interesting to note that there is no explicit mention of the Brundtland Commission’s work on the Agenda 21 official document, notwithstanding the similarities between the notion of sustainable development employed on the Agenda 21 and the namesake concept coined by the Brundtland Commission in 1987, which regards sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”
was reflected, for example, by the country’s activism on sustainable development affairs, thereby facilitating agreements such as the United Nations Framework Convention on Climate Change (UNFCCC). Brazil also played a leading role in intergovernmental negotiations at the 2002 Johannesburg Summit, and organized another mega-conference, namely the 2012 United Nations Conference on Sustainable Development (UNCSD), or simply Rio+20. In this context, Brazil increasingly insisted on the need to address the social, economic, and environmental aspects of development. Nevertheless, the prominence of a broad understanding of development in Brazil was not translated into consistent domestic policies until the early 2000s. In this regard Brazil’s engagement with broad agendas for and/or conceptualizations of development established and ratified at the UN was rather selective.

The human security approach, for instance, has received little attention in Brazil. The approach dates back to 1994, when it was coined by the UNDP with seven dimensions (economic, food, health, environmental, personal, community and political). Human security, however, has not played a relevant role in Brazil despite the fact that it brings together security, development, and human rights issues and advocates a broad understanding of development.45 While more than 200 human security projects


were established worldwide, only one modest and almost unnoticed project was implemented in Brazil. Among other things, the scepticism towards alternative notions of security, the numerous security challenges faced at the domestic level and the importance given to the Westphalian principle of sovereignty explain the irrelevance of the human security approach not only in Brazil, but also across many Latin American countries.

The Millennium Development Goals (MDGs), on the other hand, were welcomed and widely disseminated in Brazil from the outset. Following the 2000 Millennium Summit of world leaders at the United Nations (UN) and the Millennium Declaration, UN Member States agreed on eight development goals to be met by 2015. Broadly speaking, the MDGs set targets and indicators for poverty reduction, universal education, gender equality, health security, environmental protection, and sustainable development. Throughout the MDG period (2000–2015), and especially from 2003 to 2014, a wide range of public policies, stakeholders, and initiatives actively promoted the MDGs, and thereby broad approaches to development in Brazil.

While security, and thereby violence, have always been, and still are, huge challenges all over the country, particularly among the most vulnerable communities, Brazil took advantage of the favorable economic

---


49 Ibid. For the purpose of this work, the MDGs are regarded as a global development agenda based on eight goals and twenty-one development targets.


51 See Instituto de Pesquisa Econômica Aplicada-IPEA, Atlas da Violência 2016, Nota Técnica Nº 17 (Brasília: IPEA, Fórum Brasileiro de Segurança Pública,
and political scenarios of the 2000s and was strongly committed to the Millennium Development Goals and targets agreed at the UN. The implementation of the MDGs in Brazil is, therefore, a striking example of political will and domestic engagement with global agendas drawing on comprehensive notions of development. This interplay, in turn, is crucial to understand Brazil’s foreign policy towards development issues and the country’s stance on R2P, discussed later in section 3.

2.2 The interplay between global commitments and domestic policy in Brazil

In September 2008, eight years after the ratification of the Millennium Declaration and in the midst of the global financial crisis, Member States, international organizations, and leaders from the civil society and the private sector met at the UN again to announce new commitments and targets to meet the MDGs by 2015. On the occasion, Brazil reaffirmed its engagement with the global development agenda and launched ambitious targets on poverty reduction, basic education, and health issues. Regarding the goal number 7 (to ensure environmental sustainability), Brazil promised to expand the number of protected areas and focus on the sustainable management of its natural resources without time-bound or numeric targets (see Annex 1).

At the domestic level, Brazil fostered its targets, launched follow-up reports, and created a national award to encourage, enhance, and give visibility to the practices of municipal governments and civil society organizations that effectively contributed to the achievement of the MDGs. In this regard the adaptation of the Millennium Development Goals and targets to the Brazilian context – a process in which multiple stakeholders from government entities, civil society, and the private sector participated – was

---


52 United Nations, “Commitments for Achieving the Millennium Development Goals”.

regarded as the “tropicalization of the MDGs”. Yet, while non-state actors played an important role in diffusing and implementing the MDGs across the country, the adoption of a series of national policies in favorable economic and political (i.e. governance) scenarios was the main reason for achievements related to this global development agenda in Brazil.

The combination of economic growth, improvements in labor market outcomes, inclusive policies, and engagement with development goals resulted in a period of considerable socioeconomic progress in Brazil, especially between 2003 and 2013. In this decade, GDP growth rate in Brazil averaged 3.78%, pushed by the remarkable performances in 2004 with 5.76%, 2007 with 6.07%, reaching its peak in 2010 with a 7.53% rate after a year of recession (2009, with -0.13%). Regarding the labor market, the workforce became more skilled and there was significant progress in labor market outcomes from 2000 onwards, especially of the poorer sections of the population. The country’s unemployment rate steadily declined between 2002 and 2014, falling from 12.9% to 4.9%, and the share of higher-paying, formal jobs among the disadvantaged segments of the population also increased during this period.

Among the inclusive policies that mostly contributed to the socioeconomic achievements made in the MDG period, the Brazilian Minimum Wage Valuation Policy and the policies under the Fome Zero (Zero Hunger) and Brasil Sem Miséria (Brazil Without Extreme Poverty) programmes deserve special attention. Firstly, the Minimum Wage Valuation Policy is considered here as an inclusive policy for its important contribution to the economic security of millions of Brazilians. From 2003 to 2015, Brazilian minimum wage rose significantly in real terms. Generally speaking, this...
increase was a result of the country’s good economic performance together with political will in government coordinated negotiations with unions’ representatives, employer organizations, and organizations of retirees and pensioners. An important outcome of these negotiations was the adoption of an annual adjustment policy based on the inflation rate and GDP growth per capita in 2007.60

Secondly, Zero Hunger is a government programme introduced by former President Lula da Silva when he took office in January 2003. It consists of four main pillars, namely access to food, strengthening of family agriculture, income generation, and promotion of partnerships and civil society participation. It also consists of several structural, specific, and local policies aimed at eradicating hunger and extreme poverty in Brazil.61 To increase the reach of the Zero Hunger programme, the government established the Bolsa Família (Family Grant) programme in 2004, which has unified all governmental cash transfers and given financial support to families facing food and nutrition insecurity.62

Finally, the Brazil without Extreme Poverty programme was established to build on and expand the reach of policies implemented under the Zero Hunger and Family Grant programmes. It was launched by former President Dilma Rousseff in June 2011 as a multidimensional strategy to address persisting levels of extreme poverty in Brazil. Brazil Without Extreme Poverty consists of four main axes, namely income guarantee, rural and urban productive inclusion, and access to public services.63 In particular, it entailed five main changes in previous strategies to fight poverty: first, the establishment of an extreme poverty threshold; of targets for the

60 Ibid.
62 Da Silva et al., The Fome Zero (Zero Hunger) Program.
63 Ibid., 61–62.
universalization of public policies on poverty reduction; and third, the initiative to map and unearth extreme poverty in Brazil through the state-led Busca Ativa (Active Search) concept. Besides, further changes have been the enactment of a nationwide minimum income level of R$ 70, later updated to R$ 77 per capita, and finally the establishment of a new strategy for economic security and inclusion, based on the creation of opportunities for employment and entrepreneurship.64

The above-mentioned inclusive policies had an important impact on the reduction of extreme poverty in Brazil during the 2000s. The Minimum Wage Valuation Policy adopted since 2003 contributed to the reduction of poverty and inequality in the country by improving living conditions of low-income workers as well as pensioners, welfare beneficiaries, and unemployed with access to unemployment insurance.65 What is more, the Zero Hunger and the Brazil without Extreme Poverty programmes had a significant and recognized impact on the reduction of extreme poverty in Brazil.66 Together, these policies represent a clear, cross-cutting, and comprehensive development strategy implemented in Brazil. As such, they are good examples of how broad understandings of development advocated abroad might be translated into practice at the domestic level.

In a nutshell, the enactment of inclusive domestic policies in line with the ambitious commitments made at the global level with the MDGs, within a context of favorable economic and political scenarios, enabled remarkable socioeconomic progress in Brazil during the 2000s. Special mention should be made to achievements in terms of inequality and food security. Although social inequality in Brazil remains very high, the Gini coefficient dropped by six points between 2001 and 2013, from 0.59 to 0.53, and extreme poverty rates declined from 9.9% to 4% of the total population.67

65 See Berg, “Brazil. The Minimum Wage as a Response” Silva et al., Sustaining Employment.
67 Silva et al., Sustaining Employment, 37.
The prevalence of undernourishment, in turn, decreased from 11.2% to less than 5% of the population, and Brazil could finally reach the status of a country with very low hunger incidence.\textsuperscript{68}

As far as the environmental aspect of development is concerned, Brazil achieved relevant progress in protecting the Amazon, but not without contradictions. Indeed, the deforestation rate experienced a significant decline after the enactment of the Plano de Ação para Prevenção e Controle do Desmatamento na Amazônia Legal (PPCDAm) in 2004, an action plan for prevention and control of deforestation in the Amazon.\textsuperscript{69} From 2004 to 2012, when the lowest levels were recorded, the deforestation rate decreased by 83.5%, from 27,772 to 4,571 km\textsuperscript{2} per year. Notwithstanding the progress made since 2004, deforestation in the Amazon has grown sharply since 2012. Whether by coincidence or not, this change has occurred after the enactment of the New Forestry Code in 2012 amid protests from civil society and environmental organizations.\textsuperscript{70} In only two years (from 2014 to 2016), the rate increased by 59%, reaching almost 8,000 km\textsuperscript{2}.\textsuperscript{71} Another controversial measure adopted during this period was the construction of Belo Monte Hydroelectric Power Plant in the Amazon region. As studies have reported, this project – carried out against the will of a great part of the local population, and under criticism and protest from multiple stakeholders – has caused significant environmental, economic, and social risks and impacts in the region.\textsuperscript{72}


\textsuperscript{69} Presidência da República, Plano de Ação para a Prevenção e Controle do Desmatamento na Amazônia Legal (Brasília: Casa Civil, 2004).


In light of the MDG indicators, Brazil has achieved or surpassed three goals (Goals 1, 4 and 8), made important progress and thus partially achieved – or narrowly missed – four goals (Goals 2, 3, 6 and 7) and failed to meet one goal (Goal 5). In general terms, Brazil has achieved a remarkable decrease in extreme poverty, under-five mortality rate, incidence of malaria, and both malaria and tuberculosis death rates. Considering the MDG metrics, the country has also achieved gender parity in education and significantly reduced deforestation rate in the Amazon during the MDG period. In addition, Brazil has contributed to the global partnership for development through different South-South cooperation initiatives. Despite all these achievements, the country has failed to meet maternal health targets and still faces persistent hurdles in terms of social inequality, universal education, sanitation facilities, health care, housing conditions, gender equality, etc.73

More recently, Brazil has ratified and reiterated its committed with the 2030 Agenda for Sustainable Development and its respective 17 Sustainable Development Goals (SDGs) and 169 targets.74 The creation of this new agenda dates back to the Rio+20, when world leaders agreed on an intergovernmental process towards defining global goals for sustainable development including environmental, economic, and social goals in a balanced way.75 Despite Brazil’s achievements during the MDG period and its engagement with the new development agenda, the agreement on

---

73 Considering that the last follow-up report on the outcomes of the MDGs implementation in Brazil was published in 2014, the outcomes presented here were compiled from distinct but complementary sources that provide official data on the indicators used to measure MDGs implementation in Brazil, namely INPE, “Projeto PRODES”; IPEA, Objetivos do Desenvolvimento do Milênio, and World Bank Data.


the implementation of the SDGs has occurred in a period of considerable changes in Brazil.

After more than a decade of socioeconomic development and international prestige, Brazil has faced a deep economic recession and a political and institutional crisis. The combination of international and domestic factors has led the country to experience an unprecedented and multifaceted crisis, which escalated in 2015. Among such factors, one can think of the fall in commodity prices, the devaluation of the Brazilian currency, consecutive corruption scandals involving members of both the former and the new governments as well as the breakdown of coalition governance mechanisms prevailing so far.76

Despite significant achievements made during the MDG period, and especially between 2003 and 2013, the country faces numerous and persistent structural challenges to pursue sustainable development, that is, a far-reaching and long-term development strategy in a broad sense. In particular, Brazil has still some of the worst income and asset inequality levels in the world and is one of the most violent countries on earth – the absolute number of homicides has recently reached record levels: more than 59,000 deaths by homicide per year in 2014 and 2015.77 In addition to that, the political and economic crises that recently broke out have led the country to an unprecedented scenario of destabilization and unpredictability since re-democratization in the late 1980s.

Hence, Brazil’s development experience during the 2000s can be best regarded as a short-term successful story with remarkable, albeit insufficient and non-sustainable, progress. The main evidence for this is the fact that, when the country’s flourishing economic situation changed, a series of setbacks and impacts – mainly on the most vulnerable people – occurred. The unemployment rates, for instance, have steadily grown since 2014, reaching 13.3% of the population in the first quarter of 2017.78 Another striking and


often overlooked fact is the structural and increasing level of urban violence affecting the country, and especially the poorest areas. Noteworthy is the fact that, on a three weeks basis, there are more people killed in Brazil than in all terrorist attacks registered in the first five months of 2017 around the entire world.79

Despite increasing unemployment and aggravating already dire social disparities, a series of austerity-driven policy reforms has been announced since former vice-president Michel Temer came to power in August 2016. From the beginning, Michel Temer has adopted a pro-market agenda with the promise of overcoming Brazil’s multiple crises.80 Among the most controversial measures, the recently promulgated constitutional amendment known as “PEC 55/2016” locks into the constitution a 20-year spending cap limiting public expenditures from 2018 onwards to the inflation rate from the preceding year. In December 2016, the amendment was decried by the UN Special Rapporteur on extreme poverty and human rights, Philip Alston, not only as “a radical measure, lacking in all nuance and compassion”, but also “entirely incompatible with the country’s human rights obligations”.81

In fact, Brazil still has to overcome a series of challenges and contradictions to put development back on track and perform it in a broad, sustainable way. After all, translating the engagement with sustainable development issues into concrete results in a country that still faces high social inequality and domestic violence – not to mention current and never-ending political and economic crises – is an enormous challenge. Accordingly, this chapter argues that Brazil’s development experiences in the 2000s have much to tell about Brazilian norm-entrepreneurship at the global level and its engagement with alternative notions of R2P during the same period, which is addressed in the next section.

80 Temer’s pro-market agenda had already been anticipated months before he eventually took office as the political foundation affiliated to his party, Brazilian Democratic Movement Party – PMDB, launched in October 2015 a policy programme entitled “A Bridge to the Future”. See PMDB, Uma Ponte para o Futuro (Brasília: Fundação Ulysses Guimarães, 2015), 19.
3. Brazil's alternative understanding of R2P

The first two parts of this chapter have illustrated that the domestic development agenda of the PT-administrations had a remarkable influence on the design and exercise of its foreign policy. Following this line of argumentation, in this part it is stated that Brazil’s domestic development experience has resonated with the country’s stance on R2P. Actually, this point was already quite evident in the statement of Brazil’s Deputy Permanent Representative to the United Nations during the informal dialogue on R2P at the UN General Assembly in 2013:

“The reinforcement of national capacities is crucial to help States to fulfill its obligations to identify and tackle the root causes of conflict and build inclusive and resilient societies. In our case, for instance, Brazil has adopted a panoply of measures that put the dignity of the human being at the heart of our national agenda. From programs of family cash transfer, which have helped to reduce child mortality and stimulated local economy, to sustainable development policies; from poverty eradication programs to gender sensitive policies, ‘structural prevention’, has had unprecedented prominence in the development of a more just and inclusive society in Brazil.”

By and large, the Brazilian position towards R2P under Dilma Rousseff and Lula da Silva has been described by several scholars as a multifaceted attempt to introduce the government’s preferences into the contested field of international peace and security. Firstly, it aimed at strengthening and – in the case of UN’s Security Council – at reforming the United Nations system. Secondly, it sought to reinforce the Brazilian standing as a "bridge" between North and South, a credible broker between established status quo and emerging reformist powers as well as among developing

---

85 Burges, “Brazil as a Bride”, 579.
countries.\textsuperscript{86} Thirdly, it intended to integrate one of Brazil’s comparative advantages into the debate about R2P,\textsuperscript{87} namely the readiness and capacity to apply socioeconomic policies to tackle poverty, hunger, and epidemics. As stated above, Brazilian domestic and foreign policies focused on the prevention of these forms of abstract or non-violent harm, which threaten individuals in a direct as well as indirect way, and regarded them as potential root causes of conflict.\textsuperscript{88}

Also, Brazil’s engagement with the R2P concept from its adoption by the 2005 World Summit Outcome Document until the government shift in 2016 can be seen as an effort to alter the understanding of the instruments and scope of international responsibility.\textsuperscript{89} Thereby it also serves as an example for its “\textit{graduation}”, understood as a process that “\textit{implies an ambition for international prominence, a role as rule-maker, a geopolitical vision and a commitment to regional integration}”.\textsuperscript{90}

Hereinafter, the statements of Brazilian diplomats given at the UN General Assembly’s interactive dialogues on the implementation of R2P between 2009 and 2016 serve as a basis to contribute to these findings by scrutinizing the two basic ideas of the Brazilian government’s elaborated notion of the concept: the restrictive approach to the use of force and the prioritization of structural conflict prevention over mass atrocity prevention. Both main threads have posed a challenge to the “\textit{narrow but deep approach}” endorsed in the annual reports delivered by the UN Secretary


\textsuperscript{90} Milani, Pinheiro and Soares de Lima, “Brazil’s Foreign Policy and the ‘Graduation Dilemma’”, 592.
General and its Special Advisors on the R2P since 2009. These threads will be analysed separately below to outline the core of the Brazilian position, to identify possible implications for the implementation of R2P, and to draw conclusions about the alleged embeddedness of the Brazilian stance towards the concept in its modified foreign policy objectives and domestic development experiences.

