LOST IN TRANSLATION:

A comparative Analysis of developing Regions' Receptions of the Responsibility to Protect Norm

By

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Abstract

The way in which different regions are receiving the international norm of the Responsibility to Protect (R2P) has been attracting increasing attention within academia in recent years, most notably after the NATO led intervention in Libya in 2011. Academics have attempted to analyse the extent to which R2P has been diffused in various states and have argued that states within developing regions have begun to localise R2P to make it more congruent with their pre-existing norms and practices in order to increase its acceptance. These studies have utilised traditional theories of norm diffusion which conceive of norms as static entities with fixed content and as such they have not attempted to analyse how the norm has been changing as a result of this process. Furthermore these studies have tended to analyse the diffusion of R2P in isolation from other states and other regions and as such, no comparative analysis of how regions have received R2P exists. This thesis employs a discursive approach, seeking to look at how R2P has been received within three developing regions (Africa, Southeast Asia, and Latin America) and in doing so aims to find how regions receptions of R2P differ and whether the content of R2P has changed between them. It finds that since the 2005 World Summit, receptions to R2P have not significantly altered and that where R2P is being gradually diffused it is increasingly becoming a norm for prevention rather than response.

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Introduction

Of all the efforts to prevent mass atrocities and killings from occurring around the world since the end of the Second World War and the signing of the Genocide Convention, few have attracted as much attention as the 'Responsibility to Protect', a norm which traces its origins from a report published in 2001 by the International Commission on Intervention and State Sovereignty (ICISS). This report was commissioned by then United Nations (UN) Secretary-General Kofi Annan and written in response to what many saw as the international community's failure to prevent, respond to, and halt the genocides and mass atrocities that took place around the world in the 1990s. The 'Responsibility to Protect' (commonly referred to as R2P) was formally endorsed by the UN General Assembly in 2005 and sought to redress past errors by endowing states with a *responsibility* to protect civilians from crimes of mass atrocities and was laid out in three tenets: the 'Responsibility to Prevent' through addressing the root causes of conflict; the 'Responsibility to React' to crimes when they occur; and the 'Responsibility to Rebuild' after the atrocities had been stopped.

Advocates pointed enthusiastically at the speed with which R2P was adopted around the world and many saw a bright and positive future for the norm. This outlook was thought to be justified by the myriad of institutions and think tanks such as the 'International Coalition for the Responsibility to Protect' which were established to garner greater support for the norm and advocates began efforts to diffuse and institutionalise the norm within those developing regions which remained or had reverted to being 'R2P resistant'. This picture would seem to portray a relatively rosy forecast for the future of R2P and one might believe that despite the heated debates around the norm that arose during the 2011 armed intervention in Libya, the increasing acceptance by once resistant regions points towards a positive future.

This is, however, only one part of the story and on 5 September 2012 the United Nations Secretary-General Ban Ki-moon announced that the international community was failing to prevent atrocities and that it was failing at its vow of "never again."¹ Over ten years have passed since R2P's inception and the norm has been invoked in nine resolutions to date despite a lack of precise and clear framework for how it should be implemented.² Indeed there is so much disagreement over what R2P is and allows for that even its status as a norm is contested.³ Most scholars however conceive of R2P as a norm,⁴ a shared expectation of what constitutes appropriate behaviour⁵ and it is in this

¹ UN Document: GA/11270

² See for instance (Bellamy, 2008) on initial criticisms raised against R2P's wording, and (Reinold, 2011) for more recent criticisms.

³ Bellamy, 2009b

⁴ Capie, 2012

form that much debate within International Relations addresses the subject. Though R2P is clearly intended to be universally held, applicable equally to all parts of the globe,⁶ recent studies such as those undertaken by Alex Bellamy, Noha Shawki, and Paul Williams suggest that this is not the case. These scholars have attempted to chart how R2P has been thought about and why it has been diffused unevenly between developing states. This thesis contributes to this emerging literature by undertaking a comparative analysis of Africa's, Southeast Asia's, and Latin America's receptions of R2P. It seeks to analyse not just how these developing region's receptions of R2P have changed throughout the norm's existence, but also how R2P has changed in itself. To do this, the thesis asks the question

- *How have developing regions received the norm of R2P since 2005 and why?*

The sub-questions that are addressed in order to answer this question are:

- *How was R2P initially received within Africa, Southeast Asia, and Latin America?*
- *How have these regions responded to specific instances of R2P's implementation in Myanmar after Cyclone Nargis in 2008 and Libya during the 2011 NATO led intervention?*
- *How have these regions contributed towards discussion on R2P and what aspects of the norm have been emphasised or marginalised?*

This thesis builds on existing literature which looks at the way in which R2P has spread. However, I argue that current studies tend to treat the R2P norm as a static concept with fixed content. In contrast, I draw on the work of scholars who have embraced a more discursive approach to norm diffusion who conceive of norms as processes, and look at how their content is constantly reconfigured by actors. These scholars argue that "not all norms have their intended effects, retain similar content across countries and time, or share the same basic characteristics."⁷ If a norm's content is continually changing, the question of whether or not R2P has been accepted by states becomes less important than analysing *what* it is that states are accepting, and whether or not states are accepting the same thing.

This thesis conceives of R2P as a process that is constantly changing and thus seeks to contribute to existing studies of R2P's diffusion in two ways. First, this thesis focuses on *what* is being diffused by states rather than the *extent* to which R2P is being diffused. This distinguishes it from other studies which have mostly looked at the extent of diffusion within states. Second, by analysing the reception

⁵ Finnemore, 1996, p. 22

⁶ Williams, 2009, p. 394

⁷ Krook & True, 2010, p. 104

of R2P in three regions (Africa, Southeast Asia, and Latin America) I am able to contrast the experiences of its reception to see in what ways these differ or are similar from one another and offer suggestions as to why. To date, studies of R2P's diffusion have focused specifically on single states or regions and have treated them in isolation and thus no comparative analysis of R2P's reception between different regions exists. The combination of these two factors is important, because if one conceives of norms as processes which change between actors and over time it is likely that actors have different conceptions of what R2P is. This thesis finds that despite over 7 years having passed since R2P was first endorsed at the World Summit, many developing states have not changed significantly in their reception to the norm. There is still an overwhelming tendency for these states to refer to R2P only rhetorically, and where progress towards the norm's diffusion has been made it is generally at the expense of R2P's more controversial reactive capacity. As such, in regions such as Africa, where R2P has been more positively received by states, due to advocates' emphasis on the preventative aspects of the norm and its poor implementation during instances such as the Libyan intervention, R2P is increasingly being diffused as a preventative norm with little or no reactive capacity.

Methodology and Case Selection

To address these questions a constructivist approach is used to analyse material collected from a thematic data analysis.ⁱ Loosely combining methods of process-tracing and discursive theories' 'critical frame analysis',⁸ the thesis charts the responses, rhetoric, policy statements, positions, and practice of prominent states within the three developing regions.⁹ The themes which make up the analysis are (1) the initial responses to the Responsibility to Protect (2005-2009), (2) responses to implementation of the Responsibility to protect (2008 and 2011), and (3) how receptions have evolved since Ban Ki-Moon's report *Implementing the Responsibility to Protect* in 2009.

Process-tracing is a methodology used to test theories "in a world marked by multiple interaction effects, where it is difficult to explain outcomes in terms of two or three independent variables."¹⁰ This method is well suited to analysing the reception of R2P by states as it allows for identifying different causal paths (independent factors) that lead to similar outcomes in different cases

⁸ This particular discursive methodology is used due to its recognition that "not all actors... have a similar 'voice' in defining problems and solutions due to structures of social, economic and political inequality" (Krook & True, 2010, p. 105).

⁹ While regions are difficult to define (some believing they are imagined communities), each region has some hegemonic influences that direct the flow of conversation and policy stances within regional institutions, and it is these 'regional powers' that this thesis focuses primarily upon (outlined under case selection in the next chapter).

¹⁰ George & Bennett, 2004, p. 205

(dependent factor). For this thesis, the dependent variable is the degree of acceptance of R2P within each region while the independent variables are how individual tenets of the norm have been treated and discussed by actors within each region. This method has only been 'loosely' applied due to the realisation that process-tracing is normally a methodology invoked to test multiple theories' ability to explain a particular outcome¹¹ and that while insights from two of norm diffusion's most prominent theories (the 'norm lifecycle model' and 'constitutive localisation') will be drawn on and used to help explain phenomena within the empirical study, this thesis does not seek to use process-tracing to 'test' which theory is more correct.

The thesis takes a discursive approach for three reasons. First, as an attempt to acknowledge that the degree of acceptance of R2P within each developing region is only tentatively known, and as will be shown, has fluctuated significantly between actors throughout time. Second, the discursive approach taken is due to the belief that norms should be conceived of as processes. Rather than treating norms as 'things' that are taught¹² or advocated,¹³ this study conceives of them as processes which are continually contested, refined, and altered by their interaction with multiple actors. As such the thesis "views norms as anchored in language and revealed by repeated speech acts" rather than evaluating their worth through commitments written into international treaties or instruments. Such an approach is fitting considering the controversy that ensued after the initial 'unanimous' endorsement in the 2005 UN World Summit.¹⁴ Third, it is undertaken due to the resource limitations imposed on the thesis. While process tracing is well suited to analysing how the reception of R2P has changed, in covering the rhetoric, policy statements, positions, and practice of three developing regions in response to R2P, this thesis has been limited by what resources were available online and in English and thus sought to analyse material discursively.¹⁵ Furthermore, due to the broad scope of the research question each region was analysed thematically rather than comprehensively and as such the arguments that are made are general indications rather than in depth analyses.

¹¹ George & Bennett, 2004

¹² Finnemore, 1996

¹³ Finnemore & Sikkink, 1998

¹⁴ See for example (Traub, 2006)

¹⁵ Because of obvious language barriers which exist when undertaking an analysis of so many different regions with such a diverse array of languages, the thesis sought primarily to obtain documents from the United Nations Official Document Search which often contained translations of government texts. Other records were obtained from the International Coalition on the Responsibility to Protect and respective Government websites when possible.

Sources and case studies

Africa, Southeast Asia,¹⁶ and Latin America, are all regions located within the 'global south' and contain 'developing states'. The colonial history of each region has significantly impacted on the respect given to notions of sovereignty and non-interference. Despite the vastly different locales and people that inhabit each region, most are members or observers of the 'Non Aligned Movement' and share, among other things, a similar strict adherence to the notion of sovereignty. They also share, to a certain extent, a similar wariness towards Western states, and a propensity for conflict which results from a myriad of factors such as cultural, ethnic, historical and material tensions.

Despite the similarities between these regions contextually, and the fact that they have all found R2P relatively difficult to accept to certain extents, as this thesis argues, their diffusion of R2P has only been similar superficially. This thesis attempts to outline how these regions have received R2P and why differences have occurred.

Chapter outline

The thesis is made up of six chapters. Chapter 1 provides a historical overview of the 'Responsibility to Protect' charting its evolution from 'humanitarian intervention' to its adoption by the UN General Assembly in 2005. It argues that R2P was created first and foremost to respond to mass atrocities but is now overwhelmingly focused upon prevention. Chapter 2 discusses two popular theories of norm diffusion (the norm lifecycle model and constitutive localisation) and briefly examines existing studies of R2P before arguing that norms can be better understood as processes with continually changing content. Chapter 3 (Africa), 4 (Southeast Asia), and 5 (Latin America) provide the empirical case studies and in the final Chapter (6) I summarise my findings and identify some areas for further research.

¹⁶ The empirical analysis understands Southeast Asia as Brunei, Cambodia, Laos, Thailand, Malaysia, Myanmar, East Timor, Indonesia, Philippines, Singapore and Christmas Island. However, due to the rising influence of China within the region, China's views are also considered in the Southeast Asian analysis.

Chapter 1: The Responsibility to Protect

In 2005 191 heads of state and government officials agreed, tacitly or otherwise,¹⁷ to the World Summit Outcome (WSO) document which laid out the concept of R2P.¹⁸ This document is not a formal legal instrument or an international treaty,¹⁹ rather it is a “set of moral, political and arguably legal *obligations*”²⁰ which outline certain standards of conduct relating to the protection of civilians. Since its inception in 2001, R2P has undergone several significant and fundamental changes which have altered the content of the norm, changing which aspects are emphasised and refining or limiting when it can be used.

This thesis seeks to analyse how R2P has been received within developing regions²¹ and as such it is concerned with the value and meaning that states have given the norm. Providing a concise evaluation of the ‘Responsibility to Protect’, its evolution, its meaning, and what it does is made difficult by the fact that its ‘widespread consensus’²² does not extend to the variations in its meaning and reception between actors. The following chapter seeks to provide a critical overview of the emergence and evolution of R2P. Delving briefly into its controversial roots in humanitarian intervention,²³ the chapter charts R2P’s emergence from the International Commission on Intervention and State Sovereignty’s report to its rebirth in the 2005 World Summit Outcome Document and argues that regardless of advocates’ attempts to frame it as a concept engaged primarily with the *prevention* of atrocities, R2P was envisioned and created for the purposes of legitimising humanitarian intervention.

Humanitarian intervention

The failure of the international community to prevent, let alone halt, many of the atrocities that took place in the 1990s marred a decade which many had thought would be characterised by peace.²⁴ It was in response to these conflicts, epitomised by governments fighting their own citizens that the

¹⁷ See Bellamy, 2009a; Evans, 2008b

¹⁸ R2P was laid out in paragraphs 138, 139, and 140 (UN Document: A/RES/60/1); and reaffirmed by the U.N Security Council in Resolution 1674 (UN Document: S/RES/1674)

¹⁹ See for instance Burke-White, 2011; Welsh & Banda, 2010

²⁰ Williams, 2009, p. 393 Emphasis added

²¹ Some have argued that R2P ‘rejectionism’ can be framed as part of the larger ‘North-South’ debate as most often R2P dissenters come from the ‘Global South’ or ‘developing regions’ such as South America, Asia, Africa and the Middle East. (Claes, 2012)

²² Despite numerous claims that consensus exists on R2P, some argue that this has been fabricated. For more see (Bellamy, 2010; Evans, 2008b)

²³ Bellamy, 2008, p. 617

²⁴ Evans, 2007a

controversial practice of ‘humanitarian intervention’ arose.²⁵ Humanitarian intervention’s fundamental premise is that external actors have a *right* to intervene militarily in another state to protect people against atrocities, without their consent.²⁶ This practice is controversial as it impedes a state’s sovereign right of non-interference in their domestic affairs; a right that has existed since the 1648 Peace of Westphalia and that has been rewritten into the UN Charter.²⁷

One of the most prominent concerns that arose out of humanitarian intervention was the possibility of it being misused by powerful states as a tool for political gain. This concern was driven in part by the fact that many developing states had only recently become independent after decades of colonial rule and they were fearful that their new found sovereignty would be taken away from them forcefully by regime change conducted under the guise of upholding human rights. While HI was initially envisioned as being undertaken by the UN, due to several failures²⁸ powerful regional organisations and states began to conduct humanitarian interventions unilaterally²⁹ which culminated with the “legitimate, but not legal”³⁰ NATO led intervention in Kosovo in 1999. To many sovereignty wary states, the intervention in Kosovo solidified their fears of the possibility of humanitarian intervention being misused by larger powers, as the intervention was undertaken without UN Security Council authorisation, tarnishing the norm beyond repair.³¹

The International Commission on Intervention and State Sovereignty

Despite the consistent debates about legitimacy, on-going human rights violations saw the issue of humanitarian intervention revisited at the end of the 1990s. In 2000 then Secretary-General Kofi Annan, determined to “reframe the question of intervention, and restore the United Nations to a central place in setting the boundaries for what states could do within their own borders”³² famously addressed the General Assembly stating that

²⁵ Gierycz, 2010

²⁶ Evans, 2007a; Gierycz, 2010; Pattison, 2010

²⁷ While the UN was founded on the principle of protecting human rights and should therefore be relatively accommodating of R2P, the Charter limits the use of force to acts of self-defence and acts undertaken to maintain international peace and security authorised by the Security Council. Furthermore, the Charter denies the UN authorisation to intervene in any states matters which are in the domestic jurisdiction of that state.