It is worth mentioning that Brazil under the PT-administrations was one of the most committed participants in the R2P dialogue. If one compares the statements of those 29 countries which have been classified either as “cautious supporters” of the concept or as “rejectionists”, the remarks of the Brazilian UN-delegation stand out for presenting a nuanced, coherent, and autonomous notion of the concept. Another token is its continuity, which is described by Kai Michael Kenkel as “habitual sophistication in dealing with R2P”. However, it will be argued below that the eloquent remarks of the Brazilian diplomats have hardly added something new to the thinking on R2P. The reason for this is that essentially all elements of the two most basic ideas of Brazil’s understanding of R2P were already laid out in the concept’s original blueprint drafted by the International Commission on Intervention and State Sovereignty in 2001.

---

91 The “narrow but deep approach” is based on an interpretation by Secretary General Ban Ki-moon and his Special Adviser on the R2P, Edward Luck, of the paras. 138–140 of the World Summit Outcome Document, in which Heads of States and Governments agreed to a responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. “While the scope should be kept narrow, the response ought to be deep, employing the wide array of prevention and protection instruments available to Member States, the United Nations system, regional and subregional organizations and their civil society partners.” Ban Ki-moon, “Implementing the Responsibility to Protect”, UN Doc. A/63/677, January 12, 2009, paragraphs 10b, c accessed September 17, 2017, http://responsibilitytoprotect.org/implementing%20the%20rtop.pdf.

92 “Cautious supporters agreed with the concept in principle, but will remain sceptical of its implementation in practice until it is modified to some extent. […] Rejectionists were classified as such if they offered no indication of support for R2P.” Patrick Quinton-Brown, “Mapping Dissent: The Responsibility to Protect and Its State Critics”, Global Responsibility to Protect 5 (2013), No. 3: 264. According to this definition, Brazil is classified as a “cautious supporter”.

93 Kenkel, “Brazil!”, 349; Stuenkel and Tourinho, “Regulating Intervention”, 387.


3.1 Restrictive approach to the use of force

The preference for the second-pillar, comprising assistance and capacity-building, over the third pillar, which concedes robust reaction facing a manifest failing of a government to protect its population from R2P-crimes, has been repeated like a mantra by the Brazilian representatives to the UN in their statements about R2P. According to the Brazilian UN diplomats, the international responsibility to protect civilians should be first and foremost about “cooperation for development” and the reduction of “disparities of all sorts that exist within nations, and among nations and regions” to put in practice the concept’s “original preventive ethos”. Thus, the third pillar has been seen by the Brazilian representatives as an exceptional course of action to the first pillar, which embraces the primary responsibility of every state to protect all people within its territory.

The restrictive approach to the use of force was advanced in a coherent and precise manner by the Brazilian government in the concept note “The Responsibility while Protecting” (RwP). This approach consists of two elements: an *ius ad bellum* and an *ius in bello* restriction. Under the

---

96 The three-pillar structure of R2P was introduced by Ban Ki-moon in his R2P-report of 2009. Pillar one is the responsibility of the state to protect its populations from R2P-crimes. Pillar two is the responsibility of the international community to assist states in meeting their primary responsibility. Pillar three is the responsibility of member states to respond collectively when a state is manifestly failing to fulfill its primary responsibility. See Ban, “Implementing the Responsibility to Protect”, paragraph II.


99 Ribeiro Viotti, “Remarks 2009”.


101 The right to engage in war.

102 The law of armed conflict.
third pillar, military measures should only be applied as a last resort and in accordance with the UN Charter – through the authorization of a peace-enforcement mission under Chapter-VII by the UN Security Council or the UN General Assembly in line with the “uniting for peace” procedure. Therefore, the Brazilian position towards the tool of military interventions to protect civilians was not outright hostile but rather pragmatic given extreme situations with large scale loss-of-life, where a forceful reaction of the international community was considered legitimate and necessary. Thus, for Brazilian representatives, who cited Rwanda as example, military action in the name of R2P is restricted to rare, once-in-a-generation situations, in which violent measures authorized by the Security Council or the General Assembly would do more good than harm.

Apart from this *ius ad bellum* restriction to the use of force, the Brazilian approach towards the application of military means was also limited by *ius in bello* considerations. In its RwP concept note to the UN Secretary General from November 2011, the Brazilian delegation stated that “the use of force must produce as little violence and instability as possible and under no circumstance can it generate more harm than it was authorized to prevent. In the event that the use of force is contemplated, action must be judicious, proportionate and limited to the objectives established by the Security Council.”

This statement, which classifies violence as a source of harm independent of the actor who uses it, is in line with the country’s traditional aversion to the use of force in foreign affairs. It also manifests, together with other quotes from the Brazilian representatives to the UN, that the government adopted what James Pattison calls a “Restrictive Approach to

103 Ribeiro Viotti, “Responsibility while Protecting.”, paragraph 8c.
104 “There may be situations in which the international community might contemplate military action to prevent humanitarian catastrophes”, Ribeiro Viotti, “Responsibility while Protecting”, paragraph 8.
106 Ribeiro Viotti, “Responsibility while Protecting”, paragraphs 11e, f.
108 See for example, “The use of force has to have a protective and defensive nature. It should in no way aggravate tensions on the ground and cause harm to the very same innocent lives we are committed to protecting”, Maria Luiza Ribeiro Viotti, “Statement by the Permanent Representative of Brazil to the United Nations on the SG Report ‘The Role of Regional and Sub-regional Arrangements in
Proponents of the “Restrictive Approach” claim that the rules of conduct for a protection mission should be more restrictive than for other wars and that the execution of a humanitarian intervention should be limited to extraordinary situations. Hence, these ideas were no real innovation from the Brazilian foreign policy elite. Instead, they have already been part of R2P’s original blueprint by the ICISS and of the Just War tradition in general.

According to the Brazilian position, and this is an additional facet of its restrictive approach, enhanced Security Council procedures would be needed to evaluate the actions on the ground and to ensure accountability by the interveners. In the aftermath of the NATO-led intervention in Libya in 2011, this requirement was especially relevant to stimulate the debate about the implementation of R2P. Indeed, discussions about monitoring and accountability mechanisms have accompanied the Security Council practice of delegation since its establishment after the end of the Cold War. But the perceived overstretch of Security Council resolution 1973, which authorized all necessary means to protect the civilian population of Libya, substantiated the concerns and fears of many countries in the Global South in a profound way and gave rise to the call for a Security Council oversight of the interveners’ behavior.

Brazil’s restrictive approach to the use of force, most prominently summarized in the RwP concept note, has been met in equal shares with approval.
and scepticism\textsuperscript{117} within the international community and for most part has been lauded in R2P’s epistemic communities as a way out of the current impasse in the concept’s implementation and internalization processes.\textsuperscript{118}

The most striking detail about the academic literature concerned with RwP is the consensual perception of a Brazilian retreat from this initiative.\textsuperscript{119} To be sure, it is a fact that Brazil passed the non-permanent seat in the UN Security Council to Guatemala in December 2011 and has thereby lost diplomatic ground in this forum. Also, it is undisputed that the focus of the Brazilian government under Dilma Rousseff was more on domestic politics and less on the politics of intervention. Lastly, Brazilian representatives have indeed failed to deliver a follow-up note to RwP including in-depth recommendations. Nonetheless, RwP was mentioned in the reports of the Secretary General in 2012 and 2015\textsuperscript{120} and has been explicitly referred to by Brazilian representatives in every single contribution during the informal dialogues about the implementation of R2P between 2012 and 2016.

Moreover, in his statements to the General Assembly during the informal dialogue about R2P in September 2015 and 2016, permanent representative Antonio de Aguiar Patriota proposed some practical steps to establish monitoring mechanisms: The use of sunset clauses\textsuperscript{121} and enhanced


\textsuperscript{121} Time-limited mandates which require constant renewal of authorization.
reporting procedures, which have been, both of them, integral parts of UN Peacekeeping practice, in addition to the establishment of panels of experts to oversee the implementation of a UN mandate based on experiences with UN sanctions committees. Finally, it’s crucial to note that Brazilian diplomats have also referred to RwP on a regular basis outside the R2P discourse, namely during the Security Council’s Open Debates on Protection of Civilians in Armed Conflicts. Therefore, far from abandoning the RwP initiative, the Brazilian foreign policy elite has frequently touched on the concept note. Meanwhile, Brazilian permanent representatives to the UN have suggested some practical steps for its implementation.

However, the salient point is that the goal of Brazilian diplomacy might have been to freeze any further implementation of R2P’s third pillar, in line with Brazil’s traditional aversion to the use of force. Burges makes a similar point when he claims that the purpose of RwP was to quietly undermine “external intervention in a sovereign state under the R2P doctrine by creating an unmanageable liability for the intervening countries”.

In sum, Brazil has not invested its diplomatic resources to resolve age-old dilemmas of Humanitarian Intervention, and most likely will not do so in the future. Rather, Brazilian foreign policy under Lula da Silva and Dilma Rousseff intended to align the R2P debate to its own ideas and ambitions in a policy field where the country sees a comparative advantage vis-à-vis the interventionist powers: the emphasis on socioeconomic development. That is why Brazil has continually characterized prevention as the “ethos” of R2P.

124 Benner, “Brazil as a Norm Entrepreneur”, 8.
125 Burges, “Brazil as a Brigde”, 593.
3.2 Structural prevention

The assertion that “[p]revention is the single most important dimension” of R2P has become a commonplace within the academic and diplomatic discourses. This superficial consensus should not hide the fact that the goals and instruments of prevention have been a contested issue within the General Assembly debates about R2P. Indeed it makes a difference if one promotes mass atrocity prevention or prefers conflict prevention instead. Proponents of the first see prevention of mass atrocities as the priority of R2P, whereas for adherents of the latter prevention of conflicts should be the main goal of the concept. According to those who favor conflict prevention, most of R2P-crimes are conducted within the context of violent conflicts, and situations of unrest also have adverse effects on development and human rights. Ultimately, both kinds of prevention can be at odds in practice. For example, mass atrocity prevention includes instruments like non-consensual preventive deployment of troops and fosters a binary division of perpetrators and victims. This way of thinking could lead to partisan support of one group and condemnation of the other, which carries the risk of hampering the political dialogue.

---

126 ICISS, *The Responsibility to Protect*, XI.
127 This position is taken in the Reports of the Secretary General about the implementation of R2P and is supported by most states within the debates at the UN General Assembly and by the former Special Advisors on the Responsibility to Protect Edward Luck and Jennifer Welsh. For some excellent accounts on this position, see Serena K. Sharma and Jennifer M. Welsh, eds., *The Responsibility to Prevent. Overcoming the Challenges of Atrocity Prevention* (Oxford: Oxford University Press, 2015).
As outlined above, Brazil has increasingly focused on development-oriented domestic and foreign policies. The second pillar of R2P has enabled the Brazilian foreign policy elite to mould the concept to fit its own long-term foreign policy goals, i.e. to strengthen multilateral institutions, foster international trade and South-South cooperation, and to reduce inequalities within and among states. Since Lula da Silva took office in 2003, it has been a common thread of Brazilian presidential statements at the General Debate of the UN General Assembly that the principle of responsibility in international relations has to be redefined and that socioeconomic progress in Brazil could serve as a role model for development in the Global South. Both thoughts have been incorporated into the country’s unique contribution to the informal dialogues about R2P by emphasizing “the obligation to identify and combat the root causes of conflict” and through the commitment to the “principle of non-indifference”. Likewise, these notions resonate with the call for RwP and with the ambition to portray Brazil’s successful domestic development policies as a role model.

The Brazilian delegation to the UN has spent most of its time and space during the informal debates at the General Assembly to outline its understanding of international responsibility. Apart from the constant reference to the RwP initiative, Brazilian representatives primarily locate international responsibility within R2P’s second pillar. In fact, the agenda for all subsequent Brazilian contributions to the R2P debate until 2016 had

134 Ribeiro Viotti, “Statement 2009”.
135 Cordeiro Dunlop, “Statement 2013”.
already been set by the statement of the Permanent Representative Maria Luiza Ribeiro Viotti to the first General Assembly dialogue in 2009:

“Among the two pillars directly related to the international community, the one regarding assistance and capacity building must certainly concentrate our attention and energy. […] The first step towards a durable situation to humanitarian crisis is to identify their root causes which usually include underdevelopment, poverty, social exclusion and discrimination. Therefore, in addressing the responsibility to protect, we should deal first and foremost with cooperation for development and try to devise ways to reduce the disparities of all sorts that exist within nations, and among nations and regions.”

In the Brazilian remarks during subsequent dialogues, R2P was described as “an enabler to assist States in developing the capacity to protect their populations and in building safer societies.” Thereby, prevention was drawn up in broad terms, with a special focus on “structural prevention”, which gives room to “the role of sustainable development, food security, poverty eradication and the reduction of inequality as driver of peace.”

Besides, this “more holistic approach of the concept” would make it possible to align R2P with global agendas such as the 2030 Agenda for Sustainable Development and its goals and targets.

This mingling of development with security concerns has been a delicate issue within debates about R2P. Furthermore, it has almost been a neglected topic in the reports by the UN Secretary General about the implementation of R2P as well as in the statements of Western countries. Apart from occasional reaffirmations of the development-conflict-nexus, even in the Global South there has not been much substantial reaction to Brazil’s
holistic stance on R2P, based on the assumption that development, human rights, and peace and security are interrelated. One reason for the sparse reference to development issues within the R2P-dialogue, even by sceptical and “rejectionist” countries, might be the avoidance of the “securitization” of socioeconomic issues. Nonetheless, within the R2P literature there have been more voices joining those who – as the Brazilian government under Lula and Dilma – think that an integration of development issues into R2P is indispensable for the concept to be effective and legitimate.²⁴⁵ By contrast, critics stress that the concept loses its focus and practicability if it encompasses socioeconomic issues as well.²⁴⁶

Interestingly enough, structural prevention was covered as “root cause prevention” in the ICISS report of 2001,²⁴⁷ but it has been curtailed to the dimension of political and civil rights by the Secretary General in his reports on R2P. Therefore, it might be argued that Brazil’s alternative understanding of R2P has neither been completely detached from, nor a groundbreaking contribution to previous R2P-discourse. After all, the two main concepts of Brazil’s stance on R2P, namely the restrictive approach to the use of force and the prioritization of structural conflict prevention, were already integral parts of R2P’s original blueprint of 2001.

4. Conclusion

In this chapter, it was argued that Brazil’s stance on R2P under the administrations of Lula da Silva und Dilma Rousseff reflects a shift in foreign policy and domestic development experiences. As a result, Brazil has established an alternative notion of international responsibility that goes beyond a “narrow but deep approach” towards R2P.

Brazil’s socioeconomic progress during the 2000s was undoubtedly remarkable. Yet, recent developments in the country have revealed serious

146 Bellamy, Responsibility to Protect, 98–105.
147 ICISS, The Responsibility to Protect, 22.
shortcomings indicating that this was rather a short-term successful story with insufficient and unsustainable achievements. In fact, Brazil has always faced, and still faces, a series of challenges and contradictions that seem to undermine the pursuit of development in a broad, sustainable way. In any case, as demonstrated throughout the chapter, Brazil’s development experiences under Lula da Silva and Dilma Rousseff, more specifically from 2003 to 2013, have much to tell about Brazilian norm-entrepreneurship at the global level and about the country’s engagement with global development goals and alternative notions of R2P throughout the last decade.

Brazil’s commitment to a broad understanding of development resulted in significant progress at the domestic level and has stimulated the debates about R2P. Within the state-centric informal dialogues at the UN General Assembly, Brazil’s alternative understanding of R2P between 2009 and 2016 is quite an exception, as it seeks to integrate development issues into a hot topic in the field of peace and security. However, the two basic ideas of this alternative interpretation of R2P – a restrictive approach to the use of force and structural prevention – were already an integral part of the concept’s original blueprint by the ICISS of 2001 and have been a permanent feature of the thinking about R2P ever since.

Critics have pointed out that Brazil has neither delivered detailed strategies for the implementation of pillar II, nor has it done much to put the discourse of prevention into concrete action. Indeed, Brazilian contributions to the R2P-debate have lacked practical proposals such as on how to deal with the debt crisis in developing countries, how to counteract the adverse effects of globalization, or how to channel the benefits of the world’s current trade and financial order towards more vulnerable societies and individuals. This could be explained by Brazil’s domestic experience to implement structural prevention without imposing substantial structural reforms.