²⁸ These failures were perceived to have occurred due to the UN’s lack of political will, authority, and military capability(Evans, 2007a; Gierycz, 2010

²⁹ For instance Australia in East Timor, the British in Sierra Leone, and NATO (primarily the United States of America) in Bosnia

³⁰ Evans, 2007a, p. 707

³¹ Evans, 2007a; Alex Bellamy & Paul Williams, 2005

³² Annan & Mousavizadeh, 2012, p. 114

“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?”³³

In response to this plea, the Canadian government announced its intention to establish and sponsor the International Commission on Intervention and State Sovereignty (ICISS) to close the gap between the legality and legitimacy of intervention.³⁴ Despite the ICISS’s initial desire to reconceptualise humanitarian intervention,³⁵ it was the notion of sovereignty that was left fundamentally altered by their efforts which they released in 2001 in a report entitled ‘The responsibility to protect’. This report contributed to the field in four main ways. Politically, it changed humanitarian intervention’s ‘right to intervene’ to a ‘responsibility’ shifting the perspective from those intervening to those that needed the intervention in an attempt to delegitimise the self-interested factors for those intervening.³⁶ Conceptually, it challenged the idea to think of sovereignty not as control, but as a responsibility that was conditional upon the protection of one’s citizens. Third, it emphasised a responsibility to prevent, react, and rebuild taking the emphasis off military intervention which was considered a last and final resort. Finally the report proposed a set of guidelines for when military action was to be appropriate and how it should be implemented.

Using the notion of ‘sovereignty as responsibility’³⁷ ICISS sought to focus “not on what interveners are entitled to do (‘a right of intervention’) but on what is necessary to protect people in dire need.”³⁸ The ICISS report argued that a sovereign’s primary responsibility was to protect its people and endowed states with a ‘responsibility to prevent’ atrocities from happening by addressing the causes of conflict.³⁹ While the report established that the primary responsibility for the protection of its people lay with the state itself,⁴⁰ the international community had a parallel responsibility to assist states with this task. If a government failed at its responsibility to protect its citizens, “its claim to sovereign immunity bec[ame] void.”⁴¹ The report stated that once a state had been deemed illegitimate, the international community had a ‘responsibility to react’ through intervention or non-

³³ UN Document: A/RES/54/20

³⁴ Axworthy, 2003, p. 191; ICISS, 2001; Thakur & Weiss, 2009, p. 35

³⁵ Axworthy, 2003; Bellamy, 2008; ICISS, 2001, p. 620

³⁶ Evans, 2007a

³⁷ The notion of ‘sovereignty as responsibility’ was created by Francis Deng and Roberta Cohen which claimed a state’s primary responsibility was for the wellbeing of its citizens and any state that was unable to fulfill that capacity should welcome international assistance or forfeit its claim to non-interference. For more see (Bellamy, 2008, p. 619) and (Deng, 2006, p. 218)

³⁸ Bellamy, 2008, p. 620

³⁹ Bellamy, 2008; *ibid*

⁴⁰ ICISS, 2001, p. xi; *supra* note 4 p. xi

⁴¹ Reinold, 2011, p. 60

violent tools to halt the conflict⁴² and finally a 'responsibility to rebuild' the polities and societies afterwards.⁴³

Despite stressing that prevention was the critical component of R2P,⁴⁴ "the commission's main focus was on intervention."⁴⁵ Subsequently, out of the 85 pages in the ICISS report 9 pages were devoted to prevention, 16 to the responsibilities to prevent and rebuild, and 32 pages to intervention.⁴⁶ Like humanitarian intervention before it, ICISS envisioned R2P being authorised by the Security Council first and foremost.⁴⁷ However, to avoid the stalemates within the council which had caused the necessary but illegal Kosovo intervention,⁴⁸ the ICISS report proposed that permanent members refrained from using their power of veto on matters that are not vital to their national interests.⁴⁹ If a member did veto intervention, recourse was to be made within the General Assembly, then within regional arrangements then by coalitions of the willing, and finally by individual states themselves.⁵⁰

The origins of R2P are firmly rooted in the practice of humanitarian intervention from which it evolved. The meaning and content of R2P however is not static but continually changing due to varying interpretations by actors attempting to implement or constrain it. Since the ICISS document, R2P has undergone several changes in how it is conceptualised in an attempt to increase its support and make it operational. These changes have primarily sought to deemphasise its interventionist aspects and increase its preventative ones. One of the earliest and most critical changes occurred as advocates attempted to gain support for it within the UN, and the general understanding that emerged from the World Summit in 2005 (dubbed 'R2P lite')⁵¹ differs significantly from the ICISS version.

The 2005 World Summit Outcome Document

The 'Responsibility to Protect' was raised in the 2005 World Summit after receiving support from both Kofi Annan (in the form of a report *In Larger Freedom*) and the UN 'High level Panel on Threats, Challenges, and Change'.⁵² After much deliberation and difficulty, the wording of R2P was included

⁴² ICISS, 2001, p. xi

⁴³ Bellamy, 2008, p. 621

⁴⁴ ICISS, 2001, p. xi

⁴⁵ Bellamy, 2008, p. 621

⁴⁶ Bellamy, 2008, p. 621

⁴⁷ Bellamy, 2008; Pattison, 2010

⁴⁸ G. Evans, 2012

⁴⁹ Reinold, 2011

⁵⁰ Bellamy, 2008, p. 621

⁵¹ See (Weiss, 2007, p. 117) who argues that conditions added by the WSO document requiring interventions to be authorized by the UN Security Council dilutes the concept making it 'R2P lite'.

⁵² Reinold, 2011, p. 61

in three paragraphs of the WSO document⁵³ despite having only been “negotiated by a relatively small number of states.”⁵⁴ While this “unanimous” endorsement⁵⁵ was later contested by many, especially developing, states⁵⁶ its adoption by the General Assembly (in April 2006)⁵⁷ and subsequent reaffirmations by the Security Council in resolutions 1674 (2006) and 1894 (2009) have strengthened its position on the world stage.⁵⁸

The R2P that was articulated in the WSO document is considerably different from the R2P that was proposed by the ICISS in 2001. Although some of the changes that were made simply clarified components of the concept, other changes were made for the benefit of those fearful that R2P would be used to legitimise “hegemonic intervention in their internal affairs”⁵⁹ and regime change.⁶⁰ The most significant alterations are as follows. Where the ICISS report held R2P to apply to states which were “unwilling or unable” to protect their populations, the WSO document restricted this to only apply to states which were “manifestly failing to protect their populations.”⁶¹ Furthermore the WSO document narrowed R2P to only apply to “genocide, war crimes, ethnic cleansing and crimes against humanity”⁶² rather than using the ‘just war’ doctrine as ICISS had proposed. Any action undertaken was to be collective and required Security Council authorisation.⁶³ Perhaps most importantly “[t]he tacit association with humanitarian intervention” was dropped and its preventative aspects were emphasised.⁶⁴

The WSO document left a considerably vaguer R2P and those actors that embraced it did so with large variations in language as they sought to either broaden or narrow its utility.⁶⁵ After its endorsement by the international community it was widely agreed that for R2P to progress from

⁵³ See Evans, 2007b

⁵⁴ (Williams, 2009, p. 402). Many within the developing world (and even larger countries such as Russia and China) felt the World Summit had been high jacked by the West which, given time constraints, resulted in a rushed and controversial agreement to the Outcome Document. For more see Traub, 2006

⁵⁵ Bellamy, 2010, p. 143

⁵⁶ See Evans, 2007b

⁵⁷ UN Document: A/RES/60/1

⁵⁸ Capie, 2012, p. 78

⁵⁹ Capie, 2012

⁶⁰ While intervention does not necessarily lead to ‘regime change’, governments that ‘manifestly fail’ to protect their citizens from mass atrocities are, unfortunately, often the ones carrying out these acts and the only way to protect citizens from the regime, is to overthrow them (Evans, 2008b; Luck, 2011)

⁶¹ UN Document: A/RES/60/1, Article 139,

⁶² *Ibid*

⁶³ Reinold, 2011, p. 62

⁶⁴ Capie, 2012

⁶⁵ G. Evans, 2012, 11 minutes

word to deed, three challenges needed to be overcome.⁶⁶ R2P had to be refined conceptually, politically, and institutionally in order for consensus regarding “what [it] actually meant in particular real world situations” to emerge.⁶⁷ One of the most prominent attempts to do this was outlined in Secretary-General Ban Ki-Moon’s report *Implementing the Responsibility to Protect* (2009) which suggested that the paragraphs 138 and 139 of the WSO document rest on “three pillars” summarised as follows:

“[1] the primary responsibility of states [is] to protect their own populations from the four crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity, as well as from their incitement;⁶⁸ [2] the international community’s responsibility to assist a state to fulfil its RtoP; and [3] the international community’s responsibility to take timely and decisive action, in accordance with the UN Charter, in cases where the state has manifestly failed to protect its population from one or more of the four crimes.”⁶⁹

The World Summit Outcome document and subsequent reiterations by R2P’s advocates have significantly altered the content of the norm in order to increase the international community’s support for it and improve its implementation. Advocates have claimed that the most recent conceptualization of Ban Ki-moon’s ‘three pillar’ approach has been unanimously accepted, with even developing states or those that have thus far been cautious towards R2P slowly accepting and implementing it.⁷⁰ This reaffirmation by Ban Ki-moon also saw a tactical change in how R2P was marketed as “advocates ... put almost all of their emphasis on pillar one and two activities, stressing their preventive and consensual nature.”⁷¹

While these attempts to refine R2P have generally sought to narrow its scope or strengthen its foundations⁷² and make it more palatable for the international community to agree upon and endorse, there are some who would argue that these efforts have ‘watered [R2P] down.’⁷³ Theresa Reinold, a scholar who has approached the subject of R2P with perhaps more caution than most,

⁶⁶ G. Evans, 2012, 12 minutes

⁶⁷ G. Evans, 2012, 12.10 minutes

⁶⁸ These crimes were proposed during the 2005 debates and were since reaffirmed in Resolution 1674 (UN Document: S/RES/1674)

⁶⁹ Taken from (Bellamy, 2010, p. 143)

⁷⁰ See for instance (Bellamy & Drummond, 2011) who argue that countries within Asia are slowly accepting and implementing R2P type behaviour, despite traditionally contesting norms which override sovereignty (including R2P).

⁷¹ Capie, 2012

⁷² Luck, 2011

⁷³ Bellamy, 2009b

wrote in 2010 that “[t]he Outcome Document obviously left critical elements of R2P unaddressed.”⁷⁴ She is not alone in her sentiment, and many others are sceptical of R2Ps seemingly diminished power and scope. These differences in opinion can be put into two categories: those who conceive of R2P as a “rallying cry”⁷⁵ to operationalise the international community into responding to mass atrocity crimes; and those who interpret it as a framework for the prevention of conflict.⁷⁶

Rethinking R2P

While advocates such as Bellamy and Luck argue that it is important “not to confuse what we would like the R2P principle to be with *what it actually is*”⁷⁷ it is equally important not to forget why R2P was created in the first place. In 2008 Bellamy argued that

“R2P sets out responsibilities that states have to their own citizens... that all states have as members of the international community.... [as well as the] responsibilities that certain institutions have. Contrary to much contemporary writing on the subject, R2P does *not* set out criteria for the use of force... [or] offer pathways for intervention not authorized by the Security Council.”⁷⁸

Such a realisation of R2P starkly contrasts with the original ICISS conception. In 2009 Thakur and Weiss stated that the ICISS was mandated “to build a broader understanding of the tension between intervention and state sovereignty and to find common ground for military intervention to support humanitarian objectives.”⁷⁹ Even Bellamy has noted that R2P “*was* primarily concerned with reconceptualising humanitarian intervention” and that the ICISS’s main aim was to “reconcile the occasional need for armed intervention... with the principles of state sovereignty.”⁸⁰

The impetus for R2P’s creation is clear, written within the very report that gave it birth and by those who commissioned and created it. It was a solution brought about to “*respond* to a Rwanda, to a Srebrenica- to gross and systematic violations of human rights”⁸¹ and in an attempt to garner greater support from sovereignty wary states, advocates have emphasised its preventative rather than its

⁷⁴ Reinold, 2011, p. 62

⁷⁵ Evans, 2008b, p. 294

⁷⁶ Bellamy, 2010, p. 160; Rosenberg, 2009

⁷⁷ Bellamy, 2008, p. 624; Luck, 2008 also see Saxer, 2008

⁷⁸ Bellamy, 2008, p.624

⁷⁹ Thakur & Weiss, 2009, p. 35

⁸⁰ Bellamy, 2008, p. 620 emphasis added

⁸¹ UN Document: A/RES/54/20, Emphasis added

interventionist aspects.⁸² But what effect has this emphasis had? While few would argue against the notion that R2P was initially created to reconcile the competing notions of humanitarian intervention, sovereignty, and ‘non-interference’ with which it contrasted,⁸³ many scholars today seem to feel that what R2P was and what R2P is are no longer the same things.