Domestic experiences after 2013, as we argued above, have given rise to doubts about whether this strategy can generate sustainable development at

the national and local levels at all. Regarding the global level, the diagnosis according to which “Lula’s foreign policy discourse was directed against the status quo, but did not have an antisystemic character” seems accurate.\textsuperscript{150} Therefore, Brazil’s foreign policy under Lula da Silva and Dilma Rousseff has strived to improve “the country’s relative position within the international arena”,\textsuperscript{151} with the demand for a permanent seat in the UN Security Council as the most prominent example. Meanwhile, Brazil was not interested in changing the most fundamental structures of the international system. The same holds true for domestic policies as the PT-administrations failed to perform structural changes in terms of land concentration and tax reform.

And yet that is not to say that such an understanding of structural prevention without structural reform is unable to improve the living conditions of selected individuals or groups, at least in the short-term. The emphasis of the Lula administrations on South-South-cooperation, for example, has had some positive effects on socioeconomic indicators in the countries involved, even though Brazilian actors followed particular interests.\textsuperscript{152} Solidarity should not be confused with altruism: international cooperation can be a positive sum game with the potential for mutual gains.\textsuperscript{153} Furthermore, unlike its position in the national institutional context, the influence that any Brazilian government can have on the global arena is limited at best. In any case, one might ask if taking international responsibility does not also imply the acknowledgement of a positive duty\textsuperscript{154} or a responsibility based on liability or social connection\textsuperscript{155} to alter the structures of an international system that still leaves a “bottom billion”\textsuperscript{156} of human beings behind.

\textsuperscript{150} Zilla, “Brazil’s Foreign Policy Under Lula”, 20.
\textsuperscript{151} Burges, “Brazil as a Bridge”, 578.
\textsuperscript{152} Inoue and Vaz, “Brazil as a ‘Southern Donor’”, 532.
\textsuperscript{153} Ibid., 509.
\textsuperscript{155} Iris Marion Young, Responsibility for Justice (New York: Oxford University Press, 2011), chapter 4, 5.
\textsuperscript{156} Paul Collier, The Bottom Billion. Why the Poorest Countries are Failing and What Can Be Done about It (New York: Oxford University Press, 2007).
Annex 1: The Millennium Development Goals – Global versus Brazilian Targets

<table>
<thead>
<tr>
<th>MDGs</th>
<th>Global Targets (MDGs)</th>
<th>Brazilian Targets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal 1. Eradicate extreme poverty and hunger</td>
<td><strong>Halve</strong>, between 1990 and 2015, the proportion of people whose income is less than one dollar a day</td>
<td><strong>Reduce to one-quarter</strong>, between 1990 and 2015, the proportion of people whose income is less than one dollar a day</td>
</tr>
<tr>
<td></td>
<td>2. Achieve full and productive employment and decent work for all, including women and young people</td>
<td>2. Achieve full and productive employment and decent work for all, including women and young people</td>
</tr>
<tr>
<td></td>
<td>3. <strong>Halve</strong>, between 1990 and 2015, the proportion of people who suffer from hunger</td>
<td>3. <strong>Eradicate</strong> hunger by 2015</td>
</tr>
<tr>
<td>Goal 2. Achieve universal primary education</td>
<td>4. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling</td>
<td>4. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling</td>
</tr>
<tr>
<td>Goal 3. Promote gender equality and empower women</td>
<td>5. Eliminate gender disparity in primary and secondary education, <strong>preferably by 2005</strong>, and to all levels of education</td>
<td>5. Eliminate gender disparity, <strong>by 2005</strong>, in all levels of education</td>
</tr>
<tr>
<td>Goal 4. Reduce child mortality</td>
<td>6. Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate</td>
<td>6. Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate</td>
</tr>
<tr>
<td>Goal 5. Improve maternal health</td>
<td>7. Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio</td>
<td>7. Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio</td>
</tr>
<tr>
<td></td>
<td>8. Achieve, by 2015, universal access to reproductive health</td>
<td>8. Achieve, by 2015, universal access to <strong>sexual and reproductive</strong> health</td>
</tr>
<tr>
<td></td>
<td>10. Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it</td>
<td></td>
</tr>
<tr>
<td></td>
<td>11. <strong>Have halted</strong> by 2015 and began to reverse the incidence of malaria and other major diseases</td>
<td></td>
</tr>
<tr>
<td>Goal 7. Ensure environmental sustainability</td>
<td>12. Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources</td>
<td>13. Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources</td>
</tr>
<tr>
<td></td>
<td>13. Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss</td>
<td>14. Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss</td>
</tr>
<tr>
<td></td>
<td>14. Halve, by 2015, the proportion of people without <strong>sustainable</strong> access to safe drinking water and basic sanitation</td>
<td>15. Halve, by 2015, the proportion of the population without <strong>permanent and sustainable</strong> access to safe drinking water and basic sanitation</td>
</tr>
<tr>
<td></td>
<td>15. By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers</td>
<td>16. By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers</td>
</tr>
<tr>
<td>Goal 8. Develop a global partnership for development</td>
<td>16. Develop further an open, rule-based, predictable, non-discriminatory trading and financial system</td>
<td>17. Develop further an open, rule-based, predictable, non-discriminatory trading and financial system</td>
</tr>
<tr>
<td></td>
<td>17. Address the special needs of the Least Developed Countries</td>
<td>18. Address the special needs of the Least Developed Countries</td>
</tr>
<tr>
<td></td>
<td>18. Address the special needs of landlocked developing countries and small island developing states</td>
<td>19. Address the special needs of landlocked developing countries and small island developing states</td>
</tr>
<tr>
<td></td>
<td>19. Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term</td>
<td>20. Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term</td>
</tr>
<tr>
<td></td>
<td>20. In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries</td>
<td>21. In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries</td>
</tr>
<tr>
<td></td>
<td>21. In cooperation with the private sector, make available the benefits of new technologies, especially information and communications technologies</td>
<td>22. In cooperation with the private sector, make available the benefits of new technologies, especially information and communications technologies</td>
</tr>
</tbody>
</table>

Bibliography


de Aguiar Patriota, Antonio. “Statement by the Permanent Representative of Brazil to the United Nations During the Informal Interactive Dialogue on the Report of the
A Brazilian Perspective on Development and R2P


Eduardo Gresse, Fernando Mattos and Daniel Peters


Marcondes, Danilo and Emma Mawdsley. “South-South in Retreat? The Transitions from Lula to Rousseff to Temer and Brazilian Development Cooperation”. International Affairs 93 (2017), No. 3: 681–699.


Pattison, James. “The Ethics of the ‘Responsibility while Protecting’. Brazil, the Responsibility to Protect, and the Restrictive Approach to Humanitarian Intervention”. In Brazil as a
Eduardo Gresse, Fernando Mattos and Daniel Peters


A Brazilian Perspective on Development and R2P


South Africa’s Foreign Policy and R2P

Jan Mutton

Introduction

The stream of refugees into Europe, throughout Africa and in the Middle East, many of them fleeing atrocities and violations of human rights, is a constant reminder of the tragedy of conflict and war, precisely at a time when the benefits of globalization and of science and technology should be able to guarantee a better life for all.

Atrocities, however, continue to take place in different parts of the world, irrespective of the frameworks that have been put in place to prevent or stop them, both at the level of the African Union (AU) and the United Nations (UN). In 2000, the AU adopted its Constitutive Act\(^1\) which in its Article 4(h) gives the Union the right to intervene in a Member-State in the face of grave circumstances, namely war crimes, genocide and crimes against humanity. At the UN, paragraphs 138 and 139 of the 2005 World Summit Outcome document defined a normative framework, known as “Responsibility to Protect” or R2P, in which Heads of State and Government unanimously affirmed their responsibility to protect their people from genocide, war crimes, ethnic cleansing and crimes against humanity. They, furthermore, agreed that the international community has a responsibility to assist States in implementing that commitment and, if a State is unable or unwilling to protect its people, to intervene, collectively and through the Security Council, using peaceful and, eventually, also coercive measures in line with the UN Charter.

The UN General Assembly adopted the Outcome document in a resolution in October 2005\(^2\) and the UN Security Council has specifically

---

Jan Mutton

referred to paragraphs 138 and 139 in thematic resolutions such as Resolution 1674 (2006)³ and Resolution 1894 (2009)⁴ on the protection of civilians in armed conflict, Resolution 2117 (2013)⁵ on small arms and light weapons and Resolution 2150 (2014)⁶ on threats to international peace and security. The Security Council also referred to R2P in country-specific resolutions such as Resolution 1706 (2006) on the situation in Darfur.⁷ Many more resolutions have referred to elements of the framework such as the primary responsibility of the State to protect its people without, however, mentioning R2P specifically.⁸

Article 4(h) and R2P have been agreed upon in principle but have also shown a lack of clarity in implementation, irrespective of the annual reports which, for R2P at least, have been issued to that extent by the UN Secretary-General ever since 2009.⁹

At the AU, for example, implementation of Article 4(h) failed to materialize when the Assembly of Heads of State, in January 2016, declined to invoke its ultimate right to send an intervention force into Burundi in the wake of grave atrocities,¹⁰ even after the AU Peace and Security Council (AUPSC) had – for the first time since the establishment of the Union – called upon to do so.¹¹ And at the UN, R2P came under severe criticism when the Security Council, in March 2011, authorized the international

---

community – for the first time since the World Summit of 2005 – to take collective action and use all necessary means to protect the people of Libya against atrocities.\(^\text{12}\) Around the same time, the UN Security Council also authorized the UN peacekeeping mission in Côte d’Ivoire, UNOCI, to use all necessary means to protect the Ivoirian population.\(^\text{13}\) The implementation of both resolutions, in Libya by the North Atlantic Treaty Organization (NATO) and in Côte d’Ivoire by a UN peacekeeping mission under French leadership, came under serious attack, especially from South Africa, a country which, in principle, champions the philosophy behind R2P, but which struggles to operationalize it.\(^\text{14}\) Libya, in particular, became a defining moment for South Africa to highlight a number of contentious issues about the implementation of R2P such as the use of force, the possibility of regime change and the need for better cooperation between the UN and the AU in African crisis situations. It is within this line of thought that South Africa’s President Jacob Zuma expressed the opinion that a questionable implementation of R2P in Libya has to a large extent contributed to the influx of refugees into Europe.\(^\text{15}\)

1. R2P, a work in progress: the role of IBSA

Heads of State and Government made it clear at the World Summit that R2P is a work in progress when they specified in paragraph 139 of the Outcome document that the UN General Assembly needed to give continuous attention to R2P, bearing in mind the principles of the UN Charter and the provisions of international law. They repeated this requirement specifically in the abovementioned UN General Assembly resolution A/60/1, formalizing the World Summit Outcome document. They, furthermore, confirmed it in 2009 in a UN General Assembly resolution acknowledging the report of the UN Secretary-General on the implementation of R2P.\(^\text{16}\)

\(^\text{14}\) Christopher Landsberg, “Pax South Africana and the Responsibility to Protect”, *Global Responsibility to Protect* 2 (2010), No.4: 436–457.
In this report on implementation, the Secretary-General mainly gave a three-pillared structure to the framework of R2P: Pillar I, the acknowledgment by every State of a responsibility to protect its people; Pillar II, a responsibility for the international community to assist States in honoring that commitment; and Pillar III – the reaction pillar – the responsibility for the international community, when a State manifestly fails to protect its people, to take collective action, through the Security Council, either with peaceful coercive measures under Chapters VI and VIII of the Charter or, as a last resort, through the use of force under Chapter VII of the Charter.

The Secretary-General, however, also emphasized that R2P is a work in progress when he invited all stakeholders to give doctrinal, policy, and institutional life to R2P\textsuperscript{17}, and when he explained that the best way to avoid abuse of the system is to develop a UN strategy of standards, processes, tools and practices.\textsuperscript{18}

According to Sandy Africa and Rentia Pretorius, if R2P is to succeed as a normative framework, then it must be based on shared understandings and expectations, it must impose predictability, coordinate behavior and produce decisions; a framework of compatible, reasonable, predictable, transparent and legally binding norms.\textsuperscript{19}

Emerging powers such as India, Brazil and South Africa, the IBSA-countries, major new actors on the international scene, all three with political leverage, a solid democratic foundation and a commitment to multilateralism, all three candidates for a permanent seat on a reformed UN Security Council, have a role to play in the development of R2P. South Africa in particular is in a position to show leadership in this respect, given its history of liberation, the humane foundation of its foreign policy, its focus on the African continent, its ambition to reform the international order and its wide international involvement through, for example, the AU, the G20, the Non-Aligned Movement, the G77, IBSA and BRICS. According to Faith Mabera and Tim Dunne, South Africa as a regional hegemon has positioned itself as a key global player and an African leader with an opportunity to advance or to slow down the development of R2P in Africa.

\textsuperscript{17} Ban, “Implementing the responsibility to protect”, para.2.
\textsuperscript{18} Ban, “Implementing the responsibility to protect”, Summary.
and in other multilateral settings, for example, according to Anthoni van Nieuwkerk, through the soft power of its African peace diplomacy. Van Nieuwkerk, however, also warns that the South African hegemon is “hesitant” because of inexperience, capacity constraints and policy incoherence or lack of strategic intent.

According to Naomi Kikoler, the IBSA-countries may be unlikely candidates to play that leading role; South Africa having problems with the implementation of R2P, Brazil being sensitive about sovereignty and non-intervention and India even challenging the very existence of R2P. They could, however, make a contribution if they follow a niche strategy focusing on structural prevention, led by South Africa, the only IBSA country comfortable enough with the broader enterprise, not only of R2P but also of Article 4(h).

South Africa’s position on the issue of the protection of civilians against atrocities may be overshadowed at times by criticism of its negative vote on resolutions condemning the human rights situation in countries such as Zimbabwe and Myanmar or its defensive attitude in general with respect to human rights issues in the Global South while sitting on the UN Security Council in 2007/2008 and 2011/2012 and on the UN Human Rights Council between 2006 and 2010 and again, since 2013. Former Deputy Minister of International Relations and Cooperation Ebrahim Ebrahim clarifies in this respect that human rights are essential for the development and prosperity of any nation, but that South Africa rejects double standards in human rights, political expediency, à-la-carte humanitarianism and the manipulation of human rights for political agendas. This was also clearly explained

25 Ebrahim Ebrahim, “Budget Vote Speech of the Deputy Minister of International Relations and Cooperation to the Portfolio Committee on International Relations
in South Africa’s interventions on Myanmar and Zimbabwe at the UN Security Council, placing emphasis on negotiated solutions and inclusive dialogue\textsuperscript{26} and preferring African solutions to African problems.\textsuperscript{27}

Seldom, however, mention is made of South Africa’s generally constructive contribution in Security Council debates, be it on the issue of the protection of civilians in general, on peace and security in Africa or on post-conflict reconstruction. Equally, little mention is made of South Africa’s support for country-specific UN Security Council resolutions authorizing for example the UN peacekeeping mission UNMISS in Sudan to use all necessary means to protect the population\textsuperscript{28} or reminding the authorities in Mali or the Central African Republic of their primary responsibility to protect civilians.\textsuperscript{29}

This essay, therefore, will not go into South Africa’s controversial international human rights agenda, but will rather focus on the building blocks in South Africa’s diplomatic history and in its foreign policy. It will also deal with its involvement in peace missions on the African continent and with its participation in UN debates on African issues. The purpose of this essay is to highlight South Africa’s potential to give doctrinal, policy, and institutional guidance to R2P\textsuperscript{30} or to lead a reflection on the protection of civilians against atrocities, be it at the UN through R2P or at the AU through Article 4(h) of the AU Constitutive Act. Given South Africa’s dominant role in Africa, this essay will mainly refer to conflict situations on this continent.


2. The building blocks of R2P embedded in South Africa’s foreign policy

Several building blocks contextualize South Africa’s approach to R2P, namely a solid constitutional foundation, human well-being as the cornerstone of foreign policy, a preference for multilateralism and an approach to conflict resolution consisting of quiet diplomacy, political accountability, prevention of conflict, dialogue and all-inclusive negotiations rather than the use of force.

2.1 South Africa, a solid democracy

South Africa has a progressive Constitution including a Bill of Rights. The country is a vibrant democracy with an independent and assertive judiciary, with inquisitive media and a strong civil society. Economic, social and cultural rights, including the right to development, are protected on par with civil and political rights. South Africa is a solid democracy but it is also a society in growth, facing many challenges such as xenophobia, racism, violence, crime etc., some of which still relate to its past of discrimination and apartheid. These challenges have been regularly pointed out, nationally and internationally, by the African Peer Review Mechanism, by Human Rights Watch and in UN-reports, and they are looked into by the institutions and the processes available in a democratic society.

A good example of this working democracy is the judgment of the Constitutional Court of March 31, 2016, in which the Court clarified the binding character of reports of the Public Protector and in which the Court found that the conduct of the President of the Republic and of the National Assembly was inconsistent with their constitutional obligations in the way they handled the Public Protector’s report on public money spent on upgrades to the President’s private homestead. A second example is the judgment of the Supreme Court of Appeal of 15 March 2016 in a case opposing South

33 Constitutional Court of South Africa, “Judgment in the Case Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others”, March 31, 2016, accessed April 26,
Africa’s Minister of Justice to the civil society organization Southern Africa Litigation Centre, in which the Court found the South African Government in breach of the Rome Statute and in breach of South Africa’s Implementation Act adopting the Statute into national law, for failure to detain Sudanese President Omar al-Bashir pursuant to a warrant for his arrest by the International Criminal Court (ICC) when he visited South Africa in June 2015 for an AU-Summit.

Courts continued to play their role in this regard when the High Court of South Africa, Gauteng Division, on February 22, 2017, in an application by the opposition political party Democratic Alliance, ordered the Government to revoke its notice of withdrawal from the ICC, which it had sent to the UN Secretary General on October 16, 2016. The High Court did so, not for reasons of substance, namely questioning the Government’s motifs for withdrawal, but on procedural grounds, namely that the Government had not sought prior approval from Parliament before withdrawing from an international treaty, to wit the Rome Statute of the ICC.

2.2 Foundation of foreign policy

Human rights have been the cornerstone of South Africa’s foreign policy ever since the country’s transition into democracy in 1994. Its diplomacy has been a frontrunner in protecting people against atrocities, particularly in Africa, even before the issue of protection was translated into Article 4(h) of the AU Constitutive Act or into paragraphs 138 and 139 of the UN World Summit Outcome document.

In 1993, Nelson Mandela famously laid the foundation of South Africa’s foreign policy as follows: “The anti-apartheid campaign was the most important human rights crusade after World War II. Its success is proof of


the openness of our common humanity...this passion should not be lost. Consequently, South Africa will not be indifferent to the rights of others. Human rights will be the guiding light of our foreign policy”.36

The human factor is also dominant in the first document on foreign policy, released by South Africa’s ruling party, the African National Congress (hereinafter referred to as ANC), in December 1994, based on tenets such as a belief in, and a preoccupation with, human rights, political, economic, social and environmental rights, a belief in democracy, a belief in justice and international law and a belief in the peaceful resolution of conflict. The ANC emphasized that human rights would be defended even if this would affect South Africa’s interests negatively, arguing that the country’s security depended on the human dimension. As a consequence of its struggle against apartheid, South Africa intended to play a central role in a worldwide human rights campaign, especially to improve the life of all African people.37

During his five years in office, President Nelson Mandela defined several building blocks of South Africa’s foreign policy. He reiterated his strong commitment to human rights when he demanded sanctions against Nigeria at a Commonwealth Summit in 1995.38 He laid down the building block of sovereignty as a responsibility and the right to intervene in atrocities39 when he declared in 1998 at the Summit of Heads of State and Government of the former Organization of African Unity, now the AU, in Ouagadougou, that “the concept of national sovereignty cannot be abused to deny the rest of the Continent the right and duty to intervene when, behind those sovereign boundaries, people are being slaughtered to protect tyranny”.40 And, finally, he laid the foundation for South Africa’s diplomacy of conflict prevention and mediation when, in 1997, he unilaterally embarked on

38 Christopher Landsberg, The Quiet Diplomacy of Liberation (Johannesburg: Jacana, 2004), 177.
Jan Mutton

a mission to settle the conflict in Zaire, now the Democratic Republic of Congo (DRC), peacefully. He had to endure criticism for outspokenness and there was inconsistency in his policy, especially when, in 1998, South Africa intervened with force in the wake of a coup in neighboring Lesotho, but the basis for a humane foreign policy had been laid.

Twenty years into the new South Africa, foreign policy has been adjusted: less emphasis on values and vision and more on interests. Nahla Valji and Dire Tladi call it walking the tightrope between the expectations upon the country as a human rights leader and the inevitability of realpolitik, the desire to play a leading role in Africa, within an ever changing global political architecture. Nevertheless, according to Deputy Minister of International Relations and Cooperation Luwellyn Landers, South Africa’s foreign policy remains guided by the same foundations laid down by Nelson Mandela, namely a commitment to a humane, just, democratic, free and equitable world: the “diplomacy of Ubuntu”.

2.3 A humane foreign policy

Human well-being as a national interest is well expressed in South Africa’s White Paper on Foreign Policy, called “Building a Better World: the Diplomacy of Ubuntu”, based on the African philosophy of Ubuntu or “humanity”, a foreign policy approach based on dignity, equality, freedom and common humanity. It was this same image of common humanity that was used by Nelson Mandela in 1993 and later, in the wake of the Rwandan genocide, by then UN Secretary-General Kofi Annan who, in his address to the UN General Assembly in 1999 and especially in his Millennium


Report, encouraged a rethinking of humanitarian intervention, which ultimately led to R2P with the words “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 affect every precept of our common humanity?”

Not only the White Paper but also other policy documents such as the National Development Plan’s Medium Term Strategic Framework state that South Africa’s national interest is people-centered, promoting well-being, developing and uplifting people, protecting the planet for future generations and ensuring the prosperity of the country, the region and the continent. According to these policy documents, South Africa’s national interest is linked to Africa’s stability, unity and prosperity. Creating a better South Africa and contributing to a better and safer Africa in a better world enables the country to be a good international citizen. The values which inspire this policy are rooted in the long years of struggle for liberation. In pursuing the national interest, decisions are informed by a desire for a just, humane and equitable world. National security depends on the centrality of human security as a universal goal, based on the “principle of Batho Pele”, namely putting people first.

South Africa stands for a soft foreign policy, based on inclusive processes, dialogue and reconciliation and addressing the root causes of conflict, claiming that the limitations of hard power have become obvious and regretting that the increased use of military force under “the cover of humanitarian intervention and the ‘responsibility to protect’” makes, for example, a rethinking of the principles of state sovereignty and non-interference more difficult.

South Africa’s foreign policy constantly faces the dilemma of being a worldwide advocate of African interests and, at times, being perceived by that same Africa as a dominant power, not always fully trusted by its African peers, suspected of promoting its national economic interests, too often pursuing its own goals without consultation and, maybe not as powerful as generally believed to be, taking into account its financial and material constraints to conduct peace operations to the full and its shortcomings in addressing domestic problems.52

2.4 A vision for Africa

Nelson Mandela’s successor President Thabo Mbeki gave structure and vision to South Africa’s foreign policy, driven by Pan-Africanism and aiming at an “African Renaissance” and a “Pax South Africana”, the renewal of Africa, a framework through which South Africa can empower the continent to act for itself53 and to mobilize the people of Africa to take their destiny into their own hands.54 According to Mbeki, the “African Renaissance” means a new African world of democracy, peace and stability, sustainable development and a just and democratic system of international governance.55 The ANC, furthermore, in its second document on foreign policy in 1997 laid the basis for the inclusiveness that would become the hallmark of South Africa’s foreign policy, recognizing the diversity in views on human rights depending on cultural background and level of development

and upholding relations with all countries without sacrificing, however, the principles of human rights, democracy and justice.\textsuperscript{56}

Because of its history as a freedom movement and its successful transition from authoritarian rule and apartheid into a non-racial democracy, South Africa always had a vision and a mission to share. South Africa came away from its first peace brokering in Zaire in 1997 inspired to empower Africa to act for itself and in its own interest\textsuperscript{57} without influence from outside powers: the rebirth and the renewal of the continent\textsuperscript{58} based on revised tenets of sovereignty,\textsuperscript{59} on political accountability and responsibility for the resolution of conflicts,\textsuperscript{60} a call to rebellion against tyrants and dictators.\textsuperscript{61} The desire to contribute to Africa’s stabilization and recovery had become a key-driver in South Africa’s foreign policy,\textsuperscript{62} the inspiration behind the establishment of the AU and NEPAD, the New Partnership for Africa’s Development. NEPAD was seen as an important process, suited to implement the objectives of the African Renaissance, a pledge of African leaders to co-operate and to be accountable to one another and to the people, based on good economic governance and democracy.\textsuperscript{63}

With this vision of foreign policy, and frustrated by the lack of response from the international community to African crises, South Africa prompted like-minded African States, when establishing the AU, to lay down a new framework for intervention through Article 4(h) into its Constitutive Act,\textsuperscript{64} introducing a new outlook on sovereignty and shifting the emphasis from non-interference to non-indifference.

\textsuperscript{56} ANC, “Strategic Perspective”.
\textsuperscript{57} ANC, “Strategic Perspective”.
\textsuperscript{59} Landsberg, “Pax South Africana”, 439.
\textsuperscript{62} van Nieuwkerk, “African Peace and Security Architecture.”
\textsuperscript{63} Mbeki, “Africa in the 21st Century”, 90.
Jan Mutton

In support of Article 4(h), South Africa was also the driving force behind the establishment of the AUPSC, the African Standby Force (ASF) and, in 2013, it took the initiative of the African Capacity for Immediate Response to Crises (ACIRC), an interim solution while awaiting the establishment of the ASF.65

The AU has since 2015 responded to crises and has deployed thousands of peacekeepers in different conflict situations around the continent, for example in Somalia, in Nigeria against Boko Haram, in the Central African Republic and in South Sudan. On these occasions it has opted for ad-hoc operations because both the ASF and ACIRC suffer from problems of political trust, financial and logistical support and troop contributions.

With respect to the judiciary and accountability for crimes on the continent, a Court of Human and Peoples’ Rights is operational since 2006. An initiative taken in 2008 to replace it with a new African Court of Justice and Human Rights still lacks the necessary ratifications, including from South Africa, while the Malabo Protocol of 2014, which would add a criminal chamber to this Court and would turn it into a more acceptable replacement of the ICC in Africa, has so far not received any ratification. The South African Government has indicated that it will ratify the Malabo Protocol after a critical review of certain issues such as, for example, a proper definition of the crimes concerned and the immunity of state officials.66

The present African Court on Human and Peoples’ Rights has, however, shown some degree of impact for African citizens. In the Libya-case, for example, it indicated its willingness to issue binding rulings on a State by ordering on 25 March 2011, in a case introduced by three NGO’s, provisional measures against Libya, requiring that country to end all acts that might violate the right to life and physical integrity. The Court concluded that the seriousness of the violations amounted to atrocities and it acted accordingly.67 However, the AU did not take into account, for political reasons, the Court’s ruling during the Libya-crisis, but a precedent had been created.

67 Jan Mutton, “Article 4(h) and the citizen’s right to be protected”, in Africa and the Responsibility to Protect, ed. Dan Kuwali and Frans Viljoen, (London: Routledge, 2014), 104–105. See, with respect to the Libya case, African Court on Human
2.5 Multilateralism

South Africa strongly believes in multilateralism, consultation and common positions; it is a strong African and Global South player and its stance on human rights at times is compromised, so that the country is able to formulate a common African position. According to the White Paper on Foreign Policy, unilateralism is for South Africa no option as many challenges in the world such as human rights, human security and development can best be addressed multilaterally. Within this context South Africa has become a strong defender of reform of the global order, advocating a rules-based system of governance, a stronger voice for Africa in international affairs and a broader permanent representation on the UN Security Council. South Africa has become very sensitive about the input of Africa in world affairs, especially about respect for the AU view whenever African peace and security issues are discussed at the UN Security Council.

2.6 Peace Operations

South Africa’s strong belief in African renewal is reflected in a long-term commitment to peace operations on the continent, with an outspoken preference for preventive diplomacy and all-inclusive negotiations. Military intervention and regime change are considered to be counterproductive and to exacerbate conflict. Over the years, the country has been involved in peace processes, bilaterally and multilaterally, as part of AU or UN peacekeeping missions, in the Democratic Republic of Congo (DRC), Burundi, Sudan, South Sudan, Côte d’Ivoire etc. Some initiatives have been successful, while others, such as the intervention in Lesotho in 1999 or in the Central African Republic in 2013, have come under criticism. Deputy President Cyril Ramaphosa is still South Africa’s special envoy in mediation efforts.

---

68 Department of International Relations and Cooperation, “White Paper”, 24–26
in Lesotho and South Sudan while former President Thabo Mbeki continues to head the AU High Level Implementation Panel on Sudan.

South Africa’s bilateral initiatives in the DRC and Burundi in particular have been a prime example of the country’s peace-building approach: mediation, peace negotiations, a peace agreement, institution and capacity building, international advocacy and post-conflict reconstruction.

South Africa’s involvement in the DRC, in 1997, started to find a solution to the civil war. It developed over the years, particularly after the Congo wars, into facilitation efforts to bring all parties to negotiations, the signing of a peace agreement, capacity building and reconstruction efforts, especially in the security sector and in public administration, technical arrangements for elections, participation in the UN peacekeeping operations, first MONUC and later MONUSCO.\textsuperscript{70} South Africa’s commitment to the DRC took an innovative form in peacekeeping when it agreed to participate, as it continues to do nowadays, in MONUSCO’s Force Intervention Brigade to secure peace and stability in the Eastern DRC.\textsuperscript{71}

A second initiative was taken in Burundi in 1999 when Nelson Mandela accepted to lead the Burundi peace negotiations, going through a similar process of negotiations, the signing of a peace accord, bringing factions into an all-inclusive agreement and the deployment of security forces, first bilaterally and later as part of an AU mission.

Burundi remains, however, in turmoil, with serious violations of human rights and atrocities being committed around the country almost on a continuous basis. The difficulty of knowing when and how to take up a responsibility to protect, a decision with heavy political implications, became clear when the AU Assembly of Heads of State and Government, in January 2016, declined to use its prerogative under Article 4(h) of the Constitutive Act and deploy an ASF intervention force following Burundi’s refusal to accept such a force which had been authorized by the AUPSC.\textsuperscript{72}


\textsuperscript{72} AUPSC, “Communique of the 565th session on Burundi”.

164
The Assembly decided to increase political pressure and send military and human rights advisors instead.\textsuperscript{73}

Although the AU has intervened in several crises around the continent since its establishment in 2000, this was the first time that the AUPSC advised the Assembly to intervene under Article 4(h). It has been argued that the decision of the AUPSC to send a force had been ill-conceived, not taking political reality into account and disregarding the sheer impossibility to put an ASF mission together at relatively short notice. South Africa, as chair of the AU Assembly at the time, acted in line with its long-standing aversion to the use force, particularly when there is no consent from the Government concerned, and confirmed its position regarding the application of R2P in Libya.

The AU’s decision of January 2016 to send military advisors and human rights observers instead of military action has equally met with obstruction from the Burundi government. This stalemate led the UN Security Council in November 2016 to adopt a resolution which threatens with sanctions to allow observers into Burundi and which foresees the deployment of police officers to monitor security and human rights.\textsuperscript{74}

3. R2P and Africa

Africans have played key roles in conceptualizing the norm of R2P, and the African continent should, therefore, not just offer an arena for, but indeed take the lead in the conceptual journey of R2P’s doctrinal development.\textsuperscript{75}

The key-role that Africa has played has been recognized by the UN Secretary-General in his 2009 Report on the Implementation of R2P.\textsuperscript{76} Even before R2P came onto the World Summit’s agenda in 2005, a new wind with respect to sovereign responsibility, accountability and non-indifference had blown from Africa. African thinkers such as Francis Deng and Kofi Annan had already been proposing new ideas on human security, intervention and sovereignty as a responsibility,\textsuperscript{77} and South Africa’s African Renaissance

\textsuperscript{73} AU Assembly, “Communique of the 26\textsuperscript{th} Ordinary Session”.
\textsuperscript{76} Ban, “Implementing the Responsibility to Protect”, 6.
\textsuperscript{77} Bizos, “To Protect or to Intervene”, 5.
policy under Thabo Mbeki had been a prime mover in that respect. This was well summarized by Mbeki in 2003 when, in line with Nelson Mandela, he reminded that independence should not turn African countries into spectators when crimes against the people are being committed. It was within this spirit that Cyril Ramaphosa, now South Africa’s Deputy-President, joined the 2001 International Commission on Intervention and State Sovereignty (ICISS), which laid the foundation for R2P. South Africa’s vision to promote non-indifference instead of non-intervention into the AU peace and security architecture positioned the country well as a leading African voice when, together with countries such as Rwanda, Tanzania, Mauritius and Botswana, R2P was introduced at the UN.

Africa’s initiative to codify the right to intervene under Article 4(h) of the AU Constitutive Act was a radical departure from the principles of state sovereignty and non-intervention, the very cornerstones of the erstwhile OAU. Article 4(h) as precursor of R2P greatly facilitated its acceptance at the World Summit. Where R2P is basically a political commitment, Africa had already enshrined the responsibility to protect in a legal document, a rules-based approach to African governance.

Furthermore, early in 2005, the AU formulated a common African position, called the “Ezulwini Consensus”, in response to the report by the UN Secretary-General’s High-level Panel on Threats, Challenges and Change

82 Kikoler, “IBSA and Article 4(h)”, 329.
83 Landsberg, “Pax South Africana”, 442.
of 2004. In this document, the AU endorsed the principle of responsibility to protect, namely the obligation of States to protect their citizens, with the caveat, however, that this should not prejudice their sovereignty, independence and territorial integrity. The Consensus also defined a prime responsibility of the international community to protect, not to be diminished by limitations on the use of force which could be imposed by the UN Security Council in such an event. This Consensus is not only a recognition of the responsibility to protect; it is also a statement about the UN system as the Ezulwini Consensus concluded that regional organizations, such as the AU, are best placed to handle regional conflicts. These organizations should be empowered to take action in this regard, preferably with UN funding and with UN approval, even if with retroactive effect. A preference for the AU to react to atrocities in Africa and a better synergy with the UN in this respect will be an ever-recurring issue in South-Africa’s interpretation of R2P. This emphasis on synergy was formalized by the AU Assembly of Heads of State and Government at their Summit in 2007 when they examined funding by the UN of AU peacekeeping operations as a follow-up to the 2005 World Summit, “calling for a further strengthening of the partnership with regional organizations, in particular the AU”.