Following the General Assembly debates from 2009 to 2012 it is clear that R2P has become more widely accepted by the international community.⁸⁴ But just which aspects of R2P are “widely accepted”? To many, the wording of R2P in the WSO document was inadequate and failed to “provide clear guidance about the circumstances in which coercive military intervention might be justified or about the appropriate decision-making in times of major humanitarian emergencies.”⁸⁵ Indeed immediately after its acceptance in 2005 by the UN General Assembly, some states back peddled in their commitment causing a ‘post 2005 revolt’⁸⁶ or “blow back.”⁸⁷ These sceptics claimed that “the World Summit rejected R2P in 2005” and that “the concept of the responsibility to protect itself ... was not accepted or approved as a principle by the General Assembly”.⁸⁸ These countries which suffer from “buyer’s remorse”, as Evans put it, have consistently sought to undermine or deflate R2P as they fear it could be used to justify powerful states intervening in weak ones in the same manner that ‘humanitarian Intervention’ could have allowed before it.⁸⁹

Conclusion

In the first five years of its existence R2P changed from a concept designed to ‘close the gap between the legitimacy and legality of humanitarian intervention’ to a ‘principle’ that sets out responsibilities which states have. Even after this significant shedding of normative weight, numerous states claim to have rejected R2P and the resulting “blow back” has made statements of its ‘unanimous endorsement’ seem somewhat hollow. Over ten years have passed since R2P’s initial inception and efforts to diffuse and operationalize R2P continue with advocates evolving and adapting the strategies they employ to garner support. To this end, numerous studies have been conducted in an attempt to analyse whether R2P is being accepted by sceptical states. These efforts

⁸² Weiss (2011) for example argues that “the main challenge facing the responsibility to protect is how to act, not how to build normative consensus”, yet despite this there has been an increasing and “virtually exclusive emphasis on prevention in the interpretation of RtoP.”

⁸³ Many proponents of the norm have written on this very matter already, see for instance (Bellamy, 2005, 2008, 2009b; Evans, 2007a; Reinold, 2011; Thakur & Weiss, 2009; Weiss, 2007)

⁸⁴ Evans 2012

⁸⁵ Bellamy, 2008, p. 617

⁸⁶ Bellamy, 2009b

⁸⁷ Claes, 2012

⁸⁸ UN Document: GA/AB/3837

⁸⁹ Claes, 2012; Evans, 2007a

have utilised theories of norm diffusion to analyse either external or internal efforts by actors to localise or adopt the norm. Many of these studies are optimistic about R2P's future and have argued that even where individual states may be reluctant to accept R2P, their regional organisations and neighbours have started to engage in "R2P-related policy priorities."⁹⁰ The next chapter provides an overview of this literature against the backdrop of the scholarship on norm diffusion in international relations.

⁹⁰ Sighted in Capie, 2012, p. 87

Chapter 2: Norms and norm diffusion

The status of R2P is contested. It has been referred to as a “facilitating norm”,⁹¹ an “evolving norm,” a “principle,”⁹² and a “concept” each term endowing it with a different status which ultimately changes its functionality.⁹³ While the UN General Assembly and the ICISS commission have both referred to R2P as an “emerging principle”⁹⁴ there appears to be a widespread consensus amongst academics to refer to it as a norm (whether emerging, facilitating, nascent, or global).⁹⁵

Norms are “shared expectations about appropriate behaviours held by a community of actors”.⁹⁶ Constructivists hold that an actors’ behaviour is shaped by non-material factors and that they seek to look at the way in which identity and interests are altered by ideas, beliefs, and knowledge.⁹⁷ To constructivists, norms are important as they represent one “explanatory variable” which form an actor’s identity and impact on their behaviour.⁹⁸ Constructivist scholarship on norms attempts to discern how they are spread and accepted by actors and has undergone several significant changes or ‘waves’ becoming a central point of focus for those seeking to explain the role of non-material factors in world politics.⁹⁹

The first wave of this scholarship developed out of moral cosmopolitanism and saw norms as universal or static ‘things’¹⁰⁰ that were taught by transnational moral entrepreneurs (or non-local advocates) who had strong beliefs about what constituted good behaviour and attempted to persuade others to accept their ideas.¹⁰¹ Literature in this initial discourse focused primarily on the way in which norm-makers apply pressure on norm-takers.¹⁰²

‘Second-wave’ scholarship arose out of attempts to discover “the causal mechanisms and processes by which... ideas spread”¹⁰³ by analysing “how domestic political structures and agents condition normative change.”¹⁰⁴ This wave of scholarship attempted to reduce the focus on the non-local influences that first wave scholarship had had and argued that domestic actors could frame or graft

⁹¹ R2P, 2010, p. 5

⁹² See for instance Bellamy, 2008

⁹³ Evans, 2009, pp. 4-7

⁹⁴ ICISS, 2001; UN High-Level Panel on Threats, 2004 para 2.24 and 203

⁹⁵ Capie, 2012, p. 79

⁹⁶ Finnemore, 1996, p. 22

⁹⁷ Cohn & Hira, 2004; Shawki, 2011, p. 175

⁹⁸ Finnemore & Sikkink, 1998

⁹⁹ Acharya, 2004; Checkel, 1999

¹⁰⁰ Checkel, 1999

¹⁰¹ Finnemore & Sikkink, 1998

¹⁰² Acharya, 2009, p. 10

¹⁰³ Risse, Ropp, & Sikkink, 1999

¹⁰⁴ Acharya, 2004, p. 240

norms to make them more congruent with existing norms which would increase their chances of being adopted.¹⁰⁵

From the vast array of scholarship produced on norm diffusion, two theories, the 'norm lifecycle model' and 'constitutive localisation', have become increasingly prominent amongst scholars seeking to chart the evolution R2P and give weight to its explanatory capability in International Relations. The rest of this chapter outlines these theories and argues that they both treat norms as static objects with fixed content that can be advocated by non-local actors and diffused by local ones. While such a conceptualisation of norms makes analysing them easier, this thesis holds that norms should be conceived of as processes in which both 'outsiders' as well as 'locals' engage in efforts to change their content as they are diffused.¹⁰⁶ Such a conceptualisation of the norm diffusion process allows for valuable insights to be drawn out of a comparative study of R2P's reception in developing regions due to its ability to better account for variations in reception between actors.

Norm life cycle model

To constructivists, norms are causally linked to "change and transformation in the international system as change is the result of shifts in the ideas and norms that underlie the system and shape actors' identities and behaviours".¹⁰⁷ According to Finnemore and Sikkink, before norms can influence behaviour and political change they need to evolve through a patterned "lifecycle".¹⁰⁸ This lifecycle model separates norm evolution into three stages: norm emergence, norm cascades, and norm internalisation.¹⁰⁹

The first stage in the model is that of norm emergence where agents call attention to, or create issues by naming and dramatising them in a process referred to as framing. During this stage norms are "actively built by agents having strong notions about appropriate or desirable behaviour in their community".¹¹⁰ Agents promote their norm through "organisational platforms"¹¹¹ using a 'logic of appropriateness'¹¹² as they attempt to garner more support and persuade other actors and states to endorse them.

¹⁰⁵ Acharya, 2004; Cottrell & Davis, 2000

¹⁰⁶ Capie, 2012, p. 90

¹⁰⁷ Finnemore & Sikkink, 1998; Shawki, 2011, p. 175

¹⁰⁸ Finnemore & Sikkink, 1998

¹⁰⁹ Finnemore & Sikkink, 1998, p. 894

¹¹⁰ Finnemore & Sikkink, 1998, p. 896

¹¹¹ Finnemore and Sikkink (1998, p.899) argue that organisational platforms are NGOs.

¹¹² See Finnemore and Sikkink, 1998

If promotion is successful and a “critical mass” of states endorses a norm it reaches a “tipping point” where the new norm redefines what constitutes appropriate behaviour for a group of actors.¹¹³ During this phase of the lifecycle model the norm “spreads or cascades relatively rapidly among the remaining countries” regardless of any domestic pressure to change.¹¹⁴ Socialisation is the “dominant mechanism of a norm cascade”¹¹⁵ and states adopt the norm in a relatively swift succession for a variety of reasons such as a desire to enhance their “self-esteem”¹¹⁶ or from fear of being ridiculed for deviation.¹¹⁷

As norms evolve through the lifecycle model they become more and more institutionalised in the procedures and processes of those that are adopting them.¹¹⁸ The more frequently they are used in bilateral agreements, international law, and international organisations the more they acquire a “taken-for-granted quality”¹¹⁹ and become internalised. Norm internalisation is the final stage in the lifecycle model and is said to occur when a norms’ compliance by states becomes automatic and they are no longer challenged or contested.¹²⁰

The lifecycle model details a course in which norms are created through a competitive process of promotion by international actors who have strong beliefs about what constitutes desirable and good behaviour. The ability for a norm to complete this model and become “taken-for-granted” however is far from assured and many norms fail to garner sufficient support to ‘tip’ and cause a cascade. According to Finnemore and Sikkink norms fail to become internalised for a variety of reasons, such as the quality of the norm¹²¹ or the quality of those actors promoting the norm. Such explanations, while important, place too much emphasis on ‘international’ efforts to diffuse norms, treating norm-takers as static receivers and failing to take into account the range of domestic factors

¹¹³ The amount of states required to ‘tip’ a norm differs on a case by case basis and depends greatly on which states have endorsed it given that states are “not all equal” in their normative weight. What states are critical to tip a norm varies depending on the issue at hand, however a norm agents efforts are severely hindered if they do not manage to gain a critical states support (Finnemore and Sikkink, 1998; p.901-902)

¹¹⁴ Shawki, 2011, p. 902

¹¹⁵ Finnemore & Sikkink, 1998, p. 902

¹¹⁶ Finnemore & Sikkink, 1998, p. 895

¹¹⁷ Sighted in Finnemore, 1998, p.902

¹¹⁸ Shawki, 2011, p. 175

¹¹⁹ Finnemore & Sikkink, 1998, p. 904

¹²⁰ Finnemore & Sikkink, 1998

¹²¹ There are several factors that either increase or decrease the quality of a norm which change its likelihood of being endorsed. For instance factors that can increase a norms quality are often universal claims and claims about preventing bodily harm to groups of innocents (Finnemore & Sikkink, 1998) and factors that decrease a norms palatability are when its subject is localised or particularistic.

that can not only alter a norms possibility of diffusion, but alter the norm itself. The next section will outline one of the most prominent alternative models to the lifecycle model.

Constitutive Localisation

The lifecycle model is a “top down” model primarily concerned with how international or universal norms that set standards of appropriate behaviour for states are diffused¹²² and as such the role of local actors are confined to being static recipients of norms in all but the very early phases of the process. Constitutive localisation was derived as a response to this failure of first and second wave theories of norm diffusion to account for the agency of norm-takers as well as norm-makers.

A theory devised by Amitav Acharya, constitutive localisation can be defined as “the active construction (through discourse, framing, grafting and cultural selection) of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices.”¹²³ It is a “framework for investigating norm diffusion that stresses the agency role of norm-takers.”¹²⁴ While second wave theories had already attempted to assess “the existential fit between domestic and outside identity norms”¹²⁵ and their likelihood of being diffused by measuring their “cultural-match” or “cognitive priors”,¹²⁶ this process was relatively static with norm-takers still seen as recipients.¹²⁷ Constitutive localisation sought to show how local actors or norm-takers “build congruence between the local... and external norms.”¹²⁸ While norm diffusion may begin with reinterpretation and representation (via acts of framing and grafting), localisation holds that occasionally it will extend beyond this to ‘reconstitution’ where norm-takers undertake acts of pruning, rejecting those aspects of the norm in order to increase its “congruence” or “cultural match.”¹²⁹

Localisation occurs because new international norms are not created in an international vacuum. As Finnemore and Sikkink establish during the initial phase of the lifecycle model, norms enter a contested space and norm-makers must compete with one another to gain support for their norm.¹³⁰ This contested space is not isolated to the international level however, and norms being

¹²² Finnemore & Sikkink, 1998, p. 893

¹²³ Acharya, 2004

¹²⁴ Acharya, 2004, p. 240

¹²⁵ Acharya, 2004, p. 241

¹²⁶ Acharya’s (2004) ‘cognitive priors’ and Checkel’s (1999) ‘cultural match’ are both concepts which hold that the more a norm reflects an actor’s pre-existing norms, values, and beliefs, the more likely it is to be diffused within a region.

¹²⁷ Acharya, 2009, pp. 12-14

¹²⁸ Acharya, 2009, p. 4

¹²⁹ Acharya, 2004, 2009; Capie, 2012

¹³⁰ Finnemore & Sikkink, 1998

diffused in new countries must compete with relevant pre-existing beliefs and values just as norms compete on the international stage and during their emergence. While the quality of a norm and its entrepreneurs certainly alters the likelihood of acceptance, constitutive localisation holds that these conditions are not the only factors at stake.¹³¹ Like other second-wave theories, localisation holds a norm's congruence with existing ideas and beliefs alters the prospects of it being diffused. Unlike second-wave theories however, congruence is not seen as a "static fit" but rather a dynamic process which is altered by the local historical and institutional context of the region.¹³²

According to Acharya there are three factors which change whether a norm is localised or accepted wholesale: first, how does the new foreign norm relate to established or traditional norms within the region? The stronger pre-existing norms are, the more likely the new norm will be localised. Second, what quality are the advocates or entrepreneurs at the local level? Local actors must have "sufficient discursive power to be able to outperform outside norm entrepreneurs" as well as be seen as credible upholders of local values and identities within their regions.¹³³ Third, what are the benefits of adopting the norm? Similar to the socialisation process of the lifecycle model, the prestige or reputational rewards an actor receives for diffusing a norm alter whether it is localised or accepted outright.¹³⁴

Localisation was designed to restore agency to local actors during the norm diffusion process, something lacking in first wave theories which prescribed a "top-down" method of diffusion. While Acharya successfully manages to make up for inadequacies in the lifecycle model and account for the way in which local actors play an active role in norm diffusion, the process is largely quiet on how local and non-local actors interact.¹³⁵ According to Capie, while the localisation framework "is helpful in shifting our emphasis away from global norm entrepreneurs and towards the agency of regional actors", the focus should not be one sided, as efforts to change a norms content "by outsiders as well as locals... are important."¹³⁶ Furthermore, Capie argues that localisation conceives of norms being "essentially exported with ... fixed content" which is clearly conceived of in the minds of non-locals and can be pruned by those attempting to diffuse it.¹³⁷ In this way, he reemphasises original criticisms levelled against earlier cosmopolitan theories of norm diffusion and finds that the same problems are inherent in localisation. The theory of constitutive localisation like the 'norm

¹³¹ Acharya, 2009

¹³² Acharya, 2009, p. 5

¹³³ Capie, 2012, p. 80

¹³⁴ Acharya, 2009

¹³⁵ Capie, 2012, p. 79

¹³⁶ Capie, 2012, p. 90

¹³⁷ Capie, 2012, p. 90

lifecycle model’ becomes problematic for studying norm diffusion because their explanatory capacities are largely one sided whereas norm diffusion is a dynamic and competitive process of interaction between local and non-local or international actors. The following section provides a brief overview of how existing theories of norm diffusion have been used to analyse R2P’s reception by states, before arguing why a discursive conceptualisation of norms is useful.