87 African Union Assembly, “Decisions and Declarations of the Eighth Ordinary Session”.
4. South Africa’s understanding of R2P

4.1 In general

South Africa defined its position on R2P during the 2005 UN Security Council debate on the protection of civilians in armed conflict, basically subscribing to Pillars I and II, namely the commitment of every State to protect and the responsibility of the international community to assist States in doing so, adding that R2P remained a work in progress to be reconsidered regularly by the UN General Assembly. This position is a reflection of the main threads underpinning South Africa’s foreign policy, namely good governance, accountability and sovereignty as a responsibility, conflict prevention, mediation, capacity building and quiet diplomacy, preference for political processes over the use of force etc. It is, however, more problematic for South Africa to find itself in Pillar III, particularly when the means which are used include the use of force, either by the international community at large, such as in Libya, or by a UN peacekeeping mission dominated by one country, such as the case in Côte d’Ivoire, especially when such use of force results in military intervention and regime change.

Over time, South Africa widened its reading of R2P by placing, apart from States, also a responsibility to protect on armed opposition groups and by moving from Pillar II into Pillar III, away from mere preventative actions towards corrective measures such as accountability for atrocities and the possibility of sanctions. Failure to protect, according to South Africa, by both States and armed opposition groups should not remain unpunished. Accountability must first be sought at national level, and, if not possible, then the international community has the collective responsibility to act, using mechanisms at its disposal such as independent fact finding missions, commissions of inquiry, detailed reports on atrocities by the UN Secretary-General, the strengthening of national judiciaries, encouraging States to sign and ratify the Rome Statute and even going as far as advising to refer situations of atrocities to the ICC. South Africa cautions, however, that any response from the international community under Pillar III must be in conformity with international law, the UN Charter and the AU
Constitutive Act,\textsuperscript{91} and should not be abused to further objectives that fall outside the "\textit{noble and moral endeavor}" of R2P.\textsuperscript{92} Interesting to note how South Africa places the AU Constitutive Act on equal footing with the UN Charter.

Despite this constructive thinking, it still seems difficult for South Africa to dissociate R2P from humanitarian intervention. This even emerges from official documents such as DIRCO’s Annual Performance Plan (2015–2016). In this document, the Department, with reference to the disruptive nature of intra-State conflicts on development, observes that it is difficult to find a consensus on suitable solutions which might infringe on the sovereignty of the State involved, because of the growing number of cases of unilateral use of force under cover of humanitarian intervention and R2P.\textsuperscript{93}

\section*{4.2 Recurring Issues}

All through South Africa’s interventions in the UN Security Council regarding the protection of civilians in general and R2P in particular, a number of issues recur which indicate what is important for South Africa in R2P and which coincide with the main threads in South Africa’s foreign policy.

Probably the most important issue for South Africa with respect to R2P is a better synergy between the UN and the AU, even suggesting that the AU should be given preference to handle African crises whenever R2P is invoked.\textsuperscript{94} In South Africa’s view, the AU, because of its proximity and understanding of the root causes of crises in Africa, is better prepared and equipped than the UN to implement an R2P operation; the AU should be funded by the UN to do so because of the universal significance of the Union’s efforts and should, in line with the Ezulwini Consensus, only need retroactive approval from the UN Security Council whenever force is used.

\begin{itemize}
\item \textsuperscript{91} United Nations Security Council, UN Doc. S/PV.7019, August 19, 2013, 68f.
\item \textsuperscript{92} United Nations Security Council, UN Doc. S/PV 6650, 22.
\item \textsuperscript{93} Department of International Relations and Cooperation, “Annual Performance Plan 2015–2016”, 14.
\end{itemize}
The cooperation between the UN and the AU was discussed in at least two full Security Council sessions during South Africa’s tenures, one in 2008, addressed by President Mbeki, and one in 2012, addressed by President Zuma. This last session resulted in the adoption of Resolution 2033 (2012) regarding a more effective relationship between the AU and the UN.95 The lack of recognition by the UN of the AU’s efforts in Libya was probably the main reason for South Africa’s criticism of R2P ever since.

Equally important for South Africa is the element of prevention of conflict in the protection of civilians agenda, the very objective for which the UN was established. Prevention of conflict figures predominantly in South Africa’s African agenda and it was presented as the main objective of R2P by the ICISS. Special attention must be given not only to the symptoms of a conflict but also to its political, socio-economic, cultural, environmental, institutional and structural causes. Of crucial importance to South Africa is institution and capacity building because the collapse of state structures is often the root cause of atrocities. Therefore, special emphasis in this respect is placed not only on security sector reform (SSR), the reform of security forces but also the demobilization and reintegration of rebel forces as a prerequisite for stability.96 Several debates on these issues have been organized in the Security Council by South Africa during its tenure of 2007 and 2008.97

A third issue is the nexus between conflict and development. This reflects South Africa’s view that economic and social rights, including the right to development, must be treated on par with civil and political rights; it is in line with South Africa’s policy of African Renaissance and its efforts

---

behind NEPAD. This approach often informs South Africa’s criticism of emphasis on political and civil rights while neglecting socio-economic rights. It is against such background that South Africa strongly supports the UN Peacebuilding Commission as an essential part of a peace process and, therefore, also as part of an R2P operation.

A last issue is South Africa’s emphasis on the inclusion of a protection mandate in UN peacekeeping operations, in consultation with the host Government and in synergy with regional organizations. Examples are UNMISS in Sudan, UNOCI in Côte d’Ivoire and MONUC, succeeded by MONUSCO, in the DRC. As a strong supporter of UN peace operations, South Africa joined MONUSCO’s Force Intervention Brigade in 2013 to secure peace and stability in the Eastern DRC, an Africa-centered response to peace and security challenges, considered by South Africa as an example of how peacekeepers, even though they in principle only support political processes, could be allowed to resort to force to protect civilians when non-forceful measures fail. Such a flexible interpretation of the principles of UN-peacekeeping could benefit from regional arrangements under Chapter VIII such as in Somalia and Darfur.

4.3 R2P and accountability

As South Africa’s vision of R2P widened from mere prevention to include measures regarding impunity and accountability, reference was regularly made to the need to strengthen national institutions where accountability must first be sought. Similar to the wording of R2P, South Africa states that it is the sovereign responsibility of States to determine the judicial mechanisms to assure accountability. Failing this, the international community has the collective responsibility to act, in adherence to international law


and in accordance with the UN Charter, as prescribed in the 2005 World Summit Outcome Document and the Constitutive Act of the AU.101

South Africa, within this context, regularly emphasized in the Security Council the important role of the ICC, calling the Court a dispenser of justice,102 and of other international tribunals, such as those on Rwanda and Yugoslavia.103 It was, at that time, in Pretoria’s view that States needed to be encouraged to sign and ratify the Statute of Rome and that cases needed to be referred to the ICC104 as a coercive measure within the context of R2P. It is within this spirit that South Africa sponsored, for example, UN Security Council Resolution 1970 (2011) which referred the situation in Libya to the ICC.

South Africa is, however, adamant that all atrocities in a conflict should be investigated. With respect to Libya for example, not only violations committed by Government forces but also those committed by internal factions and by NATO need to be prosecuted.105 The ICC subsequently declared to do so. Those who have abused the authorization given by the Security Council to intervene in atrocities, as in Resolution 1973, must be held accountable. If not, in South Africa’s view, the UN Security Council will be undermined and will lose all credibility and respect.106

South Africa’s interpretation of R2P to include the ICC as a peaceful measure under Pillar III to enforce protection against atrocities, still maintained in 2012, stands in stark contrast to its recent rejection of the ICC, a position which is officially motivated by a perceived bias against Africa. This sentiment reached an all-time high with the indictment of the sitting presidents of Sudan and Kenya. In its 2015 document on foreign policy, the ANC reiterates its condemnation of violations of human rights but adds that South Africa can no longer support a Court which is biased. The ANC favors strengthening national jurisdictions during peace processes and rather works on the establishment of an African Court of Justice and Human Rights.107 The South African Government joined this sentiment when it most famously refused,

in 2015, to implement an ICC warrant for the arrest of Sudan’s President al-Bashir. Most cases before the ICC do, indeed, concern Africans. South Africa’s perception of ICC bias does not recognize, however, that those cases have either been referred to the Court by African governments, mainly against rebel leaders, or are the result of interventions by African civil society. Africa’s and South Africa’s concern mainly arose as soon as investigations moved away from rebellion and started to affect the seats of power.

As a result, South Africa signed on October 19, 2016 the instrument of withdrawal from the Rome Statute, invoking incompatibility between South Africa’s obligations with respect to peaceful resolution of conflict on the continent and the interpretation held by the ICC but not mentioning the deeper issues of diplomatic immunity and inviolability of Heads of State. Meanwhile, this process has halted by the Gauteng Division of the High Court of South Africa ordering the Government, on February 22, 2017, to revoke its notice of withdrawal to the UN Secretary-General for failure to seek prior parliamentary approval in the event of withdrawal from an international treaty.108

The question meanwhile remains whether or not South Africa will counterbalance its uneasiness with the ICC with a campaign to hasten the establishment of the African Court of Justice and Human Rights and ratify the Malabo Protocol, thereby extending the jurisdiction of this Court with a criminal chamber and ensuring accountability for violations of human rights and atrocities on the continent.

4.4 Resolution 1973 – Libya

Resolution 1973 became a defining moment in shaping South Africa’s position on R2P, turning South Africa into an R2P-sceptic,109 as this resolution uncovered a number of elements in the implementation of R2P which South Africa could not identify with, namely the abuse of mandates for political agendas, the use of force and regime change as well as the sidelining of regional organizations such as the AU in the process.


109 Mabera and Dunne, “South Africa and the Responsibility to Protect”. 
Breaking ranks with African, IBSA and BRICS partners on the UN Security Council, South Africa voted in favor of Resolution 1973 at a time when the AU was ready to present a political road map for Libya. South Africa decided to do so because the Libyan authorities had defied the UN’s earlier call to stop acts of violence against civilians under Resolution 1970, which had been co-sponsored by South Africa and which had been supported by the two other IBSA-countries, Brazil and India. Since Resolution 1970 did not succeed in ending the violence, South Africa supported Resolution 1973, mainly in view of reaching a political solution, more or less in line with the roadmap of the AU. In its explanation of vote in favor of Resolution 1973, South Africa explained that it considered this resolution the only way out to prevent further atrocities, but warned against violating Libya’s unity, sovereignty and territorial integrity, foreign occupation and military intervention under the pretext of protecting civilians.110

South Africa later condemned the NATO interpretation of intervention under Resolution 1973111 because, in South Africa’s view, it brought no solution to the conflict, only destruction of infrastructure and even more civilian casualties. South Africa preferred a political over a military solution, in line with the AU roadmap. Resolution 1973, according to South Africa, should have allowed the parties in the conflict to negotiate their own future without regime change and without targeting specific individuals. The AU roadmap should have had a role to play112 in arriving at a framework agreement and an inclusive political dialogue.113 South Africa grew similarly critical of the implementation of Resolution 1975 in Côte d’Ivoire, accusing France of dominating the mandate of UNOCI and aiming at regime change.

Resolutions 1973 and 1975 had noble intentions, according to South Africa, but their implementation, which advanced political agendas, went beyond the letter and the spirit of the mandate to protect civilians. More emphasis should be placed on addressing the root causes of a crisis, namely on rule of law reforms, democratization and demobilization of rebel forces, post-conflict reconstruction and development.114 South Africa is of the opinion that abusing the authorization granted by the Council does not bode well for future protection of civilians; it could lead to a permanent state of paralysis within the

Council and could undermine the Council’s credibility when addressing the protection of civilians in the future.\textsuperscript{115} It is this same reasoning which brings the Department of International Relations and Cooperation, in its abovementioned Performance Plan, to assimilate R2P with humanitarian intervention.

4.5 A South African summary of R2P

South Africa’s position on R2P, from support to criticism, has been summarized by President Jacob Zuma in his address to the UN General Assembly in September 2015, celebrating the tenth anniversary of the World Summit of 2005.

The President defined R2P as a membership-driven norm and called it a major achievement in UN reform since the World Summit of 2005. He emphasized the need to look into the root causes of a crisis but he also highlighted South Africa’s major concerns with R2P, based on the implementation of Resolution 1973, such as the neglect to consult with regional and sub-regional organizations when dealing with African conflicts, the abuse of an R2P mandate for political agendas and the negative consequences of military force and regime change.\textsuperscript{116}

South Africa feels that military operations jeopardize the prospect of a long-term political solution, putting the civilian population often at an even higher risk, adding atrocity upon atrocity and carrying the seeds for instability through the wider Sahel-region and even into Europe.\textsuperscript{117} The implementation of R2P in Libya shows that a political crisis cannot be addressed with regime change and the use of force,\textsuperscript{118} only through inclusive dialogue reflecting the will of the people.\textsuperscript{119}

\textsuperscript{116} Zuma, “Statement at the 70\textsuperscript{th} Session of the United Nations General Assembly”.
\textsuperscript{119} Maite Nkoana Mashabane “Budget Vote Speech by the Minister of International Relations and Cooperation to the National Assembly”, Cape Town, May 31, 2011,
Jan Mutton

South Africa’s understanding of R2P, supportive of the norm but critical of its implementation, more critical of procedure than of substance, remains constructive and should not be confused with the positions taken by some of its partners in the Global South or the BRICS. Those countries are far more critical of the R2P norm and uphold the principles of sovereignty and non-interference in the internal affairs of other States. Its adherence to the concept of an African responsibility to protect places South Africa in a different context, underpinned by the human dimension in its foreign policy.

5. Conclusion

South Africa upholds the philosophy of R2P, namely protection against atrocities, throughout its foreign policy. Several issues are fundamental in this policy: the protection of human rights, prevention of conflict through mediation and capacity building, accountability and sovereignty as a responsibility against the general background of an African Renaissance to enable Africa to secure its own future. Such issues have underpinned South Africa’s foreign policy since its transition from authoritarian rule into democracy in 1994 and they were developed all through its interventions on R2P, and the protection of civilians in general, during its two tenures as a non-permanent member of the UN Security Council. Other issues are anathema, namely regime change, the use of military force or the use of political agendas in the defence of human rights. This South African vision of foreign policy has become evident in the wake of the implementation of Resolution 1973 in Libya in 2011, when deciding on a course of action in the face of atrocities in Burundi in 2016 or during debates on human rights issues either in the UN Security Council or in the UN Human Rights Council.

This creates some confusion when trying to understand the humane dimension in South Africa’s foreign policy. It leaves the impression that South Africa does not defend human rights internationally – even obstructs human


121 Verhoeven, Murthy and Soares, “Our Identity”, 510.
South Africa’s Foreign Policy and R2P

rights causes – and that South Africa has turned into a critic of the responsibility to protect, thereby disregarding the fact that the country is a supporter of the principle of R2P, even when it disagrees with the use of force in its implementation. The strong humane dimension in South Africa’s foreign policy and its overall constructive approach to several issues related to human rights and the protection of peoples against atrocities in the UN create a sound background for the country to become a driver in a rethinking of the operationalization of R2P or Article 4(h). This also would encourage South Africa to reflect more generally on the implementation of its noble principles of foreign policy, on human rights, on accountability, on non-indifference etc. Such a reflection could concentrate, amongst other issues, on a more effective policy of conflict prevention, on a suitable early warning system, on a more robust response from the AU to crises on the continent and on an appropriate response from the UN in the face of atrocities.

According to Anthony Bizos, a public dialogue surrounding the issue of protection against atrocities is long overdue and South Africa has been too mute on the subject. On the contrary, South Africa should be enhancing the discourse, being well-placed to do so through a co-operative foreign policy involving diverse stakeholders and including civil society, convincing States that protection is not only the appropriate thing to do but that it also serves their broader interests.122

Bibliography


Still on Board? South Africa and the Responsibility to Protect

Dan Krause

Introduction

When South Africa (SA) started to re-establish its foreign policy in 1994, expectations were extremely high. Finally, the last nation in Africa to be decolonized, now ruled by a nearly hundred-year-old liberation movement, led by a global icon, entered the world stage of international politics.1 The – at the beginning – very strong normative foreign relations quickly changed towards a pragmatic and compromise-open policy.2 However, the engagement for human rights and democracy in Africa as well as notions of “Sovereignty as Responsibility” and “Human Security” were strong points in South Africa’s foreign political agenda, from Mandela to Mbeki, Motlanthe and Zuma.3

Short after the new millennium the concept4 of the “Responsibility to Protect” (R2P) was born, and the young African democracy, with its

1 Jan Mutton, interview with the author at the University of Pretoria, September 12, 2016, audio.
can Institute of South Africa, 2012), 277; Dana de la Fontaine, “Südafrikas Außenpo
litik: Ein kritischer Blick hinter den Regenbogen”, in Das politische System Südaf
frikas, eds. Dana de la Fontaine, Franziska Müller, Claudia Hofmann and Bernhard Leubolt (Wiesbaden: Springer VS, 2017), 455.
3 Abel Esterhuysse, “The South African Threat Agenda: Between Political Agen
4 In this paper R2P is understood as a concept that tries to combine, re-think and re-connect certain juridical, ethical and political norms and principles in order to prevent genocide, war crimes, ethnic cleansing and crimes against humanity. This concept – which is in an ongoing process of trying to build consensus – is also an
economic prowess, its soft power, its intracontinental influence, and its relatively well-equipped military seemed to be predestined to have an active, and maybe decisive, part.\(^5\) South Africa’s role in the transformation of the Organization of African Unity (OAU) into the African Union (AU), as well as its influence on its progressive political orientation, strengthened this impression.\(^6\) Consequently, in the forefront of the 2005 World Summit as well as during the summit, “South Africa and other Southern leaders [...] were influential in securing consensus on the R2P pillars”\(^7\).

The first criticism came between the years of 2006 and 2010 when Tshwane\(^8\) (Pretoria) was a member of several United Nations (UN) fora, such as the UN Security Council (UNSC) or the Human Rights Council (UNHRC). The criticism reflected South Africa’s voting patterns on different UN resolutions in regard to the systematic violation of human rights in Sudan, Myanmar, and Zimbabwe. But still the dominating impression was of South Africa as the most R2P orientated nation\(^9\) under the states attempt to solve and reconcile existing tensions and contradictions of international law and the United Nations Charta. See Andreas von Arnauld, “Werdende Norm oder politisches Konzept? Zur völkerrechtlichen Einordnung der Responsibility to Protect”, in Schutzverantwortung in der Debatte: Die „Responsibility to Protect“ nach dem Libyen-Dissens, eds. Michael Staack and Dan Krause (Opladen/Berlin/Toronto: Budrich, 2015), 64ff.; Edward C. Luck, “Der verantwortliche Souverän und die Schutzverantwortung: Auf dem Weg von einem Konzept zur Norm”, Vereinte Nationen 56 (2008), No. 2, 53; Faith Mabera and Yolanda Spies, “How well does R2P travel beyond the West?”, in The Oxford Handbook of the Responsibility to Protect, eds. Alex Bellamy and Tim Dunne (New York: Oxford University Press 2016), 214ff.

\(^5\) Faith Mabera and Tim Dunne, “South Africa and the Responsibility to Protect”, R2P Ideas in brief 3 (2013), No. 6, 1f.


\(^8\) Pretoria was renamed to Tshwane by a resolution of the City Council in 2005. The decision is not legally binding and both terms are used today.

of India, Brazil, and South Africa (IBSA) and R2P as a norm with strong African influence.\textsuperscript{10}

The existence of substantial differences between the West and South Africa concerning the understanding of the R2P concept and especially its implementation came to light during the second term of South Africa at the UNSC. The debate over the 2011 intervention in Libya, which had been justified with R2P language and arguments, was called by some as a “turning point” for South Africa,\textsuperscript{11} and Pretoria was regarded as an open sceptic of the R2P framework and its application.\textsuperscript{12} Did only the differences between SA and the West in perceptions of parts of R2P and its implementation come to show, or did a collection of fundamental differences regarding the concept come to light? The anti-west and anti-colonization rhetoric\textsuperscript{13} of the Zuma Administration and the convergence towards Russia and China,\textsuperscript{14} not to mention the uncritical solidarity with friendly liberation movements despite their governance performances and human rights records, likely confirms the latter.

Thus, is South Africa “still on board” of the Responsibility to Protect? Which orientation does the nation take towards the notion of R2P? Did South Africa’s ideologies change under the Zuma administration, dissolving the legacy of the Mandela and Mbeki era? The following analysis originates from an ongoing thesis project, which follows the question of the political orientation of the IBSA-States towards R2P. With the help of the analytical tool of “Foreign Policy Culture” (FPC), the parameters of the question closes in to what assumptions do these states take due to their foreign policy culture, with respect to the juridical, ethical, and political norms and principles of R2P as well as the future design of the concept. The following paper is an excerpt of results obtained hitherto.

\textsuperscript{11} Karen Smith, “R2P and the Protection of Civilians: South Africa’s Perspective on Conflict Resolution”, \textit{SAIIA Policy Briefing}, No. 133, (March 2015), 3.
\textsuperscript{14} Heinrich Matthee, “Pivoting to Russia, China and anti-Western Rhetoric: South Africa’s Foreign Policy Shifts”, \textit{ASC Infosheet} 27, 2016.
1. Which R2P?

The international discussion of the implementation of resolution 1973 on Libya evolved to a fundamental debate about each state’s position on R2P: “[…] this spectacular application of the third pillar of R2P had hardly commenced, when the debate descended into acrimony and revealed the discordant elements in the ‘consensus’ around R2P”.15 Depending on their positions and arguments in the heated debates on Libya,16 some observers divided participating states into opponents or advocates of the concept of R2P. To base such a judgment on the attitudes towards the controversial Libyan case and the arguments articulated in the even more controversial debates in the aftermath of this intervention clearly is a mistake. The siding of the Intervention-Alliance with the revolutionaries, violations of certain resolution content such as arms supply or ground troops, the primacy of a military answer, the marginalizing of the AU as well as the hunt for Colonel Gaddafi were viewed by many international players and observers as a stretch or an abuse of the given mandate.17 However, most importantly: a division in opponents and advocates of the Responsibility to Protect argues out of an assumed consensus that does neither exist for R2P in general nor for the (violent) application of it.

From the mandate of the World Summit no new international law emanated, and R2P has not become an “unambiguous and customer-based normative regime”.18 Paragraphs 138 and 139 – also known as the “R2P-lite”19 – outline the extent to which the heads of state and government were able to agree on. It represents a major reduction of the original report sponsored

---

by the International Commission on Intervention and State Sovereignty (ICISS). This decrease has left unanswered fundamental questions on the implementation, institutionalization, and operationalization of R2P. Meanwhile, the legitimacy of the criteria for the application and implementation of R2P remains open until this day.\textsuperscript{20} The debate continued on the base of the ICISS “\textit{broad approach}”, in particular through the annual reports from the UN Secretary-General on R2P, published yearly since 2009, as well as their following discussion at the UN General Assembly (UNGA). It is important to say that the understanding of what R2P means, how the concept and its components are defined, and how R2P shall be implemented and applied in the real world are not globally given. R2P stays a “\textit{work in progress}”, and 2005 is set as the beginning, not the end, of a long-drawn debate.\textsuperscript{21}

2. Who determines South Africa’s foreign policy?

A significant, but sometimes neglected question regarding SA’s foreign policy refers to the controllers themselves. Nevertheless, another eye has been over this issue in recent years.\textsuperscript{22} It is true as well for SA that, due to the ever-increasing complexity of international relations, the number of players in the foreign policy field has been rising considerably. However, the decisive role of the presidency is crystal clear.\textsuperscript{23} In addition to the far reaching executive authority given by the constitution, several other features have contributed to that: for instance, a tradition of strong presidencies, the overbearing of a de facto neutralizing majority of ruling African National

\begin{itemize}
\item \textsuperscript{20} Arnauld, “\textit{Werdende Norm}”, 56f.
\item \textsuperscript{23} Fontaine, “Südafrikas Außenpolitik”, 463.
\end{itemize}
Congress (ANC)\textsuperscript{24} in parliament,\textsuperscript{25} the liberation movement identity of the ANC,\textsuperscript{26} the personal union of head of the party and the presidency as well as major personalities, especially Nelson Mandela and Thabo Mbeki.\textsuperscript{27}

All presidencies since 1994 have been directly linked to ANC’s ideology and identity. Here important and decisive factors of South Africa’s foreign policy (culture) are to be found. The activity and publications of the Department of International Relations and Cooperation (DIRCO)\textsuperscript{28} must be observed carefully as well. Their influence, however, varies. This was caused, inter alia, by the almost complete restart of South Africa’s diplomacy in succession of an internationally isolated pariah-state (the Apartheid-Regime) and due to the presidency’s central position in this political field.\textsuperscript{29}

Lastly, the Department of Defense (DoD) should be mentioned. Besides issuing strategic documents, the DoD is a foreign policy player through the participation of the South African National Defence Force (SANDF) in the security architecture of the African Union and through SA’s participation in UN peacekeeping operations.\textsuperscript{30}

Due to the tremendous political, strategic, and legal importance of the norms and principles that define the R2P concept, and due to the localization of the international discourse on the notion, the following can be summarized: the presidencies, from Mandela to Zuma,\textsuperscript{31} and the ANC, especially the National Executive Committee (NEC) and its Subcommittee for International Relations, have been essential to the formulation of South Africa’s foreign policy agenda. Furthermore, DIRCO’s strategic documents and the role of the military must be taken into account as well.

\textsuperscript{24} The ANC, COSATU (Congress of South African Trade Unions) and the SACP (South African Communist Party) are forming a tripartite alliance. COSATU and SACP candidates are contesting on the ANC party ticket.
\textsuperscript{25} Siko, \textit{Inside}, 169ff.
\textsuperscript{26} Ibid., 183ff.; Mutton, interview.
\textsuperscript{27} Siko, \textit{Inside}, 243.
\textsuperscript{28} In 2009 Jacob Zuma renamed the Department of Foreign Affairs (DFA) as DIRCO.
\textsuperscript{30} Esterhuyse, “The South African Threat Agenda”, 192f.
\textsuperscript{31} Landsberg/Moore, “South Africa’s Libya Vote”, 74.
3. South Africa’s Foreign Policy Culture

This article will discuss SA’s foreign policy regarding the Responsibility to Protect with the help of the analytical tool of “Foreign Policy Culture” (FPC). Although FPC is of course not the only explanatory variable in research on states’ foreign policies, it has been increasingly accepted as an important variable. However, given the number of studies it still seems to be a bit neglected or undervalued in the field of Foreign Policy Analysis.32

Following the more widespread analytical approach of “Political Culture”, in this article FPC will be defined as a basic set of common norms, values, world views, ideologies, and experiences shared by the majority, a high percentage or decisive parts of a population that shapes a vaulting national identity. This identity can be changed, but the forming and changing of identity is a slow and gradual process. Faster changes can be caused by a fundamental shock only. Such an identity is decisive for a country’s foreign policy, since material and nonmaterial interests are formed on its basis, through its lenses, and via the process of defining certain given situations, coming from the starting point of this identity. The formed interests define the preferences, the possibilities, the room for manoeuvre, and the boundaries until which the policies and the foreign policy roles can be stretched to.

On the basis of this identity and these interests, different foreign policy objectives are formulated and foreign policy decisions are made. These actions determine the concrete foreign policy formulation and practice of an administration/government and its foreign policy leeway. The identity, the interests and the resulting practice (processes, interaction, decisions, policies, strategies, means, tools etc.) combined represent the foreign policy culture of a country.34

Since the number of relevant players is severely limited, and there are only a few surveys on the political culture of larger parts of the population, it can be enough to study the political elite culture. Emanating from an intensive study of primary sources – refined through qualitative interviews carried out with government officials, political analysts, experienced practitioners and highly esteemed academics – and relevant secondary literature, the foundations and guidelines of South Africa’s foreign policy culture are the following: democracy and human rights; sovereignty as a responsibility; African Renaissance; history and identity of a liberation movement, anti-imperialist, international-communist influenced ideology; the self-image as an emerging middle power from the Global South, solidarity with the Global South included, and a self-identification with the fight for justice by and for the Global South (southernism); the self-perception as a good global citizen and bridge builder between the South and the North, with a preference for multilateralism; developmentalism, understood as protecting the intervention-free political, societal, and economic development of the Global South, as well as the persuasion that there is a nexus between development and security.35

4. Norms and Principles of the Responsibility to Protect

In South Africa, as in many other countries, there is no clear, coherent, and explicitly formulated R2P policy.36 It is, therefore, a good idea – beyond the study of basic strategic documents, official positions and governmental declarations in different forums – to further outline the subject of investigation. This can be done by analyzing rhetoric and practice in connection with central norms or principles of the R2P concept, e.g. the issue of sovereignty, which has been carried out and comprehended elsewhere.37

36 Landsberg, “Pax South Africana”, 438.
The aim here is to understand and better explain R2P-relevant decisions and statements in South Africa’s foreign policy. To this end, the principles of SA’s foreign policy culture shall be applied to the essential norms and principles that determine the concept of the Responsibility to Protect. The fundamental norms and principles that determine the concept of R2P are the following: the attitude towards the changing principle of sovereignty, and connected with this question the attitude to the principle of non-intervention; the attitude towards human rights and how they are understood, implemented and protected; the attitude to the issue of legitimacy and the use of (military) force and violence; finally, notions of human security versus regime security, democracy, good governance and accountability. The latter are discussed only marginally in this chapter. This article also aims to investigate what features of South African foreign policy culture have been dominant in regard to these fundamental norms and principles.

5. South Africa’s standing towards the Principles and the Norms of R2P

5.1 Sovereignty and non-intervention

Similar to many states in the Global South, South Africa attaches great importance and respect to sovereignty. The reasons for this standpoint are a late and hard-won freedom and self-determination, an ongoing process of nation and identity building, developmentalism and identification with the Global South and the Non-Aligned Movement (NAM), which attaches a high priority to the principle of sovereignty. Equally, Pretoria sees sovereignty as a responsibility not only in a rhetorical way: the genocide in Rwanda took place during the same year as the segregation at the Cape ended. Moreover, the country’s own history speaks against a rigid interpretation of the sovereignty principle: “The anti-apartheid campaign was the most important human-rights crusade of the post-World War II era. [...] Consequently, South Africa will not be indifferent to the rights of others”.38

In consequence, the SA government decided to actively push for a change from a strict “non-interference” paradigm towards a “non-indifference” doctrine in Africa. When the Nigerian military enforced a death penalty, in

1995, against Ken Saro-Wiwa and eight other civil rights activists, Mandela put massive international pressure on the military dictatorship and reached an agreement to exclude Nigeria from the Commonwealth. Therefore, the nation received harsh criticism from its African neighbours, which lead to its own exclusion from important meetings.

South Africa was confronted with renewed protest in 1998, when it took part in a military operation in Lesotho together with Botswana and with a mandate of the Southern African Development Community (SADC). This operation ended a standing military coup and reinstated the previously dissolved parliament. The usage of the military by the hegemonic power caused allegations against Pretoria. Other SADC members claimed that South Africa would want to dominate Southern Africa and use force to interfere in the internal affairs of its weaker neighbours.

While the Nigerian scenario was an isolated incident and turned out to be a severe mistake later on, the operation in Lesotho can very well be explained by South Africa’s foreign policy culture. Not only the multilateral intervention of a sub-regional organization in its area of responsibility for the re-establishment of a legitimate government, but also a multilateral use of African soldiers on the African continent to restore democracy and peace are totally in line with essential South African foreign policy convictions. Mandela himself stressed a few months before at his last OAU summit: “Accordingly, I believe that we must all accept that we cannot abuse the concept of national sovereignty to deny the rest of the Continent the right and duty to intervene when, behind those sovereign boundaries, people are being slaughtered to protect tyranny”.

This stance was fully consistent with that of Thabo Mbeki, who followed in Mandela’s footsteps as president in 1999. He had already determined


41 Sikó, Inside, 243.

42 Nathan, “Interests”, 63.


the strategic direction of ANC’s foreign policy and much of the foreign policy-making during Mandela’s presidency.\(^45\) His foreign policy vision termed as “African Renaissance” fiercely championed a democratic and sustainable development of the entire continent and demanded a protective and responsible form of governance.\(^46\) Together with his Nigerian colleague Olusegu Obasanjo, Mbeki supported a “[…] Pax Africana that urged African leaders to be more willing to intervene in conflicts on the continent”.\(^47\) Not least because of the South African influence and hard work, the AU Constitutive Act contained the well-known articles 4h and 4j, which should enable the AU to intervene in a Member State in the face of serious human rights violations. The New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM) are also visible results of these focused efforts.\(^48\)

In connection with this, it is often stated that South Africa’s approval of R2P at the 2005 World Summit was determined in advance by these facts,\(^49\) and indeed the country and the AU played a constructive and important role at the meeting. However, the finding that the “[…] AU had effectively declared adherence to R2P even before the term became popularized by the UN General Assembly in 2005”\(^50\) should be critically examined. This is especially true if one applies the predominant Western (interventionist) understanding of R2P that focuses less on (structural and long-term) prevention and more on actively and, if necessary, violently stopping or terminating gross human rights violations and mass atrocity crimes.

Moreover, it should not be overlooked that both the creation of the possibilities of Articles 4h and 4j, and AU’s “Ezulwini Consensus”, were connected with the expectation of a reform of the UNSC and permanent seats for AU member states. On the basis of negative experiences with the UNSC, the AU demanded its right to intervene on its own, if necessary,


\(^{46}\) Landsberg, “Pax South Africana”, 440.

\(^{47}\) Ibid., 439.

\(^{48}\) Ibid., 444.