Existing studies of R2P diffusion

Existing literature regarding R2P is so extensive that it has led some scholars to claim that if one were to measure R2P’s development by the amount of attention and rhetorical support it has received they could “be inclined to believe that the responsibility to protect is rapidly evolving into a norm of customary international law.”¹³⁸ The diversity of discussion that has taken place regarding R2P is large and involves many academic disciplines. Although critics of R2P still focus on its intervention aspects, in recent years discussion has shifted substantially from ‘*whether to implement*’ and now focuses on ‘*how to implement*’ its preventative aspects.¹³⁹ This shift in attitude has given rise to new questions about the strength and utility of the norm.

International Relations literature has progressed through debates concerned with the fundamental function of R2P (preventative or reactive), how R2P is being accepted and implemented by states, and most recently how regional organisations can help the diffusion and implementation processes.

Early studies which sought to analyse how accepted R2P has become were often optimistic about R2P’s status and its future trajectory.¹⁴⁰ According to Jennifer Welsh, R2P’s initial “overplay[ed]” success story was a result of “the tendency to view the development of norms as a linear process.”¹⁴¹ Here, scholars using the ‘norm lifecycle model’ wrongly believed that its acceptance in the WSO document and by the Security Council showed how R2P was nearing a norm cascade and was on its way to full acceptance.¹⁴² Advocates efforts to increase R2P consensus in critical regions however led to backslide in popularity and renewed arguments about the norms provisions; subsequently many states claimed that they had “rejected” R2P during the World Summit rather than having endorsed it.¹⁴³

Perhaps in an attempt to mitigate the failure of Finnemore and Sikkink’s linear model to account for negative normative change, Noha Shawki attempted to backtrack on those predictions made by

¹³⁸ Reinold, 2011, p. 56

¹³⁹ Gareth Evans, 2012

¹⁴⁰ Welsh, 2010

¹⁴¹ Welsh, 2010, p. 426

¹⁴² Welsh, 2011

¹⁴³ Evans, 2009

other 'norm lifecycle model' theorists in 2011 and claim that R2P was still in the early stages of development. Shawki argued that R2P has the "potential to evolve into a viable norm and that some of the theoretical lenses developed in the constructivist literature can be very useful in helping us think about the evolution and future potential of R2P."¹⁴⁴ Thus, to Shawki, R2P is still an emerging norm which with much more development could one day reach the 'norm cascade' stage and "develop into a legitimate and viable international norm."¹⁴⁵

To critics however, such a model of norm diffusion was worryingly linear and its fixation on international or transnational advocates meant that it could not account for how developing states had been receiving the norm. To this end, some began to use Acharya's theory on 'constitutive localisation' to analyse the diffusion of R2P by stubborn states. Scholars argued that localisation was necessary in regions such as Southeast Asia due to its history of devotion to non-interference and often open hostility towards R2P. These studies, like those undertaken using the lifecycle model beforehand, are relatively optimistic and some have concluded that the localisation process has begun.¹⁴⁶ According to Bellamy and Drummond, localisation efforts have produced an accommodation between the principles of non-interference and R2P which have been subtly realigned in order to make them compatible with one another. They argue that states within this region are creating their own "localised variant of sovereignty as responsibility" which is more congruent to the locale.

Towards a discursive conceptualisation of norms

While there appears to be a tendency for academics to treat localisation and the norm lifecycle model in isolation from one another,¹⁴⁷ norms do not diffuse from *either* top down *or* bottom up efforts. Instead the process of diffusion is one in which local (or bottom) and non-local (top) advocates compete against each other and change a norm's content as they are diffused. As such, localisation should not be seen as a radical challenge to the norm 'lifecycle model' but an evolution, with the 'lifecycle model' accounting for the role of "NGOs, transnational advocacy networks and liberal states" while localisation accounts for the role of "local and regional actors in receiving [norms] and reconstructing them."¹⁴⁸ Combining both theories of norm diffusion would allow for a process which establishes how norms emerge, are promoted and diffused internationally, and are then localised in particular areas of the world. These processes do not happen in a step by step

¹⁴⁴ Shawki, 2011, p. 174

¹⁴⁵ Shawki, 2011, p. 174

¹⁴⁶ Bellamy & Beeson, 2010; Bellamy & Drummond, 2011

¹⁴⁷ See for instance (Bellamy & Beeson, 2010; Hunt & Bellamy, 2011; Shawki, 2011; Williams, 2009)

¹⁴⁸ Capie, 2012, p. 81

fashion, instead they overlap one another as local and non-local actors all compete to diffuse, contest, and reject norms. For this reason, the process-tracing methodology utilised to undertake the empirical analysis in this thesis is not an attempt to test which theory better accounts for how R2P has been diffused, as norms diffuse through the efforts of both local and non-local actors, which neither theory can account for alone. Furthermore, because of these deficits in the norm lifecycle model and constitutive localisation, this thesis analyses R2P's reception within a discursive framework which enables tenets to be drawn from both theories allowing for a more comprehensive evaluation. This approach is presented within the thematic enquiries that each regions empirical analysis is undertaken in.

In addition to this, the discursive approach also allows for the conceptualisation of norms as processes. Norms are not universal containers with fixed content known by their advocates:¹⁴⁹ rather, they are often vague “enabling their content to be filled in many ways... to be appropriated for a variety of different purposes.”¹⁵⁰ Krook and True argue that conceiving of norms as processes requires a more discursive approach which “offers greater analytical leverage for explaining why norms emerge and appear to diffuse rapidly, at the same time that they rarely achieve their intended aims.”¹⁵¹ Such a conceptualization of norms is useful for analysing the diffusion of R2P within the developing world as it recognises that not all norms have their intended effects or “retain similar content across countries and time.”¹⁵²

It is relatively clear that not only conceptions, but the actual content of R2P has changed since it was established in 2001. While this change may have initially been relatively cohesive, summarised in the WSO document and subsequent statements by the UN, R2P has not yet been accepted or operationalized by all resistant states. While Southeast Asia's current process of diffusion has been characterised by its adherence to non-interventionism, it is not the only region of the world that has been critical of R2P. Other diffusion efforts in places such as Africa (where some have claimed the norm is also being 'localised')¹⁵³ may have been characterised by other features which could allow for multiple variations of the norm between states as well as regions. Such a realisation is problematic because it makes implementation of R2P by a 'unified' international community much more difficult to obtain if variants in what precisely R2P means and how it should be invoked differ.

Regional Organisations and the Responsibility to Protect

¹⁴⁹ Capie, 2012)

¹⁵⁰ Krook & True, 2010, p. 104

¹⁵¹ Krook & True, 2010, p.105

¹⁵² Krook & True, 2010, p. 104

¹⁵³ See for instance Williams, 2009

In part as an answer to these problems, advocates have recently begun to emphasise how regional organisations can contribute to R2P's diffusion and implementation. Following General Assembly debates in 2010 and 2011, several claims have been made regarding the need to strengthen and further integrate R2P through, and within, regional arrangements.¹⁵⁴ Edward Luck, assistant to the UN Secretary General, states that "the process of internalization of [R2P] principles within national societies, institutions, and governments is not far advanced" and that there is a need to "build stronger and wider relationships among global, regional, and sub-regional organisations".¹⁵⁵ This desire to increase institutionalization of R2P within regional arrangements could have several benefits for its implementation.

First, regional organisations can act as 'norm entrepreneurs' who advocate and help diffuse norms to other actors (for instance sub-regional and local).¹⁵⁶ Furthering regional organisations acceptance of the norm would increase pressure on its non-norm supporting members, potentially garnering more acceptance for R2P in doing so. Second, a regional organisation advocate could cause more wholesale support for R2P as an entirety, meaning that states supporting pillars 1 and 2 would also be more inclined to support pillar 3. Third, Chapter VIII of the UN charter foresees the need for regional arrangements to partake in peacekeeping (or pillar 3 of R2P); increasing institutionalization of R2P within these organisations would make it easier to call upon them when needed.¹⁵⁷ Fourth, regional organisations increase the 'preventative' capacity of R2P by setting up early warning detection systems, regional security forums and monitoring groups which contribute greatly to the implementation of pillar 1 and 2 of R2P.¹⁵⁸ Fifth, regional arrangements have the ability to play a crucial 'gatekeeping' role within their expanse. Bellamy and Williams argue that regional arrangements define problems, terms of engagement and "establish the conditions under which the Security Council could consider adopting enforcement measures".¹⁵⁹ They argue that the reason the international community intervened in Libya and not Syria in 2011 was in part due to the 'gatekeeping' role which the League of Arab States played, endorsing action against Libya whilst avoiding comment on the situation in Syria.¹⁶⁰ The need for regional arrangements to institutionalize R2P becomes vital if they are expected to partake in the detection of R2P violations *and* have the ability to influence whether, and how, the international community should respond.

¹⁵⁴ See for instance Gerber, 2011; Hunt & Bellamy, 2011; Luck, 2011

¹⁵⁵ Luck, 2011

¹⁵⁶ Acharya, 2004

¹⁵⁷ Gerber, 2011; Hunt & Bellamy, 2011

¹⁵⁸ Gerber, 2011

¹⁵⁹ Bellamy & Williams, 2011, p. 839

¹⁶⁰ (Bellamy & Williams, 2011

The importance of regional arrangements in regards to R2P is clearly evident through the extent of literature being published in this field. In line with the idea that regional organisations can ‘strengthen’ R2P, academics have begun to raise questions such as ‘how might cross-regional dialogue be encouraged, and what role should the UN play in this process?’, ‘how have neighbours mitigated or exacerbated atrocity risk [and] how do these dynamics impact the functioning and role of regional arrangements?’ and ‘how can regional capacity for prevention and response be built?’.¹⁶¹ These questions are important and will prove vital in furthering the understanding of regional arrangements potential in the field of R2P. However, the idea that these organisations can help strengthen R2P within their regions and beyond is reliant on the fact that they accept the norm in the first place, which is not always the case. An organisation can hardly be expected to advocate and strengthen something which it does not accept.

The different emphasis that states place on the pillars of R2P and the lack of agreement between organisations’ member states could seriously hinder the positive impact that regional arrangements have. While it is not necessary for every member of a regional organisation to be R2P ‘engaged’¹⁶² (as organisations can act as a norm advocates), a lack of cohesive agreement on conceptualisation of R2P could lead to arguments about how to interpret it rather than how to implement it. Thus, in an unfortunate roundabout way, efforts to use regional organisations to advocate and diffuse R2P amongst critical or sceptical states are hindered by the fact that these states do not accept the norm and disagree on its parameters in the first place.

The desire for regional organisations to act as norm entrepreneurs unfortunately rests on the assumption that there is a cohesive understanding of what R2P is and how it should be implemented within the regions that form these organisations. Ban Ki-Moon’s ‘three pillar’ approach clearly envisioned R2P as being a “universal concept, applicable equally to all parts of the globe.”¹⁶³ However these recent attempts by scholars to analyse how R2P has been diffused and localised by developing states suggests that R2P is anything but, and the developing regions of Africa, South Asia, and Latin America all contain states that have accepted or rejected the norm which has led to controversial and problematic implementations. While this un-cohesive approach to R2P is not exclusive to these regions, they are often the ones identified as having populations at risk from mass

¹⁶¹ Gerber, 2011

¹⁶² Bellamy and Davies (2009) divide non-norm advocating states into three categories in their study of R2P in the Asia-Pacific. 1) ‘Engaged’ where states have endorsed and participated in discussion concerning the norm but are cautious about its implementation 2) ‘Fence-sitters’ where states have not expressed opinion on the norm but did not speak out against it in 2005 and 3) ‘Opponents’ who are those who have not endorsed the norm and openly criticize it

¹⁶³ Williams, 2009, p. 394

atrocities crimes.¹⁶⁴ Subsequently it is in these regions that external advocates vigorously attempt to diffuse R2P.

In 2009 Thakur and Weiss wrote that “a normative consensus is emerging in international society about a state’s responsibilities and accountabilities both to domestic and international constituencies.”¹⁶⁵ This statement has also been made by numerous other advocates, such as Bellamy and Evans, who have also claimed that R2P has become unanimously accepted by states. If norms such as R2P are processes rather than entities with fixed content, the question of how R2P has been received within regions becomes relevant as its meaning and operationalization may differ amongst actors and regions. The following chapters give empirical case studies which seek to look at this problem, and analyse how receptions of R2P differ between developing regions.

Chapter 3: Africa, an increasing commitment to prevention?

In the beginning of this century many looked towards Africa’s changing peace and security architecture with relative optimism. A region which had been united under the banner of pan-Africanism and had strictly adhered to norms of non-interference and sovereignty as it sought to end colonial rule emerged touting ‘African solutions for African problems’ attempting to change its notion of ‘non-interference’ to ‘non-indifference’. Contained within the very core of its new regional architecture, the African Union’s (AU) Constitutive Act, was the claim that the Union had the *right* to intervene in others’ states with or without consent.

The institutional similarities between R2P and those enshrined within the African Union and its surrounding body of organisations has led many commentators to note that ‘R2P emerged from Africa’ and that the AU “is founded upon ideas at the heart of the R2P agenda.”¹⁶⁶ Indeed there were high hopes for the organisation and, acting under these emerging norms, the AU intervened

¹⁶⁴ See for example the ‘Global Centre for the Responsibility to Protect’ (<http://www.globalr2p.org/>) which conducts frequent reports on what regions are at risk of suffering mass-atrocity crimes.

¹⁶⁵ Thakur & Weiss, 2009, p. 29

¹⁶⁶ Williams, 2009, p. 415

promptly in the crises in Burundi and Darfur in 2003 to halt the atrocities taking place, despite unresolved questions as to the requirement for UN Security Authorisation.¹⁶⁷

Unfortunately this honeymoon period was short-lived and commentators pointed towards on-going conflicts in places such as the Democratic Republic of Congo (DRC) and the failure of the AU to halt atrocities in Darfur to argue that Africa was failing at its R2P.¹⁶⁸ The African Union seems to have inherited more from its prior organisation than many had first imagined, including a lack of will to respond or react against the many incumbent regimes within the continent.¹⁶⁹ More recently, the AU and many of its members, despite having expressed their concern against atrocities being committed in Libya in 2011, not only failed to react in order to halt them, but explicitly condemned the actions taken by those who did.