\(^{49}\) Ibid., 439.

without UNSC consent. From this point of view, and from the point of view of the foreign policy culture, both the intervention regime of the AU and the consent to the R2P in the Ezulwini consensus primarily result from the African Renaissance and its call for “African solutions for African problems”, as argues Bizos. At the same time, developmentalism, southernism as well as anti-Western and anti-imperialist attitudes have played a role here.

This interpretation was reinforced in the years 2006 to 2010 by different positions and voting behavior in the UNHRC, the UNSC, and the UNGA. In several cases of gross and serious human rights violations in Myanmar, Zimbabwe, and in particular in Sudan, South Africa voted against resolutions that had been put forward by the USA, France, or the United Kingdom calling for condemnation, penalties, or other measures directed against the governments blamed for the violations.

Pretoria’s own interventions in Lesotho and Nigeria started from (Southern) Africa and were directed against putschists who wanted to eliminate a legitimate African government or against a military dictatorship. The intervention efforts in the cases of Sudan, Zimbabwe, and Myanmar came from the West, to which Pretoria attributed double standards and hypocrisy. They also opposed legitimate governments and – in the case of Zimbabwe and Sudan – were directed against friendly liberation movements. The commitment of a good global citizen to stand up for democracy, human rights, and good governance, as they are still rhetorical in all the basic

52 Anthony Bizos, “To Protect or to Intervene? Contesting R2P as a Norm in South Africa’s Foreign Policy”, Policy Insights (2015), No. 17, South African Institute of International Affairs, 6.
documents of the DIRCO or the ANC, took a back seat to the anti-imperialist, anti-Western and Pan-African paradigm as well as South-South solidarity.\textsuperscript{57}

These events were perceived in the West, by many non-governmental organisations (NGOs), and partly also in South Africa with disappointment.\textsuperscript{58} However, they were rated as non-representative or non-consistent with the recent history of the country, one that has been marked by a rather positive attitude towards R2P and that has considered human rights and democracy as logical imperatives.\textsuperscript{59} Similarly the critical overtones and at least partially divergent notions of the South African position, as expressed in its comments on the Report of the Secretary-General of the United Nations on the Implementation of R2P in 2009 at the General Assembly\textsuperscript{60} and in the open debate of the Security Council on the issue of the Protection of Civilians\textsuperscript{61} did not attract much notice at first. That Tshwane – also under the new President Jacob Zuma – pursued a differentiated, Western critical and in some aspects deviating (from the dominant Western reading of the concept) political approach, was recognised only in the course of the clashes about the Libya intervention in 2011.

After South Africa was the only BRICS state to have allowed military intervention with its consent to resolution 1973, it subsequently became one of the toughest critics of NATO deployment and its consequences. Under the influence of a perceived abuse of the mandate for the purpose

\textsuperscript{58} Smith, “South Africa’s Past”, 19.
of regime change, it became an open R2P-skeptic, at least as far as the Western practice of the concept and its application was concerned. While stressing the importance of noble Security Council resolutions 1973 (Libya) and 1975 (Ivory Coast), South Africa criticized the implementation, abuse, and lack of involvement of regional organizations. However, it can be argued with some justification that since then the country has been more sceptical about R2P and has largely associated its practice with regime change: “Regime change, arming civilians and harming of civilians cannot be justified in the name of protecting civilians and those entrusted with such responsibility must uphold their responsibility while protecting as aptly stated by Brazil”.

Although Zuma again welcomed the concept as “membership-driven” in front of the UNGA in September 2015, he also pointed out that “[t]he norm of Responsibility to Protect was abused for narrow political interests that had nothing to do with the fundamental aspects of the prevention of mass atrocities”. And his foreign department added in its Strategic Plan 2015–2020 that there would be no consensus on the question of legitimate interventions, as long as military interventions and regime change were pushed under the cover of humanitarian interventions and the R2P.

5.2 Human rights – attitude and understanding

“The anti-apartheid campaign was the most important human-rights crusade of the post-World War II era. Its success was a demonstration, in my opinion, of the openness of our common humanity: in these troubled times, its passion should not be lost. Consequently, South Africa will not be

65 Ibid.
indifferent to the rights of others. Human rights will be the light that guides our foreign affairs”.67

This strong human rights focus was also reflected in the first years of the new government. Thus, Mandela stood in the OAU “and told people that sovereignty is no reason for the possible violations of human rights”.68 He decided to put pressure on the Nigerian military dictatorship in 1995 and to force their expulsion from the Commonwealth. In 1998 South Africa intervened militarily in Lesotho to end a coup and restore democracy.69

This commitment to human rights is reflected, however, not only in the quoted statements of Mandela, his foreign policy decisions, or the policy documents of the DIRCO or the ANC from the 1990s, but also in recent strategic documents, such as the White Paper70 or ANC’s strategy paper on international relations.71 Nevertheless, Mandela’s criticism of Nigeria was “the last time the South African government or a senior policymaker publicly condemned another African state for its human rights violations”.72 This was certainly due to the harsh and hostile reaction of the other African states. In addition, the Pan-African paradigm and developmentalism gained importance in foreign policy at least since Mbeki’s African Renaissance, with a clear anti-imperialist foundation.

Moreover, it should not be forgotten that in South Africa and the Global South a different nuance of human rights often prevails. These are not primarily and solely the liberal rights and freedoms, which South Africa and the ANC as a former liberation movement of course know and for which they have also fought. Instead, social human rights and the

67 Mandela, “South Africa’s Future Foreign Policy”, 87f.
68 Mutton, interview.
69 Ibid.
Dan Krause

so-called third-generation human rights, such as the rights to development, to self-determination, to peace, to a healthy environment, or a fair share of the natural resources are of great relevance and reflect the socioeconomic situation and needs of the Global South. “At the same time, the tremendous domestic challenges facing South Africa put pressure on the government to follow a pragmatic foreign policy approach, where economic and developmental interests trump a more value-driven foreign policy”.

The realization of the social human rights and the Millennium Development Goals for (South) Africa corresponds both to Mandela’s African agenda and to Mbeki’s African renaissance and is fully in accordance with South Africa’s identity as a southern developing country and with the principle of developmentalism. Economic and social development is the prerequisite for Africa’s rebirth. Hunger and poverty are identified as essential root causes of warlike conflicts and grave human rights violations. Addressing social human rights and the so-called third-generation human rights as well as overcoming hunger and poverty are crucial tasks for the successful resolution of violent conflicts in Africa and the implementation of fundamental human rights in a long-term perspective.

As a result, Mbeki’s presidency was characterized by a tireless commitment to peace and peaceful conflict resolution, mainly through diplomacy and mediation, with successful examples, among others, in Burundi or the Democratic Republic of the Congo. However, this foreign policy reflected as well Mbeki’s view of an Africa that was still trapped in neo-colonial dependence on the West and was paired with an internationalist anti-imperialist attitude. When in doubt, those foreign policy convictions trumped the commitment to democracy and human rights as was demonstrated in the above-mentioned cases of Myanmar, Zimbabwe, and Sudan.

The controversies in regard to the non-arrest of the Sudanese President Omar al-Bashir, who was sought by the International Criminal Court (ICC), during his participation in an AU Summit in Johannesburg in 2015, and the 2016 withdrawal from the ICC announced together with Burundi and Kenya are pointing in the same direction. Of course, in the case of

74 Smith, “South Africa’s Past”, 22.
76 Zuma, “Statement”.
77 Geldenhuys, “South Africa: The Idea-driven Foreign Policy”, 158.
78 Center for Conflict Resolution (CCR), “Africa and South Africa on the Right to Protection, the ICC, and UNSC Resolution 1325”, CCR Policy Brief 38, July
Al-Bashir, contradictory principles of international law can also be introduced.79 However, the government’s final decision against the execution of the arrest warrant, despite public protests in its own country and the decision of a South African court, reflect the current foreign policy paradigm.80 “Solidarity with the Global South and presumed leadership of the developing world make South Africa reluctant to criticize developing countries over human rights”.81 And if, as in the cases of Zimbabwe and Sudan, they are governed by befriended liberation movements, the anti-imperialist principle of the foreign policy culture becomes dominant.

This has become particularly clear in a recently announced, confidential, joint strategy paper of various ex-liberation movements. These parties, including the ANC and the Mugabe party Zanu-PF, who was the welcoming host of the meeting in Victoria Falls (Zimbabwe), consider themselves to be “at war with the West”, according to the paper. Furthermore, the West, in a secret neo-colonial conspiracy, strives for regime change against these liberation movements and needs to be collectively repelled.82

In the light of this meeting, a few, controversial, and difficult to explain foreign policy decisions of the current Zuma government can be explained. Some of the reasons for a sometimes uncoordinated, erratic foreign policy,
which is generally detrimental to SA’s interests, can be found in the influence of the anti-West, anti-Imperialism paradigm. To a large extent anti-imperialist solidarity and friendship with formerly allied liberation movements seem to explain the remarkable fact, that Tshwane is increasingly less engaged in crises in Southern Africa, such as Zimbabwe, or the Congo while DIRCO recently announced the enhanced commitment of SA to peace and stability in relatively distant areas, such as Libya, the Western Sahara, Sudan, or South Sudan.  

Critics claim that SA is neither much affected by those conflicts, nor can it contribute with something substantial to their solution. Instead, it jeopardizes its foreign policy aims in the AU by a futile engagement for instance with the befriended liberation movement of Western Sahara (Frente Polisario) against Morocco. If the dominant principles of SA’s foreign policy culture such as anti-imperialist solidarity and friendship with friendly liberation movements are included in the considerations, some foreign policy decisions of the Zuma administration appear to be much more stringent. In general, it can be stated that “[a]lthough the diplomacy of Ubuntu may have precedence on paper, human rights appear to have taken a back seat in reality.” Nevertheless, it is important to stress that this statement primarily refers to liberal rights and freedoms and less to social human rights and the so-called third-generation human rights.

5.3 The attitude to the question of the legitimacy of interventions and the use of coercion as well as (military) force

In principle, and particularly on the international level, South Africa favours peaceful means of dispute resolution and a soft foreign policy approach. It therefore often focuses on diplomacy, positive as well as negative

---

sanctions, on dialogue, reconciliation and mediation, whose appropriateness also derives from South Africa’s own history. Other influencing factors that support this selection of tools are not only the role of an emerging middle power and good global citizen, but also the difficult succession of the apartheid state, hated across the African continent. Besides, a hegemonic position in Southern Africa, especially of SANDF and DIRCO, plays a role here, even though it should not obscure the “weak domestic base” and the limited possibilities of these institutions.

When the country is acting in Africa, it does so in the framework of the AU and the African Peace and Security Architecture (APSA) as well as within its foreign policy principles such as the Pan-African agenda, developmentalism, solidarity with the South and the development-security-nexus. This restricts the use of military force and interventions to the application of Articles 4h and 4j of the AU Constitutive Act, which means that intervention and military force can only be legitimized by the AU and its Peace and Security Council (PSC). The case of Burundi shows how conservatively such a situation is handled even with such a legitimization. Finally, the dominant anti-imperialist pattern and the assumption of being engaged in an ongoing confrontation with the West ensure that, in cases where friendly liberation movements are involved, virtually any form of interference is excluded and quiet diplomacy is the means of choice.

As the cases of Lesotho, the Central African Republic and the Congo show, military violence is not fundamentally rejected, but rather considered to be limited in effect. While the operation in Lesotho was in accordance with important foreign policy principles, and therefore, despite criticism, seemed to be replicable, the deployment in the Central African Republic was a unilateral, politically isolated, and ultimately disastrous military adventure for which at least 15 South African soldiers died in 2013. Pretoria was tragically shown the limits of its possibilities and the

88 Ibid.
bad condition of its armed forces.\textsuperscript{91} The Force Intervention Brigade deployed under South African leadership since 2013 in Congo is most likely to correspond to what Pretoria can think of at the extreme end of the deployment of hard power: host state consent, multilaterally with a UN and/or AU mandate, and with other African forces to resolve African conflicts. This would then be in complete harmony with almost all the principles of foreign policy culture, including self-identification as emerging middle power and good global citizen.

The approval of resolution 1973 must therefore be regarded as an exception, which is not likely to repeat itself so quickly, especially after the implementation experience. Previous differences with Gaddafi, the integration of the Arab League and the Organization of Islamic States, the disagreement within the AU, DIRCO’s marginal role in the decision-making process, the diffuse role of the president and his divided advisers, and the massive efforts of Washington at the highest levels have ultimately led to a result from which Tshwane has clearly distanced itself ever since.\textsuperscript{92} Own “R2P interventions” – see Burundi – are only conceivable in Africa if they are conducted multilaterally and within the AU framework.

6. Conclusion

If the question whether South Africa is “still on board” the R2P is to be answered, it must first be answered on board which ship in the R2P flotilla? As is well known, there is no consensus on the concept beyond the “R2P-lite” of the World Summit Outcome Document, but rather a relatively new consensus-building process. Anyone who thought the country too early to be on the side of a Western understanding of R2P was just as wrong as those who branded South Africa after the Libyan controversy as an opponent of the Responsibility to Protect.

On paper, by its Ubuntu philosophy and with its self-confident civil society and justice, the country at the Cape has everything that speaks for a constructive attitude towards the R2P concept, and its basic commitment to the R2P is sincere. Or, as Chris Landsberg puts it: “\textit{South Africa and


\footnotesize{\textsuperscript{92} Landsberg/Moore, “South Africa’s Libya Vote”.

200

https://doi.org/10.5771/9783845285672
other African partners [...] have been crafting a continental R2P regime, even before 1999”.93

The difference in SA’s position on “African” R2P and “global” R2P to a large extent derives from the fact that it has a greater say on the continent, which it demands on the global stage as well. However, South Africa has always had its own visions in certain global issues, not only in regard to R2P, and which are not always congruent with Western positions. It sees the need for clarification and agreement in terms of a common understanding of the norms and principles of the R2P concept and its implementation. This results on the one hand from an underrepresentation in global affairs but on the other hand as well from the determining principles of its foreign policy culture and identity. These principles have shown a remarkable continuity over the post-apartheid presidencies94 and are already included, at least to a great extent, in Nelson Mandela’s programmatic Foreign Affairs essay of December 1993 on SA’s future foreign policy.95

Therefore, it is not surprising that the attitude of Pretoria to the Responsibility to Protect has remained relatively constant and has changed far less than sometimes the impression is aroused. Tshwane’s reluctant attitude towards global R2P results also from the very early stage of the consensus-building process that is still very much in its infancy. Beyond the “R2P-lite”, this process will have to further develop and implement the concept while reconciling the concerns and critique of the Global South with the current and dominant Western understanding of Responsibility to Protect. Otherwise, there are internal contradictions of South Africa’s foreign policy culture that also affect its attitude towards fundamental norms and principles of the R2P concept. With regard to the (violent) use of R2P, reservations mainly result from the structural impotence of the Global South, and especially of Africa, in the international centres of power.96

South Africa’s foreign policy principles, however, are not only contradictory, but also vary in their assertiveness. Whenever questions of sovereignty of Southern states and interventions (especially of the West) in favour of human rights and democracy come into conflict with other, more dominant principles of South African foreign policy culture, such as southernism,
anti-Imperialism, and identity as a liberation movement or the African Renaissance, the latter prevail.97

Under Mandela there may have been a somewhat stronger focus on human rights, as the case of Nigeria showed in 1995, but his basic convictions were only slightly different from those of Mbeki. The first recipient of the “Gaddafi Prize for Human Rights”, Nelson Mandela, was a staunch anti-imperialist as well as a fighter for the Global South and the Non-Aligned Movement. As a leader of the ANC in New York in 1990, he emphasized that the ANC does not let itself be corrupted, and that the enemies of the West, such as Gaddafi, Arafat, or Castro, were not the enemies of the ANC. In his words, with all the gratitude for the support, “we are an independent organization with its own policy. And our attitude towards any country is determined by the attitude of that country to our struggle”.98 Since Gaddafi, Castro, and Arafat supported the South African struggle against apartheid, the ANC would not have any reason to doubt their commitment to the human rights of the black people in South Africa. Libya, Cuba, and the PLO would not only be rhetorical about human rights in South Africa, but would actively support the ANC in its struggle and provide resources, and that alone would matter. Mandela’s personality just overshadowed the already existing differences between the foreign policy culture of Western countries and that of South Africa.99

Mbeki’s foreign policy differed because, after Mandela had only begun to form an external policy, it was now formulated and articulated as a strategy, clear and structured. In addition, the “Africanization” in his administration was intensified, both in terms of staff and institution. The emancipation from the West, a shift towards BRICS, solidarity with the Global South, and its perpetual struggle for equality and justice was formulated in Mbeki’s presidency and translated into a concrete foreign policy. It was based on the constant and only slightly nuanced principles of the existing foreign policy culture of South Africa, ultimately the foreign policy culture of the elite in the administration and the ANC.100

97 Fabricius, “SA Should First”; Nathan, “Interests”, 64f.
Reinforced anti-colonial and anti-Western rhetoric and practice under the auspices of Jacob Zuma, including the withdrawal from the ICC, are therefore no surprise and no fraud on the legacy of Mandela.\textsuperscript{101} Beside the foreign policy culture, they result from an erratic, somewhat unpredictable and partially confusing practical foreign policy, whose results, such as the bloody adventure in the Central African Republic, the buyer’s remorse of UN resolution 1973 on Libya, the announced withdrawal from the ICC, or South Africa’s voting defeat in the AU regarding the return of Morocco into the organization send a clear message.