Institutional Architecture and cognitive priors

Atrocities that took place during the 1990s not only provided the impetus for the creation of the R2P, but also for the African Union which was established in 2000 to replace the by then obsolete Organisation of African Unity (OAU).¹⁷⁰ The OAU which was established in 1963 was a reflection of African society at the time and enshrined the conservative conceptions of sovereignty held by African states which stemmed from their fears of internal subversion and foreign domination.¹⁷¹ These norms ensured that the OAU was legally and operationally unequipped to intervene in either intra or inter-state conflicts, which blocked the organisation from preventing or halting atrocities.¹⁷² After a series of internal debates which reviewed the OAU in regards to its strict adherence to non-intervention and its ban on peacekeeping, it was agreed “that the OAU had become a defunct and anachronistic institution that should be replaced by a new organisation ... equipped to deal with such challenges.”¹⁷³

The African Union was established in May 2001 and has been mandated to promote peace and security, anticipate and prevent conflicts, promote and implement peace building and post-conflict reconstruction, promote and encourage “democratic practices, good governance and the rule of law, through the protection of human rights and fundamental freedoms, the sanctity of human life, and international humanitarian law.”¹⁷⁴ Of most relevance for this thesis is the founding document of the

¹⁶⁷ Kuwali, 2009, p. 2

¹⁶⁸ See for instance C. G. Badescu & Bergholm, 2009a, 2009b; Bellamy, 2005; De Waal, 2007

¹⁶⁹ Omorogbe, 2012, p. 155

¹⁷⁰ Aning & Atuobi, 2009

¹⁷¹ Aning & Atuobi, 2009; Williams, 2009

¹⁷² Powell, 2005

¹⁷³ Williams, 2009, p. 400

¹⁷⁴ Powell, 2005, p. 10

Union, the Constitutive Act (2000), which in Article 4(h) establishes “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity” which is comparable to R2P’s pillar 3, and Article 4(j) which establishes “the right of Member States to request intervention from the Union in order to restore peace and security.”¹⁷⁵

In stark contrast to the OAU, and in accordance with the AU’s wider protection mandate, the organisation does not require a state’s consent to intervene in its internal affairs. These two articles (4(h) and (j)), and the larger protection and prevention mandate that reaffirm them have caused many commentators to note that the “AU’s new peace and security architecture is being built around the ideas set out in the R2P”¹⁷⁶ or that the “AU’s norms and principles mirror the R2P.”¹⁷⁷ In fact, at first glance the African Union’s peace and security architecture would seem to go beyond the new norm as it is laid out in the WSO Document, giving the Union the *right* rather than the responsibility to intervene and even allowing for states to request intervention in another state if it is seen to be abusing its citizens.

In addition to these principles, African states have set up various structures and mechanisms which are relatively geared towards the preventative pillars (1 and 2) of R2P. For instance, there is an elaborate continental early warning system, a Panel of the Wise, and a Peace and Security Council - all of which have undertaken R2P-like activities in the past.¹⁷⁸ This array of institutions is increasingly being associated with R2P by African leaders and norm entrepreneurs who signal to them as a sign of the continent’s growing acceptance of and steady effort to internalise and operationalize R2P.¹⁷⁹

Given this large array of institutions, many of which have made reference to R2P in their statements or have mechanisms set up which specifically correlate with tenets of the norm, it would seem likely that the AU could champion R2P in the region and act as an R2P promoter towards resistant states. Paradoxically perhaps considering claims that R2P “emerged, quite literally, from the soil and soul of Africa”¹⁸⁰, Paul Williams uses Acharya’s norm localisation model to analyse the diffusion of R2P within African International Society. Localisation is said to occur when there is “contestation between emerging transnational norms and pre-existing regional normative and social orders.”¹⁸¹ Thus, using the localisation model to assess R2P in Africa is an interesting choice as it assumes that

¹⁷⁵ AU Document: Constitutive Act 2000

¹⁷⁶ Williams, 2009, p. 398

¹⁷⁷ Aning & Atuobi, 2009, p. 92

¹⁷⁸ Gerber, 2011

¹⁷⁹ Williams, 2009

¹⁸⁰ Luck, 2008b

¹⁸¹ Acharya, 2004, p. 241

the cognitive priors of the region are not congruent with R2P, an assumption which clashes with the claim that R2P emerged from Africa. Thus, despite radical changes in Africa's peace and security architecture, Williams assumes (and rightly so) that the existing normative structure has been left unchanged by the AU's arrival and that African society is still predominantly concerned with non-interference. If this is the case, in order for R2P to be diffused within Africa its content must be fundamentally reconstructed to increase its congruence with existing norms.

The conflict between Africa's new peace and security architecture and non-interference is embedded within the very framework and legal structures of the African Union. The Constitutive Act mandates the African Union with two contradictory principles: it gives it the right to intervene in the affairs of another state to uphold peace and security (in Articles 4(h) and (j)), while also tasking the organisation with "defend[ing] the sovereignty, territorial integrity and independence of its Member States."¹⁸² To overcome this inherent contradiction the AU's Constitutive Act, like R2P, places limitations on 'state sovereignty' making it conditional on "a state's willingness and capacity to provide protection to its citizens."¹⁸³ Also similarly to R2P, states seem to have supported this notion more rhetorically rather than practically which has led the African Union, like the OAS before it unable to *respond* to the mass atrocities taking place within the continent.

Initial reactions

In general, Africa's reception to R2P is inconsistent between states and throughout time. While initial responses differed between acceptance, rejection, and tacit agreements to discuss the concept further, many countries have altered their stance towards the norm since.

Botswana, the Democratic Republic of Congo (DRC), Ghana, Rwanda, South Africa and Tanzania have all been noted as endorsers of R2P, despite the fact that not all of them stated their acceptance or explicitly referenced R2P in 2005.¹⁸⁴ During the World Summit, Rwanda invoked the wording of R2P in relation to terrorism¹⁸⁵ before arguing the need to undertake "collective action in a timely and decisive manner... and ensure that preventative interventions are the rule rather than the exception"¹⁸⁶ and Botswana endorsed R2P claiming that we "can no longer afford to stand back if a country fails to protect its citizens against grave human [r]ight abuses."¹⁸⁷ Others were slower on their endorsement of R2P with countries like Ghana, DRC and Tanzania showing their support of the

¹⁸² AU Document: Constitutive Act, Article 3(b).

¹⁸³ Aning & Atuobi, 2009, p. 11

¹⁸⁴ See for example ICRtoP, 2012a

¹⁸⁵ Kagame, 2005

¹⁸⁶ *ibid*

¹⁸⁷ ICRtoP, 2008b

concept during the first Open Debate on the ‘Protection of Civilians in Armed Conflict’ in December the following year.

Most states’ reception of R2P is not as straight forward as these however and many have fluctuated between acceptance and rejection or somewhere in between. South Africa offers one such example. During the World Summit the country showed concern for R2P claiming that it needed to be linked “to exceptional circumstances so as not to be misused” and required further elaboration by the General Assembly.¹⁸⁸ President Thabo Mbeki, while not explicitly referencing R2P raised concerns with how larger states “use their power to perpetuate the power imbalance in the ordering of global affairs.”¹⁸⁹ This concern has been a constant theme of South Africa’s comments on R2P since.

Other states were more critical of R2P. Egypt for example, despite having served on the High Level Panel which unanimously endorsed R2P, responded to Kofi Annan’s report *On Larger Freedom* and his attempts to include R2P within UN debates by stating that

“the theory of the “responsibility to protect” advocated in [Annan’s] Report will become a threat to the principle of national sovereignty of states, and would usher into a new form for intervention in their internal affairs”¹⁹⁰

Egypt’s ambassador Maged Abdelaziz argued that the concept of R2P conflicted with the well-established principles of sovereignty, territorial integrity, and non-interference which were enshrined in the UN Charter. For Egypt, the use of force “should be under strict UN authority and in accordance with Charter provisions” and should only be used “[i]n cases of violations to international law that could constitute a breach to international peace and security.” Consequently Egypt claimed that states did not have a “shared responsibility outside of the responsibility to protect its own citizens and the responsibility of the Security Council to address matters of international peace and security.”¹⁹¹

Egypt was not alone in its concerns and Algeria¹⁹², Morocco,¹⁹³ and Zimbabwe¹⁹⁴ all made strong statements against the inclusion of R2P in the WSO Document due to fears of its infringement on

¹⁸⁸ WFM, 2005

¹⁸⁹ Mbeki, 2005

¹⁹⁰ Abdelaziz, 2005

¹⁹¹ WFM, 2005

¹⁹² Algeria stated “R2P is not compatible with international law. Algeria suggests that R2P should not be included in the Outcome document because it does not have consensus support. Algeria supports further discussion in the GA.”(ICRtoP, 2008b)

¹⁹³ King Mohammed VI of Morocco stated that while the UN had demonstrated its usefulness and adaptability in the past there was need to ensure “such rules and principles as equality among

sovereignty and non-interference. Unsurprisingly, given the on-going situation in Darfur, Sudan has also been highly critical of R2P since its inception. Initially Sudan accused R2P of being ‘humanitarian intervention in disguise’ and has argued that “what we need is not some fancy romantic words to dress up the failures of the UN but... serious reforms within the Security Council to achieve the wanted paradigm shift of a world that enjoys security and respects human rights and autonomy of state’s to run their own affairs.”¹⁹⁵ In addition to this, Sudan advocated strongly against R2P in other forums and attempted to portray R2P as a ‘trojan horse’ designed to legitimise intervention.¹⁹⁶

These cases show that the reception of R2P varied significantly between states, with some endorsing the norm (especially those who had suffered recent mass-atrocities) and others showing more caution towards it due to its contradiction with non-interference. While these concerns were repeated throughout the developing world, one would assume that given the similarities between R2P and the AU’s Constitutive Act, African states would have endorsed the concept, especially given that it impeded their sovereignty *less* than that of their own regional institution. This clearly did not happen and shows that despite the desire by many African states to provide ‘African solutions to African problems’ the regions cognitive priors could not simply be uprooted by a Constitutive Act.

Part of the initial rejection by African countries could potentially be explained by their anger at the failure for the World Summit to instigate any significant UN reforms. Many developing countries had called for significant institutional change of the UN leading up to the 2005 Summit and African countries had united in a common position (outlined in the Ezulwini Consensus) to argue for permanent African representation within the UN Security Council. Given the abrupt end in these negotiations and the failure for any significant reforms to be undertaken, it is possible that many states felt that endorsing R2P would give “the Security Council the privilege of executor of the

states, respect for their sovereignty, national unity and territorial integrity, and the settlement of disputes by peaceful means, in addition to the need to refrain from resorting to – or threatening to resort to – force, and to the necessity to uphold the human rights of individuals and groups still represent the cornerstone of any world order.” (King Mohammed VI, 2005)

¹⁹⁴ “[E]very government has the primary responsibility to promote and safeguard the economic and social development of its people [but that] International efforts should only complement that of national programmes.... The vision that we must present for a future United Nations should not be one filled with vague concepts that provide an opportunity for those states that seek to interfere in internal affairs of other states. Concepts such as “humanitarian intervention” and the “responsibility to protect” need careful scrutiny in order to test the motives of their proponents.” (Mugabe, 2001)

¹⁹⁵ Ismail, 2005

¹⁹⁶ See Bellamy, 2005

concept of responsibility to protect [which would be like giving] the wolf the responsibility to adopt a lam[b].”¹⁹⁷

Responses to implementation: NATO’s intervention in Libya in 2011

The reaction to instances in which R2P has been implemented within Africa, like its reception, has generated mixed feelings from states. The African Union “has consistently shown itself unwilling to take measures against incumbent leaders and governments”¹⁹⁸ which has led many of its responses to mass-atrocity crimes to be undertaken with the consultation of the UN, if not entirely by extra-African states.¹⁹⁹ The organisation is guilty of resisting International Criminal Court arrest warrants and has been heavily criticised for failing to resolve the on-going conflict which has plagued Sudan for over a decade.²⁰⁰ Its responses in Kenya in 2007, which has often been advocated as a successful instance of R2P, and in Zimbabwe in 2008, were only marginally better, the AU having simply mediated agreements that allowed incumbent rulers to retain a share of their power in order to prevent conflict.²⁰¹

This pattern of failure has continued to the present day, with guarded responses to conflicts resulting from the Arab Spring in countries such as Egypt, Tunisia, and Libya. While R2P has been invoked numerous times regarding conflicts within Africa by both local and non-local actors, none have illuminated the region’s reception of R2P as clearly as the crisis in Libya in 2011 in which African countries, undecided and unaligned with one another, sat back and allowed Western forces to intervene and overthrow the Gadhafi regime, a regime with a ruler who had had a particularly high standing within Africa and had been one of the strongest voices within the AU, even paying membership fees for numerous small states.²⁰²

Libya

UNSC Resolution 1973 which was passed on 17 March 2011 marked the first time the Security Council had “authorised the use of force for human protection purposes against the wishes of a functioning state.”²⁰³ Bellamy and Williams argue that consensus was enabled by several factors which form a ‘new politics of protection’ within the international community. These are primarily;

¹⁹⁷ Ismail, 2005

¹⁹⁸ Omorogbe, 2012, p. 155

¹⁹⁹ For instance the intervention in Sudan (AMIS) was initially undertaken by African forces with high consultation with the UN and eventually became a UN-AU hybrid operation (UNAMIS) and the intervention in Libya in 2011 was undertaken by NATO forces.

²⁰⁰ See for example (C. G. Badescu & Bergholm, 2009b; Bellamy, 2005; Bellamy & Williams, 2005; De Waal, 2007)

²⁰¹ Omorogbe, 2012, p. 156

²⁰² Bellamy & Williams, 2011

²⁰³ Bellamy & Williams, 2011, p. 825

that society is focused explicitly on civilian protection, that the Security Council is willing to authorise the use of force for humanitarian protection, and that the Council is willing to consider views held by regional arrangements which act as 'gatekeepers' influencing the range of issues that get debated, how they are framed, and what solutions are proposed.²⁰⁴

Bellamy and Williams have argued that in Libya "regional organizations played a 'gatekeeping' role by establishing the conditions under which the Security Council could consider adopting enforcement measures."²⁰⁵ They argue that alongside actions by the League of Arab States (LAS), of which Libya was also a member, the AU's Peace and Security Council's "muted"²⁰⁶ statement released on the 23rd of February which condemned the use of force against peaceful protesters²⁰⁷ "set the context for the Security Council's discussion on the crisis."²⁰⁸ While initially the prospects of military action against Gadhafi's regime seemed slim, Bellamy and Williams argue that the unwillingness of the regime to respond to demands laid out in resolution 1970,²⁰⁹ the increased calls by the UK and France for tougher measures to be undertaken, and finally "the political game-changer.... [t]he positions taken by relevant regional organizations" changed these prospects.²¹⁰ Ultimately Resolution 1973 was passed with the Council noting Libya's failure of its primary responsibility to protect the civilian populations, and it authorised member states "acting nationally or through regional organizations or arrangements [to use] all necessary measures" to protect civilians and civilian populated areas in Libya, including through the imposition of a no fly zone.²¹¹

This resolution would have failed without the affirmative votes of Gabon, Nigeria, and South Africa, of which only two would have had to abstain for it to be blocked.²¹² Fortunately for the people of Libya, as Bellamy and Williams point out "LAS activism had more of an impact at the UN Security Council than AU caution"²¹³ and the African states went against the AU's official position and voted

²⁰⁴ Bellamy & Williams, 2011

²⁰⁵ Bellamy & Williams, 2011, p. 839

²⁰⁶ Omorogbe, 2012

²⁰⁷ This Communiqué condemned the excessive use of force against civilians and the loss of life and called for an end to the violence whilst giving support to the people's democratic aspirations. (AU Document : PSC/PR/COMM(CCLXI))

²⁰⁸ Bellamy & Williams, 2011, p. 839

²⁰⁹ Resolution 1970 was the precursor to Resolution 1973. It was adopted on 26 February 2011 and condemned the use of lethal force by the regime of Gadhafi against protesters and imposed a series of sanctions (see UN Document: SC/10187/Rev.1**).