Ultimately, Zuma’s foreign policy failures fit well into the overall perception of a government with poor governance performance and a huge issue of corruption. The fact that Zuma succeeds in distorting this by means of his appeals to anti-imperialist and anti-Western attitudes is also due to a failed Western (intervention) policy, which had already been addressed by Mandela and Mbeki, albeit differently. Failed against the backdrop of a relative descent of the West and the rise of other countries and their legitimate demands, the inability of the West to achieve a fair and just division of power and a continued policy of interference and obstruction in the developing countries are the breeding ground for such developments and outcomes.

7. Outlook

One can say that South Africa on paper, rhetorically, in its philosophy, and due to its foreign policy culture has a fundamentally positive attitude to R2P. However, and similarly in regard to the development of the future international order, it would like to be more involved and heard in the further development, formulation, and implementation of the Responsibility to Protect. The compromise reached with difficulty in 2005 was only the beginning, and not the end, of the discussion and the consensus-building process around R2P. Pretoria expects not only an open discussion and the substantive consideration of the African position(s), but also more understanding of the needs and demands of the Global South, a greater say, and a more appropriate participation for itself in line with its relevance.

In addition, South Africa understands the R2P concept and its implementation as a complex, comprehensive, inclusive, protracted, multidimensional process, with predominantly diplomatic, prevention, and development policy instruments as part of the larger conflict resolution and development context. R2P is mainly understood as to prevent and rebuild, and not just to react. Western approaches, on the other hand, tend to be linear, fast, and multilateral responses to concrete situations with the demand for fast results.\footnote{Landsberg, “Pax South Africana”, 444f.; Mabera/Spies, “How Well Does R2P Travel”, 217.}

The current scepticism of South Africa, the further development of its position, and the question of the evolution of a global consensus on R2P are not only dependent on whether the more liberal forces in civil society, politics, and the judiciary will be more dominant in the future. They are not only dependent as well on whether or not it is possible to reconcile the current predominant anti-imperialist paradigm with the commitment for human rights and the identity of a good global citizenship. But also if the ANC does not “\textit{rule until Jesus walks on earth again}”, as Zuma repeatedly announced in election campaigns,\footnote{“ANC Will Rule until Jesus Comes, Zuma Says Again”, News24, July 05, 2016, http://www.news24.com/elections/news/anc-will-rule-until-jesus-comes-zuma-says-again-20160705.} the still normatively and materially dominating West should, as soon as possible, arrive at a genuine and sincere debate, reflecting the realities of international politics, the needs of the Global South, and its legitimate demands for justice and power sharing. Only then a sustained global consensus on R2P is possible, and only under these conditions the positions of the IBSA states should be reconcilable with those of the OECD democracies.

If, however, an interventionist policy of Western countries and a global “\textit{survival of the fittest}” attitude prevail, without taking the demands of the Global South into common considerations, then India, Brazil, and South Africa will be even more likely to shift towards the two non-democracies in BRICS and their positions on international politics. A consensus on the R2P and its fundamental norms and principles would then be as well a very remote prospect as an agreement on important issues of international relations and their further development.
Bibliography


Still on Board? South Africa and the Responsibility to Protect


Dan Krause


Mutton, Jan. Interview with the author at the University of Pretoria, September 12, 2016, audio.


Tladi, Dire. Interview with the author at the University of Pretoria, September 14, 2016, audio.


Zondi, Siphamandla. Interview with the author at the University of Pretoria, September 14, 2016, audio.

List of Contributors

Paula Wojcikiewicz Almeida is a full-time Professor of International Law and European Union Law at the Getulio Vargas Foundation Law School in Rio de Janeiro, Jean Monnet Chair, funded by the European Commission, and member of the Centre for Studies on Judiciary and Society of the Getulio Vargas Foundation Law School. Associate Researcher at the Institute of International and European Law at the Sorbonne (IREDIES). Doctorate *summa cum laude* in International and European Law from the University of Paris I - Panthéon-Sorbonne. Master’s Degree in International and European Law from the Université Paris XI, Faculté Jean Monnet.

Eduardo Gonçalves Gresse received his Bachelor’s degree in International Relations (IR) from the Pontifícia Universidade Católica de São Paulo, Brazil, and his Master’s degree in Political Science from the University of Göttingen, Germany. He is currently a PhD Candidate in Sociology at the Centre for Globalisation and Governance (CGG) at the Faculty of Social and Economic Sciences of the University of Hamburg, Germany. His research interests include international relations, social constructivism, diffusion theory and sustainable development.

Madhan Mohan Jaganathan is an Assistant Professor in the Centre for International Politics, Organisation and Disarmament, School of International Studies, Jawaharlal Nehru University. He has an MSc in Physics and an MA in Political Science from Madras Christian College, Chennai and an MPhil and a PhD in International Politics from Jawaharlal Nehru University, New Delhi. His research interests include theories of international relations especially critical theory, critical security studies, research methodology, responsibility to protect, rising powers and the society and politics of India.
List of Contributors

Dan Krause is research associate and doctoral candidate at the Institute for International Politics at the Helmut-Schmidt-University / University of the Federal Armed Forces in Hamburg. He received his Master’s degree in Peace and Security Studies from the University of Hamburg and another Master in History and Social Science from the Helmut-Schmidt-University. His PhD project deals with the R2P positions of India, Brazil and South Africa. Further research interests are German and European security and defense policy, and international security policy. He gives lectures at the Armed Forces Staff College in Hamburg and worked for the Federal Academy for Security Policy in Berlin. Dan is also executive director of WIFIS (Scientific Forum for International Security), a small think tank based in Hamburg, and Lieutenant Colonel of the Reserve.

Fernando Preusser de Mattos is currently a PhD candidate at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) and receives a doctoral scholarship from the German Academic Exchange Service (DAAD). His research interests are security policy, Brazilian and EU foreign policy, informal diplomacy, and the role of think tanks in foreign and security policymaking. He received his Master’s degree in Political Sciences and a BA in International Relations from the Federal University of Rio Grande do Sul, Brazil.

Jan F. Mutton studied law at the Universities of Leuven (LL.B) and Brussels (LL.M). Before joining the Belgian diplomatic service, he worked at the European Commission of Human Rights in Strasbourg, France, and at Queen’s University, Kingston, Ontario, Canada. As a diplomat he was posted to Tehran, Shanghai, Bonn, Riga, Kinshasa and Moscow. He was Belgian ambassador to Burundi and South Africa and served as his country’s special envoy to the Great Lakes Region. Upon retirement, Jan Mutton joined the Department of Political Sciences at the University of Pretoria, focusing on issues of foreign policy and human rights.
Daniel Peters is a PhD candidate and a research fellow at the Institute for International Politics at the Helmut-Schmidt-University / University of the Federal Armed Forces in Hamburg, Germany. Since 2013 he is a research assistant at the Institute for Theology and Peace in Hamburg. He received his Master’s (M.A.) degree in Political Sciences from the Friedrich-Schiller-Universität Jena. His research interests include conflict prevention, peacekeeping, international responsibility and human rights. In his PhD thesis he describes the Responsibility to Protect as an idea that is focused on the protection of basic human rights, including social and economic rights.

Dr. Folashadé Soulé-Kohndou is a lecturer in International Relations at Sciences Po and a research associate at Sciences Po-CERI. Her research focuses on South-South cooperation, rising powers’ diplomacy and agency in asymmetrical negotiations. Her latest publications are “South-South Cooperation and Transformational change in International Organizations”, Global Governance, July–September 2017, Vol. 23, No. 3, pp. 461–481 and “Les usages de l’action culturelle sud-sud du Brésil à travers les clubs de puissances émergentes”, Cahiers des Amériques Latines, n°80/2016.
Bereits erschienen:

**Theologie und Frieden**

**Band 23**
Gerhard Beestermöller
Hans-Richard Reuter (Hrsg.)
*Politik der Versöhnung*
Eine philosophisch-theologische Begleitung zu Expeditionen in ein wenig vermessenes Land
2002, 264 Seiten
ISBN 3-17-017348-0

**Band 24**
Gerhard Beestermöller (Hrsg.)
*Die humanitäre Intervention – Imperativ der Menschenrechtsidee?*
Rechtsethische Reflexionen am Beispiel des Kosovo-Krieges
2003, 176 Seiten
ISBN 3-17-017595-5

**Band 25**
Heinz-Gerhard Justenhoven
Rolf Schumacher (Hrsg.)
*”Gerechter Friede” – Weltgemeinschaft in der Verantwortung*
Zur Debatte um die Friedensschrift der deutschen Bischöfe
2003, 256 Seiten
ISBN 3-17-017955-1

**Band 26**
Norbert Brieskorn
Markus Riedenaue (Hrsg.)
*Suche nach Frieden: Politische Ethik in der Frühen Neuzeit III*
2003, 448 Seiten
ISBN 3-17-018154-8

**Band 27**
Heinz-Gerhard Justenhoven
Joachim Stüben (Hrsg.)
*Kann Krieg erlaubt sein?*
Eine Quellensammlung zur politischen Ethik der Spanischen Spätscholastik
2006, 548 Seiten
ISBN 978-3-17-018324-7

**Band 28**
Timo J. Weissenberg
*Die Friedenslehre des Augustinus*
Theologische Grundlagen und ethische Entfaltung
2005, 564 Seiten
ISBN 3-17-018744-9

**Band 29**
Guido Brune
*Menschenrechte und Menschenrechtsethos*
Zur Debatte um eine Ergänzung der Menschenrechte durch Menschenpflichten
2006, 192 Seiten
ISBN 3-17-019036-9

**Band 30**
Heinz-Gerhard Justenhoven
*Internationale Schiedsgerichtsbarkeit*
Ethische Norm und Rechtswirklichkeit
2006, 302 Seiten
ISBN 3-17-019529-8

**Band 31**
Markus Kremer
*Den Frieden verantworten*
Politische Ethik bei Francisco Suárez (1548–1617)
2007, 293 Seiten
ISBN 3-17-020165-1

**Band 32**
Markus Riedenaue
*Pluralität und Rationalität*
Die Herausforderung der Vernunft durch religiöse und kulturelle Vielfalt nach Nikolaus Cusanus
2007, 562 Seiten
ISBN 3-17-019797-8

**Band 33**
Tania Wettach-Zeitz
*Ethnopolitisches Konflikte und interreligiöser Dialog*
Die Effektivität interreligiöser Konfliktmediationsprojekte am Beispiel der World Conference on Religion and Peace Initiative in Bosnien-Herzegowina
2008, 284 Seiten
ISBN 3-17-019969-9

**Band 34**
Volker Stümke
*Das Friedensverständnis Martin Luthers*
Grundlagen und Anwendungsbereiche seiner politischen Ethik
2007, 533 Seiten
ISBN 3170199706

**Band 35**
Markus Kremer
*Josua und seine Kriege in jüdischer und christlicher Rezeptionsgeschichte*
2008, 336 Seiten
ISBN 3-17-020520-8
<table>
<thead>
<tr>
<th>Band 38</th>
<th>Stephanie van de Loo</th>
<th>Versöhnungsarbeit</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Band 39</th>
<th>Sebastian Friese</th>
<th>Politik der gesellschaftlichen Versöhnung</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Eine theologisch-ethische Untersuchung am Beispiel der Gacaca-Gerichte in Ruanda 2010, 204 Seiten</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Band 40</th>
<th>Heinz-Günther Stobbe</th>
<th>Religion, Gewalt und Krieg</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Eine Einführung 2010, 418 Seiten</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Band 41</th>
<th>Marco Hofheinz</th>
<th>Johannes Calvins theologische Friedensethik</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2012, 258 Seiten</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Band 42</th>
<th>Völker Stümke</th>
<th>Matthias Gillner (Hrsg.) Friedensethik im 20. Jahrhundert</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2011, 279 Seiten</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Band 43</th>
<th>Andrea Keller</th>
<th>Cicero und der gerechte Krieg</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2012, 249 Seiten</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Band 44</th>
<th>Jörg Lüer</th>
<th>Die katholische Kirche und die „Zeichen der Zeit“</th>
</tr>
</thead>
</table>

---

Beiträge zur Friedensethik

<table>
<thead>
<tr>
<th>Band 39</th>
<th>Thomas Bruha</th>
<th>Dominik Steiger</th>
<th>Das Folterverbot im Völkerrecht</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Stuttgart 2006, 57 Seiten</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Band 40</th>
<th>Gerhard Beestermöller</th>
<th>Heinz-Gerhard Justenhoven (Hrsg.)</th>
<th>Der Streit um die iranische Atompolitik</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Band 41</th>
<th>Klaus Ebeling</th>
<th>Militär und Ethik</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Band 42</th>
<th>Hans-Georg Ehrhart</th>
<th>Heinz-Gerhard Justenhoven (Hrsg.)</th>
<th>Intervention im Kongo</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Band 43</th>
<th>Dirk Ansorge (Hrsg.)</th>
<th>Der Nahostkonflikt</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Band 44</th>
<th>Jochen Bohn</th>
<th>Thomas Bohrmann</th>
<th>Gottfried Küenzlen (Hrsg.) Die Bundeswehr heute</th>
</tr>
</thead>
</table>

---

https://doi.org/10.5771/9783845285672
<table>
<thead>
<tr>
<th>Band 45</th>
<th>Band 49</th>
<th>Band 52</th>
</tr>
</thead>
</table>
| Heinz-Gerhard Justenhoven  
Ebrahim Afsah (Hrsg.)  
*Das internationale Engagement in Afghanistan in der Sackgasse?*  
Eine politisch-ethische Auseinandersetzung  
Baden-Baden 2011  
182 Seiten  
ISBN 978-3-8329-6689-8 | Matthias Gillner  
Volker Stümke (Hrsg.)  
*Kollateralopfer*  
Die Tötung von Unschuldigen als rechtliches und moralisches Problem  
Baden-Baden/Münster 2014  
258 Seiten  
ISBN 978-3-402-11693-7 | Stefan Brüne  
Hans-Georg Ehrhart  
Heinz-Gerhard Justenhoven (Hrsg.)  
*Frankreich, Deutschland und die EU in Mali*  
Chancen, Risiken, Herausforderungen  
Baden-Baden/Münster 2015  
251 Seiten  
ISBN 978-3-402-11696-8 |

<table>
<thead>
<tr>
<th>Band 46</th>
<th>Band 50</th>
<th>Band 53</th>
</tr>
</thead>
</table>
| Gerhard Beestermöller (Hrsg.)  
*Friedensethik im frühen Mittelalter*  
Theologie zwischen Kritik und Legitimation von Gewalt  
Baden-Baden/Münster 2014  
327 Seiten  
ISBN 978-3-8487-0840-6  
ISBN 978-3-402-11690-6 | Heinz-Gerhard Justenhoven  
Mary Ellen O’Connell (Hrsg.)  
*Peace through Law: Reflections on Pacem in Terris from philosophy, law, theology and political science*  
Baden-Baden/Münster/London 2016, 286 Seiten  
ISBN 978-3-402-11694-4  
ISBN 978-1-4742-2513-7 | Myroslava Rap  
*The Public Role of the Church in Contemporary Ukrainian Society*  
The Contribution of the Ukrainian Greek-Catholic Church to Peace and Reconciliation  
Baden-Baden/Münster 2015  
500 Seiten  

<table>
<thead>
<tr>
<th>Band 47</th>
<th>Band 51</th>
<th>Band 54</th>
</tr>
</thead>
</table>
| Bernhard Koch (Hrsg.)  
*Den Gegner schützen?*  
Zu einer aktuellen Kontroverse in der Ethik des bewaffneten Konflikts  
Baden-Baden/Münster 2014  
293 Seiten  
ISBN 978-3-8487-0784-3  
ISBN 978-3-402-11691-3 | Veronika Bock  
Johannes J. Frühbauer  
Arnd Küppers  
Cornelius Sturm (Hrsg.)  
*Christliche Friedensethik vor den Herausforderungen des 21. Jahrhunderts*  
Baden-Baden/Münster 2015  
266 Seiten  
ISBN 978-3-8487-1968-6  
ISBN 978-3-402-11695-1 | Alexander Merkl  
*„Si vis pacem, para virtutes“*  
Ein tugendethischer Beitrag zu einem Ethos der Friedfertigkeit  
Baden-Baden/Münster 2015  
480 Seiten  
ISBN 978-3-8487-2704-9  

<table>
<thead>
<tr>
<th>Band 48</th>
<th>Band 52</th>
<th>Band 55</th>
</tr>
</thead>
</table>
| Gerhard Beestermöller (Hrsg.)  
*Libyen: Missbrauch der Responsibility to Protect?*  
Baden-Baden/Münster 2014  
139 Seiten  
ISBN 978-3-8487-0763-8  
ISBN 978-3-402-11692-0 | | Marco Schrage  
*Intervention in Libyen*  
Eine Bewertung der multilateralen militärischen Intervention zu humanitären Zwecken aus Sicht katholischer Friedensethik  
Baden-Baden/Münster 2016  
451 Seiten  
ISBN 978-3-8487-3316-3  
ISBN 978-3-402-11701-9 |