²¹⁰ Bellamy & Williams, 2011, p. 841

²¹¹ UN Document: SC/RES/1973. para. 1

²¹² Such a phenomenon was unlikely considering both Gabon and Nigeria's positive reception of R2P which would have left any tentative condemnation by South Africa ineffective and perhaps damaging for the country.

²¹³ Bellamy & Williams, 2011, p. 843

in favour of the use of force. While charting the response towards the atrocities that took place within Libya in 2011 is beyond the scope of this thesis, it is useful to note that in general, most states at least rhetorically, condemned the situation but *did not* condone a coercive response. While the AU eventually supported Resolution 1973 on the 23rd of March,²¹⁴ the majority of African states were either cautious or against using force which can be inferred by their earlier decision to pass a communiqué on the 10th of March which “rejected... external military intervention in Libya, whatever its form.”²¹⁵

The AU’s actions have been heavily criticised in the past for failing to act in respect of incumbent regimes,²¹⁶ and its actions during the Libyan crises were no better. Despite the vast array of tools that the African Union could have implemented against the Gadhafi regime, not least of all the provisions outlined within articles 4(h) and 4(j) of their Constitutive Act as well as the myriad of institutional trappings established within their Peace and Security Council to respond to such crises, the AU took a cautious approach which favoured a diplomatic solution rather than coercive force under R2P. In March 2011, the AU PSC established a High Level Committee on Libya to mediate between the fighting groups and proposed a set of ‘roadmaps’ which called for an immediate ceasefire to hostilities, the allowance of humanitarian assistance to both groups, protection of foreign nationals, and proposed dialogues with both parties in order to bring about the desired political reforms to achieve peace.²¹⁷ Similarly to its stance during election disputes in Kenya and Zimbabwe, the African Union sought to establish a power-sharing agreement between the Gadhafi regime and the rebels Transitional National Council (TNC) rather than overthrowing Gadhafi for failing at his R2P.²¹⁸ These plans, though accepted by Gadhafi, were rejected by the TNC who were unwilling to comply with any strategy in which Gadhafi did not cede power.²¹⁹

The AU’s failure to implement the numerous provisions in Libya which many African states have claimed resonate so closely with R2P shows just how irrelevant the region’s peace and security architecture is. On the 25th of March 2011, the ‘African Court of Human and Peoples’ Rights’ unanimously ordered provisional measures towards Gadhafi for the “serious massive violations of

²¹⁴ AU Document : PSC/PR/BR.1(CCLXVIII)

²¹⁵ AU Document: PSC/PR/Comm.2(CCLXV). para 6.

²¹⁶ See (Omorogbe, 2012)

²¹⁷ AU Document: PSC/PR/Comm/2(CCLXV) *supra* n. 105, paras. 7-8

²¹⁸ Omorogbe, 2012

²¹⁹ AU Document: PSC/PR/Comm/2(CCLXV)para. 1; M. Ajbaili, ‘Libya Rebels Reject African Union Plan for Talks with Quaddafi’ *Al Arabiya News*, 4 July 2011 sighted in (Omorogbe, 2012, p. 161)

rights”²²⁰ that had been occurring. Gadhafi failed to comply with these provisions while the AU Assembly declined to support the complaints, claiming they would impede efforts to negotiate a diplomatic solution,²²¹ showing once again a lack of political will to deal with the incumbent leader.²²² Furthermore, the African Union blocked the Security Council’s referral of the Libyan crisis to the ICC requesting the matter to be deferred in accordance with the Rome Statue.²²³

The failure by the AU to implement its responsive provisions against the Gadhafi regime, even in a preventative capacity, demonstrates that the organisation’s commitment to the 3rd pillar of R2P does not go beyond rhetoric and is at best limited to a case by case assessment. After NATO was accused of exceeding its mandate in Libya and seeking to overthrow the Gadhafi regime, the AU’s inability to act turned to outright criticism of the events taking place, further placing the Union’s commitment to R2P in dispute. After the intervention, the AU’s Commissioner for Peace and Security was reported as saying, "I would like to point out that the pursuit of other agendas in Libya, by non-African actors, has had an impact on the implementation of the AU roadmap."²²⁴ The Commissioner then proceeded to tell AU foreign ministers that "[a]ttempts have been made to marginalise an African solution to the crisis... [which was] fully consistent with and complementary to UN Security Council resolutions."

After the TNC took control of Tripoli on August 21, 2011, the UN General Assembly found it to be the sole representative of Libya with 114 votes favouring the decision, 17 opposing it, and 15 abstentions.²²⁵ Of the 17 states that refused recognition, 12 originated from Africa²²⁶ and justified their decision due to the “process, legality and principle” in which UN recognition had been granted.²²⁷ The African Union did not grant recognition of the TNC until October 20, 2011.²²⁸ Surprisingly, Egypt, perhaps due to the recent changes that had resulted out of its Arab Spring called

²²⁰ See African Commission on Human and Peoples’ Rights v. The Great Socialist Libyan People’s Arab Jamahiriya, Application No. 004/2011, Order, 25 March 2011, para 3.

²²¹ AU Document : Assembly/AU/Dec.366(XVII), para.6

²²² Omorogbe, 2012

²²³ AU Document : Assembly/AU/Dec.366(XVII), para. 6

²²⁴ Maasho, 2011

²²⁵ UN Document: GA/11137

²²⁶ Angola, DRC, Equatorial Guinea, Kenya, Lesotho, Malawi, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe

²²⁷ The representative of Angola who spoke on behalf of the Southern African Development Community argued that the decision to refrain from granting recognition was caused due to “the delegation firmly believ[ing] that the United Nations should remain an Organization of principles governed by rule of law... [and that] the Union had been insistent on the need for an all-inclusive Government” of which they held the TNC was not and added “Let me be clear: a unity Government has not been formed.” UN Document: GA/11137

²²⁸ AU Document: PSC/PR/COMM/2.(CCXC VII)

for the AU's motion to be rejected on the grounds that it had witnessed Libyan citizens experiencing the "most horrifying times" due to its proximity to the region.²²⁹

Two consequences in terms of R2P's reception by the African community are immediately apparent. Strong R2P advocates, such as Botswana, seem to have remained unperturbed by the events that occurred and actively commended the military coalition for their actions "in removing Gadhafi and his regime."²³⁰ This however was not typical and many R2P cautious states have had their fears reaffirmed by the regime change that occurred. South Africa for instance, which had been a relatively strong advocate of R2P up until 2011, noted its concerns

"with the manner in which efforts employed by the Security Council to protect civilians have been exploited in the recent past. In particular, my delegation has expressed its condemnation of recent NATO activities in Libya which went far beyond the letter and spirit of resolution 1973 ... Abusing the authorization granted by this Council to advance political and regime change agenda's does not bode well for future action by this Council in advancing the protecting of civilians agenda [sic]."²³¹

Concerns over regime change and misuse of R2P have frequented South African statements²³², however they have grown more prominent since Libya. During the UN interactive dialogue on 'Timely and Decisive Response', South Africa argued that "consensus [for the signing of the WSO document] was possible because of what *we thought* were sufficient checks and balances, qualifications to avoid abuse for the political agendas" which were evidently not enough and led to a "clear disregard for the need for accountability to the Security Council when non-Member States or other organisations outside of the UN are implementing Security Council resolution[s]."²³³

In general, the implementation of R2P in authorising a coercive response to the crisis in Libya has either left the reception of R2P by African states unchanged or (as is more often the case) made them more wary of pillar 3 activities. In looking at statements from African countries since 2011 it is clear that many have become increasingly critical of pillar 3 and have begun to assert more actively that the principles of sovereignty and non-interference must be upheld, essentially condemning the

²²⁹ UN Document: GA/11137

²³⁰ Furthermore, Botswana has argued that the international community has "failed to respond collectively" to resolve the on-going situation in Syria, condemning the vetoes of China and Russia arguing that "Assad and his regime should be removed as soon as possible." Skelemani, 2012

²³¹ Sanqu, 2011

²³² See for instance UN Document: S.PV.6790 in which their Ambassador states "Abusing the authorization granted by this Council to advance political and regime-change agendas has created mistrust within the Security Council and has led to paralysis and inaction on the part of the Security Council when faced with similar challenges and has prevented the Council from acting resolutely in advancing the protection-of-civilians agenda."

²³³ South Africa, 2012. Emphasis added

very impetus for R2P's initial inception in 2001. While there has not necessarily been a 'backslide' by states in their commitment to the norm, the likelihood of future coercive responses being authorised by the Security Council or the African Union in the region seems increasingly slim. Despite many states outwardly condemning the actions of the Gadhafi regime, R2P has either been unable to generate the political will or capacity for African states to respond against one of their own and halt mass atrocity crimes, perhaps in part, due to the negative manner in which many of these states have received pillar 3.

Evolving perspectives: Reception of R2P by African states after 2009

Ban Ki-Moon's 2009 attempt to reframe R2P within three pillars and emphasise its less contentious, 'preventative' aspects was a deliberate attempt to garner greater support for the norm and changed the way in which states received and discussed the norm. Most notably, following Ban Ki-Moon's report, states were able to emphasise aspects of the norm they better empathised with while either tacitly accepting the other proponents of R2P or not at all.

Sierra Leone for example, when reviewing the new approach laid out by Ban Ki-Moon took the opportunity to claim that though the report "clearly outlines the three pillars that underlie the principle [of R2P]... [w]e believe these occurrences should be addressed by a solid commitment to promoting and advancing preventive measures both at the national and international levels, instead of waiting to apply pillar 3 when the situation gets out of hand."²³⁴ Thus, Sierra Leone emphasised its desire to promote pillar 1 and 2 during the General Assembly and only later reaffirmed its commitment to pillar 3 in an open debate.²³⁵

The 'three pillar' approach has allowed other states, such as Egypt, to show marginal support for R2P all the while expressing concerns for the 3rd pillar. In 2009, on behalf of the Non-Aligned Movement (NAM), Egypt made its concerns clear "about the possible abuse of R2P by expanding its application to situations that fall beyond the four areas defined in the 2005 [WSO] Document, misusing it to legitimise unilateral coercive measures or intervention in the internal affairs of states."²³⁶ Despite

²³⁴ Davies, 2009

²³⁵ It argued the UN "should intervene when its Members lack either the military force, or in some cases, the political will to halt all forms of carnage" (Kamara, 2010).

²³⁶ Maged, 2009

Egypt undergoing its own regime change in 2011 and condoning the UN intervention in Libya, concerns about pillar 3 have been reiterated since.²³⁷

In spite of Ban Ki-Moon's insistence in 2009 that R2P rest *equally* on all three pillars, there has been a growing tendency for African states to no longer refer to R2P as a holistic entity, and discussion by African states on responses to mass-atrocities has become considerably rarer and less.

South Africa, while a great supporter of the similar preventative, response, and rebuilding proponents laid out within the African Union, became increasingly cautious of R2P as it was established within the international community. A constant theme which has been articulated throughout South Africa's statements relating to R2P has been its wariness of abuse from the Security Council and powerful extra-African states. In the 2009 debate regarding the Secretary-General's report, South Africa argued that "the need for the development of the concept of "Responsibility to Protect" is a result of the failure of the UN, specifically the Security Council to prevent [mass atrocity crimes]" and that "history is strewn with examples of the abuse of the Council's power."²³⁸ This position has only become more critical recently, as is shown by the countries responses to R2P's implementation such as in Libya.

Even Ghana, which became one of Africa's most vocal supporters of R2P,²³⁹ has shown a decisive shift in emphasis on the R2P norm from a holistic three pillared approach to most often only discussing the preventative aspects of the norm.²⁴⁰ In 2009 Ghana's Ambassador stated that the UN needed to more actively support regional and sub-regional organisations before outlining all of the African Union's efforts to institutionalise both the preventative and interventionist aspects of the norm (showing support for pillars 1 and 2).²⁴¹ The Ambassador concluded by stating "[m]y delegation believes that in the scheme of the responsibility to protect, prevention must be given top priority" as "it is often too late to save the population who are victims of [mass atrocity crimes]."²⁴² While the argument that prevention is more imperative than response is undoubtedly correct (given the order in which they occur), later statements by Ghanaese officials began to show concerns relating to possible abuse of R2P's third pillar. In 2010 the Minister of Foreign Affairs Alhaji Mumuni noted that

²³⁷ Egypt has called for the principles of sovereign equality, political independence, territorial integrity, and non-intervention to be upheld and that pillar 3 "must be applied responsibly and must not be misused as a tool for intervention or regime change" (Abdelaziz, 2011).

²³⁸ Sangqu, 2009

²³⁹ For example in 2006 Ghana stated that "it behooves the United Nations to intervene and protect innocent populations against [mass atrocity] crimes"(ICRtoP, 2006b).

²⁴⁰ For other instances of Ghana's early support of the third pillar see (ICRtoP, 2007c) (ICRtoP, 2007b)

²⁴¹ (ICRtoP, 2006b)

²⁴² *Ibid* p.3

“Ghana strongly supports the Principle of the [R2P] as the normative framework to prevent and deter the occurrence of [mass atrocity crimes]. While the fear of its abuse does not take away the intrinsic value of the principle of the [R2P], *caution must be exercised in order to avoid the abuse of the responsibility to protect.*”²⁴³

That same year the Ghanaese Ambassador called the prevention of conflicts a “development imperative” and emphasised the “urgent need for the international community to grant priority attention to the prevention of conflicts around the world.” Since then, Ghana has remained relatively silent towards pillar 3 apart from one instance in 2011 when it issued a joint statement with Costa Rica and Denmark reemphasising the point that intervention may only occur when a state fails at its first two pillars.²⁴⁴

It is unclear whether Ghana’s shift, following the broader trend of R2P advocates who are focusing overwhelmingly on the preventative aspects of R2P, is merely rhetorical in order to seem less threatening, or is also instrumental. While it is unlikely that Ghana has shifted away from pillar 3 in its entirety, its statements during the UN’s latest informal interactive dialogue on R2P in 2012 does not indicate a country taking a strong holistic approach to all of its pillars. The forum, entitled ‘The Responsibility to Protect, Timely and Decisive *Response*’²⁴⁵ was the third debate in an annual discussion of R2P concepts and was supposedly meant to focus on the third and final pillar of R2P (response). Despite this open invitation for countries to discuss the contentious intervention aspects of R2P openly, Ghana did not take this opportunity instead stating

“[d]espite the focus of the report under review, we think that our primary aim should be the prevention of the four capital crimes listed, and thus build relevant time tested governance and legal institutions at the national, regional and global levels.”²⁴⁶

Nigeria, another vocal advocate of R2P, has also shifted its rhetorical support for pillar 3 increasingly focusing on pillars 1 and 2. In 2009, Nigeria strongly affirmed its support to all pillars and that leaders had agreed “that when a state is manifestly failing to protect its population from these four crimes, the international community *has the obligation to take collective action in a timely and decisive manner* through the Security Council and in accordance with the UN charter.”²⁴⁷ In the years following this however, Nigeria’s support or focus has shifted away from the third pillar. In 2010 it claimed that “[w]hile giving equal weight to the three main pillars [of R2P].... we believe that

²⁴³ Mumuni, 2010. Emphasis added.

²⁴⁴ Ghana, 2011

²⁴⁵ Emphasis added

²⁴⁶ Awinador-Kanyirige, 2012

²⁴⁷ Nworgu, 2009. Emphasis added.

emphasis should be placed on prevention rather than on intervention.”²⁴⁸ In 2011, when pointing out how R2P had been inconsistently applied as a response to mass atrocity crimes failing citizens in the DRC, Gaza, Syria and Western Sahara, Nigeria argued the need to provide better preventative and accountability measures despite the fact that these failings were caused by the lack of a consistent framework for intervention.²⁴⁹

Likewise, Kenya, after thanking the Secretary-General and the international community for their implementation and preventative engagement in the country during the General Election disputes in 2007 surprisingly argued that while the events that occurred in their country show a successful instance of R2P implementation, “Necessary measures’ should...not be equated to the “threat of use of force”²⁵⁰ and later distanced their commitment to pillar 3 further claiming that “the international community must be able to extract compliance from the concerned state without resort to force.”²⁵¹

While Rwanda has not necessarily negated its support of pillar 3, it has not clearly or ardently advocated it either. In 2007 it reaffirmed R2P²⁵² in the interactive dialogue on ‘Timely and Decisive Response’ and delicately claimed that “timely and decisive response does not have to be by military means or sanctions alone.”²⁵³ Furthermore, while Rwanda has often been one of the most vocal supporters of R2P, often drawing links to its tragic history, its on-going activities in the DRC are only prolonging the conflict making many of their statements somewhat hypocritical.²⁵⁴

While there is a growing trend by African states to show their commitment to R2P, with discussion and institutional capacity relating to the norm having proliferated since 2005, these activities have been increasingly one sided, focusing on prevention or capacity building rather than intervention. Since 2009 and the compartmentalization of R2P into 3 pillars, this tendency for states to engage with R2P by discussing only pillars 1 and 2 has become more acute. Potentially because it is possible to discuss a singular aspect of the norm without necessarily endorsing or rejecting its other components, discussion has shifted focus upon the non-contentious preventative aspects of the norm with pillar 3 often only being mentioned in passing or in critical remarks. While it is oft pointed out that prevention must precede response which can only take place if the former fails, the lack of

²⁴⁸ Onemola, 2010

²⁴⁹ Onemola, 2011

²⁵⁰ Cerere, 2009

²⁵¹ Kenya, 2011

²⁵² “This resolve entails national Governments taking full responsibility to protect civilians, and, where they are unable or unwilling to do so, the international community acting through the Security Council to take appropriate steps to provide such protection” (ICRtoP, 2007c).

²⁵³ Rwanda, 2012

²⁵⁴ Hall, 2012

discussion on intervention, even by advocating states, is potentially emptying the norm of its responsive utility making coercive response more difficult to talk about let alone implement.

Findings

R2P's reception in Africa has not followed a linear trajectory. States have not either grown to embrace or reject the norm throughout time; rather they have shifted their positions toward the norm in response to which aspects are emphasised by advocates at the time *as well as* in response to examples of implementation within the region (in particular the NATO intervention in Libya). While it is difficult to claim with any certainty whether states are receiving the norm better today than they were a few years ago, the amount of discussion that has been generated within the region suggests a modest improvement.

Indeed, African states are often pointing towards the myriad of new institutions which reflect components of R2P and advocates seem content to see this as progress towards the norm's diffusion. However, having analysed the initial reception of R2P by African states, as well as the discussion surrounding the norm today, one particularly worrying trend has emerged. Where outright rejection of R2P due to its infringement on non-interference has become increasingly less common by states, so too has constructive discussion relating to the responsive capabilities of the norm. It must be remembered that R2P was initially designed to "bridge the gap between the legality and legitimacy of intervention".

This general shift away from pillar 3 could indicate that R2P is being 'localised' by African states who are not only *framing* the norm preventatively but are slowly, fundamentally altering the norm's ability to respond to conflicts. This seems to be a result of efforts by both local and non-local norm entrepreneurs within the region. The argument so often stated by advocating and cautious states alike that prevention is at the core of R2P is fast becoming a reality, not only overshadowing but overwriting any and all ability to *respond* to crises. While the number of institutions that have been set up to undertake things such as early warning detection have indeed proliferated since 2005, these tools have consistently tended towards prevention rather than response capabilities. Similarly, African states have consistently shown that they are only willing to resolve conflicts diplomatically leading to the region's inability to quell bloodshed when preventative and diplomatic measures fail. The disaster in Libya epitomises this trend, the consequence of which is that when coercive response or preventative acts are required, Africa has been unable to deliver. The current conflict in Mali is but one instance which demonstrates this point. The country has suffered on going violence by insurgent groups since early 2012 and had to call upon foreign aid (in this instance the French military) in order to restore order and only later received some support from the AU. As such, it

seems that the AU, for all its early support of R2P is unlikely to champion the norm but for its preventative aspects, which it operationalises with mixed results. As one commentator has noted, “in practice the AU has been unwilling to assume the role that it has carved out for itself. Its history to date has been marked by its support for incumbent governments, irrespective of their conduct.”²⁵⁵

²⁵⁵ Omorogbe, 2012

Chapter 4: Southeast Asia and China, accommodating or ignoring R2P?

Writing in 2009, Bellamy and Davies argued that “although much of the debate about operationalizing R2P has focused on Africa, efforts to progress R2P hinge on the principle’s ability to secure a degree of support and acquiescence in the Asia-Pacific region.”²⁵⁶ This they argue, is in part because of the sheer size of the populations contained within the region and in part because the region hosts many of the world’s fastest growing economies.²⁵⁷ Initial reactions to R2P during the 2005 World Summit from Southeast Asia were relatively restrained, with some commentators arguing that most states ‘tacitly’ supported the concept’s inclusion in the Outcome Document due to the fact that they neither endorsed nor verbalised any misgivings or criticism they had with it.²⁵⁸ For the most part, Southeast Asia seems to have neither outright rejected nor accepted the norm and many states simply remain silent when it is discussed.

Due to the region’s historically strong commitment to non-interference, studies analysing R2P’s reception have focused almost explicitly on the extent to which ‘sovereignty as a responsibility’ and the preventative aspects of the norm have been diffused. Commentary on this process is contradictory, with some such as Bellamy and Drummond arguing that R2P is slowly being localised within the region while others such as Capie argue that while there may be some support for R2P in the region “the key aspects of the norm have not yet diffused.”

Institutional architecture and cognitive priors

Southeast Asia’s regional organisation, the Association of Southeast Asian Nations (ASEAN), was established in 1967 and aims to (1) “accelerate economic growth, social progress and cultural development in the region” as well as (2) “promote regional peace and stability through abiding respect for justice and the rule of law in... adherence to the principles of the United Nations Charter.”²⁵⁹ The organisations devotion to non-interference “is characteristic of an institutional culture of regional security management that aims to avoid confrontation.”²⁶⁰ Commonly referred to as the ‘ASEAN way’, the organisation favours high degrees of consultation and consensus based nonbinding agreements which commentators have noted makes “ASEAN’s members reluctant to, or incapable of, addressing contentious issues.”²⁶¹ The principle of non-interference has been

²⁵⁶ Bellamy & Davies, 2009

²⁵⁷ Bellamy & Davies, 2009, p. 548

²⁵⁸ Bellamy & Davies, 2009

²⁵⁹ ASEAN, 2012

²⁶⁰ Bellamy & Drummond, 2011, p. 184

²⁶¹ Bellamy & Beeson, 2010, p. 270

reaffirmed in all of ASEAN's major agreements²⁶² which were reconfirmed in Article 2(1) of the ASEAN Charter signed in 2007. In addition to this, the Charter stipulates in Article 2(2a) that members must act with "respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States" and Article 2(2k) dictates that members to abstain from "participation in any policy or activity.... which threatens the sovereignty, territorial integrity or political and economic stability of ASEAN Member States."²⁶³ The charter also includes provisions seeking to enhance regional development, calling for states to adhere to principles of democracy and good governance (Article 2(2h)).

ASEAN states have been noted for their conscious effort to refrain from building "institutional structures that might impinge on the autonomy and sovereignty of individual member states" and have deliberately kept ASEAN's Secretariat "small and relatively powerless."²⁶⁴ These decisions are a result of the region's colonial legacy as well as several conflicts which have occurred since independence, most notably Vietnam's invasion of Cambodia in 1979. While some commentators have noted that since the late 1990s "ASEAN has permitted increasing levels of political commentary, diplomatic pressure and external mediation efforts in relation to domestic affairs of some of its member states",²⁶⁵ states have generally been unwilling to translate good words into deeds.

While the ASEAN Charter is comparable to the AU's Constitutive Act in that they both have provisions reaffirming the regions' commitments to sovereignty and non-interference, the ASEAN Charter does not allude to R2P in any manner (much to the disgruntlement of civil society groups at time of the Charter's writing). Thus, the ASEAN Charter embodies its member's adherence to non-interference, ruling the organisation out as a tool to help in R2P's diffusion within the region.²⁶⁶ As one commentator has noted "ASEAN does not have an official position on R2P and has made no statement which suggests consideration has been afforded to the ways in which the Association might aid the implementation of R2P in Southeast Asia."²⁶⁷

²⁶² The Bangkok Declaration (1967), the Zone of Peace (1971), the Freedom and Neutrality Declaration (1976), and the Treaty of Amity and Cooperation (1976).

²⁶³ ASEAN, 2008

²⁶⁴ Bellamy & Beeson, 2010, p. 270

²⁶⁵ Bellamy & Drummond, 2011, p. 186

²⁶⁶ Capie, 2012

²⁶⁷ APCR2P, March 2011: 27 Cited in Capie, 2012; p.85

ASEAN is not the only entity which seems to have little interest in promoting R2P within Southeast Asia and the norms' primary entrepreneurs are external actors such as Australia and a myriad of civil society groups like the 'Asia-Pacific Centre for the Responsibility to Protect'.²⁶⁸

Initial reactions

The reception of R2P has been largely sporadic within Southeast Asia. While some states such as Singapore have received the norm warmly, the majority have expressed concern over its infringement on non-interference which has led to considerable problems with its diffusion and internalization. In general, most states have been overwhelmingly quiet during discussions relating to R2P, so much so that their silence during the final World Summit debates and lack of open criticism thereafter has led to some commentators arguing that they have 'tacitly' accepted the norm²⁶⁹ despite the lack of advocacy or attempts to institutionalise it since.

Singapore has been perhaps the longest and most vocal supporter of R2P within the region since its adoption in 2005. Although expressing initial concern regarding some of the human rights proposals that were suggested,²⁷⁰ Singapore ultimately supported R2P and has been openly advocating it since, even joining the Canadian led R2P 'Group of Friends'. This support has not led to blind faith in the norm and Singapore has consistently striven to refine R2P and has called for its effective implementation within the UN through Security Council reform.

Indonesia was one of the more 'tacit' acceptors of R2P and voiced concern over the concept noting that it should express due diligence to the UN Charter but that it "welcomes further discussion on improving the text."²⁷¹ Indonesia's President also claimed that "[w]e need a consensus on the responsibility to protect people from genocide, ethnic cleansing and crimes against humanity. To this end, force should be used only when all other means have failed."²⁷²

Most states within Southeast Asia however did not receive R2P so warmly and have generally either remained silent in debates, or have voiced their fears relating to the potential for its misuse and the loss of sovereignty that would be entailed in its acceptance. While China endorsed R2P in the 2005 World Summit and allowed for its reaffirmation of Resolution 1674, "it was partly owing to Chinese

²⁶⁸ Capie, 2012

²⁶⁹ See Bellamy & Davies, 2009

²⁷⁰ Singapore, though endorsing the need to reconsider the concept of absolute sovereignty expressed concern over the "penchant of some States to present their views as universal norms inevitably provokes resistance, unnecessarily politicizes the process and is ultimately unhelpful to the cause of human rights" (UN Document: A/60/PV.8),

²⁷¹ WFM, 2005

²⁷² ICRtoP, 2005

concerns that the draft World Summit document insisted that all questions relating to the use of force would be deferred to the Security Council and that the proposed discussion on criteria to guide decision making was omitted.”²⁷³ China’s foreign policy, like that most states’ within the region, contains a strong commitment to non-interference in the domestic affairs of other states which has led to China’s consistent attempts to limit R2P’s infringement on these principles. For instance during the summit the Chinese President Hu Jintao insisted that “we should all oppose acts of encroachment on other countries’ sovereignty, forceful interference in a country’s internal affairs, and wilful use or threat of military force.”²⁷⁴ These concerns have since been reiterated frequently by Beijing, which has consistently emphasised that “external assistance should be carried out with the prerequisite that the will of the government concerned be respected, its sovereignty and territorial integrity be preserved and that no arbitrary intervention be imposed on the government concerned over its objection.”²⁷⁵ China’s reluctant endorsement of the norm may have been carefully weighted by what it sees as its growing role in the international system. Thus, where China had openly argued against acts of intervention in the past due to its strict adherence of non-interference, its acceptance of R2P cannot be considered similar to the way in which other Western nations have endorsed R2P. Instead its failure to reject R2P outright could demonstrate China’s desire to partake in global discussion and help shape the content of norms such as R2P so that they are more aligned with its own interest.

Many other states within the region have shared China’s concerns. Malaysia for instance sought to ensure “that the use of force is applied only as an instrument of last resort”.²⁷⁶ While not explicitly rejecting or accepting R2P, it reaffirmed that “any intervention must give due recognition to [UN] Charter principles pertaining to sovereignty, territorial integrity and non-interference. While the Security Council would appropriately be the body to take decisions on these matters, it is Malaysia’s view that provisions must also be made for the General Assembly to have an oversight rule... [considering the need to] guard against abuse and double standards in their application].”²⁷⁷ When speaking on behalf of the Non Aligned Movement (NAM), Malaysia “stresse[d] that these elements, ideas, norms, concepts and proposals [such as R2P] should be further discussed in greater detail by the General Assembly with a view to achieving consensual acceptance by the larger UN

²⁷³ Bellamy & Davies, 2009, p. 556

²⁷⁴ Bellamy & Davies, 2009

²⁷⁵ ICRtoP, 2008c(22 June 2007 open debate on protection of civilians) see also statements made during same debate on the 4th december and 28th of June 2006.

²⁷⁶ Badawi, 2005

²⁷⁷ *Ibid*

membership.”²⁷⁸ Malaysia has also stressed the importance of “the need to preserve and promote [the UN Charter’s] principles and purposes, including the principles of respect for the sovereignty, territorial integrity and non-interference in the internal affairs of States” and “observed the similarities between the new expression ‘responsibility to protect’ and ‘humanitarian intervention’” and requested that this be examined closely in terms of its implications on aforementioned principles.²⁷⁹

Where China toed the line between accepting R2P and attempting to ensure that the norm would not authorise action taken against the will of sovereigns, other states within Southeast Asia did not afford the norm this same degree of acceptance. Myanmar while not openly referring to R2P in its statement during the World Summit, did claim that the “sacrosanct principles of national sovereignty, territorial integrity, equality, non-interference in internal affairs, settlement of disputes by peaceful means, and non-use of force or threat of force” were the “guiding principles that have withstood the test of time and are as relevant and valid today as on the day they were adopted”²⁸⁰ which would seem incompatible with the norm of R2P. This position has been reaffirmed more strongly in relation to R2P since.

While most states within the region have cautiously followed R2P’s progression, some have had more observable reactions to the norm. The Philippines for instance, which was labelled as an R2P supporter by Bellamy and Davies in 2009 due to its endorsement of R2P in the lead up to the World Summit,²⁸¹ gradually reduced its support of the norm to the point that it resisted Security Council attempts to have R2P reaffirmed immediately after the World Summit²⁸² and apart from a statement released in 2009 has “studiously avoided the use of R2P language” since.²⁸³ While the Philippines shows perhaps the most clear cut example of an inconsistent reception towards R2P within Southeast Asia, it is useful to note that part of the reason for this refraction can be explained by the increasing concern that the international community has expressed with the Philippines own human rights issues in areas such as Mindanao, and the country’s desire to ensure its sovereignty is not infringed upon in response to this.²⁸⁴

²⁷⁸ Ali, 2005

²⁷⁹ Rahman, 2005

²⁸⁰ Win, 2005

²⁸¹ See for instance Philippine’s statements regarding the crisis in Darfur in 2004 when it was on the Security Council. UN Document: S/PV.5015

²⁸² Bellamy, 2009b

²⁸³ Bellamy & Davies, 2009, p. 555

²⁸⁴ See for instance AHRC, 2008; The Manilla Times, 2009

After the World Summit, R2P was invoked countless times in UN bodies and forums. 2006, 2007, and 2008 saw numerous Security Council debates on the ‘Protection of Civilians in Armed Conflict’, ‘Threats to International Peace and Security’, and debates on crises in areas such as Sudan and Myanmar, many of which paid heed to the then ‘emerging norm’. These invocations were undertaken by states all across the world, with even some ‘reluctant’ Southeast Asian states discussing the concept. To some commentators such as ‘International Coalition for the Responsibility to Protect’, these discussions show examples of states reaffirming their commitment to R2P.²⁸⁵ For example, Bellamy and Davies argue that comments from China and Vietnam in this period allow them to be categorised as having accepted R2P and being ‘engaged’ with the norm despite their constant attempts to limit or negate its controversial aspects.

During the period of 2006 to 2009 two large changes to R2P’s reception occurred within Southeast Asia. The Philippines regressed significantly from its earlier pro-R2P stance, and Vietnam dropped its outright rejection of R2P and, according to Bellamy and Davies, affirmed its commitment to it.²⁸⁶ Other than these two cases, the four years following R2P’s inclusion in the WSO document did not demonstrate any significant change of R2P’s reception within the region. While the phrase “responsibility to protect” was invoked numerous times by states within Asia during the summits that took place, states’ receptions of the norm remained the same. The act of ‘reaffirming’ a commitment to R2P often prefaced a subtle criticism and attempt to constrain the parameters of the norm (a trend which has continued to this day). For example, during debates on ‘The Protection of Civilians in Armed Conflict’ (28th June 2006, 4th December 2006, 22nd June 2007, 27th May 2008 and 14th January 2009) China’s stance towards R2P remained constant, and each time it ‘reaffirmed’ its commitment to the norm²⁸⁷ before claiming that discussions on R2P should take place within the General Assembly not the Security Council due to the need for open transparent debates to take place amongst all members, many of whom still had reservations regarding the norm (including China).

Whether these reiterations of R2P wording were in fact states reaffirming their commitment to R2P is debatable, what is un-contentious however is that the majority of these statements showed an unwavering commitment to the principles of non-interference and a concern by Southeast Asian nations that the norm could be misused. Vietnam for example, after ‘reiterating’ the view that states bear the primary R2P, claimed that any preventative capacity building efforts undertaken by the UN

²⁸⁵ ICRtoP, 2012b

²⁸⁶ See for instance (UN Document: S/PV.5898. p. 14)

²⁸⁷ “[f]irst.... The responsibility to protect civilians lies primarily with the Governments of the countries concerned” (ICRtoP, 2006b)

“should respect national sovereignty, territorial integrity, ownership and self-determination.”²⁸⁸ However, to states like China these speech acts were more than simply throwing the international community a rhetorical bone and while they may not demonstrate much of an actual commitment to R2P, such statements signify attempts by these countries to discuss and redefine the content of R2P. Indeed it may be the case that many states within the Global South feel that in order to have their concerns about R2P heard by its advocates, they must first demonstrate that they know what R2P is and show their commitment to it. Ultimately, as has been oft noted, Southeast Asian nations initially received R2P with extreme caution primarily due to its links with humanitarian intervention and its infringement on non-interference.

Responses to implementation

In general, Southeast Asian states’ reception of R2P has worsened after attempts by the international community to implement the norm’s 3rd pillar. While it has yet to be successfully invoked in the region, following Cyclone Nargis in 2008 some non-local actors such as France and the European Union attempted to raise R2P against the Myanmar government which was seen to be blocking relief efforts from the international community. While this attempt was eventually rebuked due to the nature of the crisis not falling within the four crimes of R2P, this event offers perhaps the best (if only) case study to analyse the regions reception to attempts to implement R2P’s 3rd pillar locally.

Myanmar

Myanmar has suffered on-going conflict and human rights abuses since the 1960s, and last decade saw the international community attempt to respond forcefully to these violations twice; both times being rebuffed by a combination of local and non-local actors. The first instance was in 2007 when a resolution was proposed to respond to human rights abuses being carried out against protesters from the ‘Saffron’ revolution. This attempt did not explicitly invoke R2P and was ultimately vetoed by Russia and China who argued that it fell within the internal affairs of the sovereign state.²⁸⁹ The second instance was in response to Cyclone Nargis which struck the country on the 2nd and 3rd of October 2008 leaving over 138,000 dead or missing in its wake and a relief effort that far surpassed the capabilities of the Myanmar state.²⁹⁰

²⁸⁸ UN Document: S/PV.5898

²⁸⁹ ICRtoP, 2007a

²⁹⁰ Haacke, 2009

While the Myanmar government initially indicated that it would welcome relief supplies from the international community²⁹¹ the authorities obstructed and hindered relief efforts by restricting access to particular areas and delaying the issuing of visas which exacerbated the already dire situation on the ground.²⁹² After international attempts to apply pressure on the Myanmar government to allow greater access into the country failed²⁹³ the French Foreign Minister, Bernard Kouchner, invoked R2P and argued that the “primary responsibility is with the government of Myanmar, but if it fails or if it cannot, we have to do something. If we do not do anything people will continue to die, epidemics will spread out, and it will be a disaster.”²⁹⁴ Despite France’s inability to answer which of the four crimes Myanmar had committed,²⁹⁵ this call gained support from some other non-local actors such as the European Union which argued that Myanmar’s inaction during the first three weeks after the cyclone amounted to neglect and was “arguably a crime against humanity” couching it clearly within the framework of R2P.²⁹⁶

Several other Western governments and human rights commentators released statements supporting this assessment; most notably one of R2P’s greatest proponents Lloyd Axworthy argued that

“the fundamental message of R2P is that there is no moral difference between an innocent person being killed by machete or AK-47 and starving to death or dying in a cholera epidemic that could have been avoided by proper international response [sic].”²⁹⁷

While this attempt to invoke R2P led to an outcry from other advocates and R2P wary states alike,²⁹⁸ the initial attempt to expand R2P’s mandate beyond the four crimes laid out in Resolution 1674 could have damaged the norm’s reception within the region, as one analyst has noted “[c]areless interpretation of R2P and talk of military intervention after Cyclone Nargis could have further weakened efforts to build the institutions necessary to better prevent and protect populations.”²⁹⁹

The attempt to frame this situation within the parameters of R2P was blocked by states outside of Southeast Asia as well as from within, notably China, Indonesia, and Vietnam.³⁰⁰ Chinese officials

²⁹¹ Haacke, 2009, p. 162

²⁹² Bellamy & Davies, 2009; Bellamy & Drummond, 2011)

²⁹³ See for instance UN Document: SG/SM/11552

²⁹⁴ Goodenough, 2008

²⁹⁵ Lee, 2008

²⁹⁶ Caballero-Anthony & Chng, 2009, p. 140

²⁹⁷ Axworthy, 2008)

²⁹⁸ See for instance Thakur, 2008; Evans, 2008a

²⁹⁹ Caballero-Anthony & Chng, 2009, p. 144)

³⁰⁰ Bellamy & Drummond, 2011, p. 191)

argued that “[t]he current issue of Myanmar is a natural disaster. It’s not an issue for the Security Council. It might be a good issue for other forums of the UN” and Beijing said it would block further efforts to resolve the issue through the Security Council, stressing the need to “take full consideration of Myanmar’s willingness and sovereignty.”³⁰¹ Indonesia also argued that “there are better forums to discuss the humanitarian dimension of the Myanmar situation” and that “the last thing we would want is to give a political spin to the technical realities and the situation on the ground.”³⁰² Instead ASEAN surprisingly took the helm in negotiating with the military junta and due to the special efforts of Thailand’s Supreme Commander “successfully interceded to help secure Myanmar’s consent” to receive aid.³⁰³

Despite the unsuccessful attempt to invoke R2P in the aftermath of Cyclone Nargis, several analysts have argued that its misuse by various advocates pressured ASEAN into action³⁰⁴ and claimed that its invocation “played an important part in addressing the crisis more effectively, namely as a rhetorical device.”³⁰⁵ They argue that the misuse of R2P in Myanmar showed that “the underlying idea of sovereignty as responsibility is widely accepted” within the region³⁰⁶ and that R2P “should not be viewed as the protection of everyone from everything... demonstrate[ing] why the norm cannot be applied to widely[sic].”³⁰⁷

A more sceptical analysis of these events could claim that the situation in Myanmar only reaffirmed what was already established in Resolution 1674; R2P applies to four crimes and not environmental catastrophes. Indeed one of the dangers of misusing the norm during the Myanmar situation was that calls for its implementation potentially invoked a conception of R2P that had been rejected at the 2005 World Summit. The original ICISS document justified the use of R2P for environmental catastrophes, of which the situation in Myanmar fell. The fear from R2P wary states then may have been exacerbated by the realisation that any expansion of when R2P applies could have reverted the norms content to a version that had not been agreed upon by the international community, and had been significantly changed since.

Badescu and Weiss argue that “part of the political support at the World Summit reflected an understandable but erroneous desire to use R2P to mobilise more support for root-cause

³⁰¹ Macartney, 2008

³⁰² Security Council Report, 2008

³⁰³ Bellamy & Drummond, 2011, p. 191

³⁰⁴ See for instance (Cristina G. Badescu & Weiss, 2010; Bellamy & Drummond, 2011; Caballero-Anthony & Chng, 2009; Haacke, 2009

³⁰⁵ Haacke, 2009

³⁰⁶ Haacke, 2009

³⁰⁷ Cristina G. Badescu & Weiss, 2010, p. 367

prevention, or investments in economic and social development” and that the instance of Myanmar may have served to prevent broadening the perspective of what R2P is.³⁰⁸ While this is an intriguing counter-factual and R2P may indeed have been somewhat clarified during the 2008 incident, ultimately pillar 1 has been expanded out to include a broad array of activities as advocates seek to increase R2P acceptance within the region.³⁰⁹ Furthermore it is not totally clear whether the misuse of R2P by France and other Western nations did not negatively impact on the reception of norm within the region. As Singapore noted during the 2009 Interactive Dialogue on R2P:

“[f]or R2P to become an international norm that can deter impunity and thus prevent such crimes, it cannot be tarnished by suspicions of domestic agendas or worse still, political grandstanding. I say this because since 2005, there have been efforts by some to misuse the concept of R2P by applying it to situations which are clearly outside its scope. For instance, some have tried to link R2P to humanitarian access in the wake of natural disasters. This is patently unhelpful.”³¹⁰

While Singapore did not backslide in its commitment to R2P or go so far as to say R2P was damaged by its misuse in 2008, it did not claim that the crisis helped us to better understand when R2P is applicable either. The constant reiterations by states within the region since 2008 which have expressly outlined how R2P *only* applies to the four crimes outlined in the WSO Document potentially signify that some states’ concerns over the impetus for R2P grew due to this misuse. Unsurprisingly Myanmar has been overtly critical of this incident.³¹¹

Developing receptions and contribution to R2P debate

After 2005, Southeast Asian states’ receptions to R2P have remained relatively constant with most perceiving the norm in much the same manner as they did during its first four years. Ban Ki-Moon’s 2009 report gave states an opportunity to discuss the 3 pillars as individual components, rather than discussing the norm in its entirety. Perhaps the earliest and most significant change in terms of reception following this report came from the Philippines who, for the first time since the World Summit, announced its adherence and support for the norm. However this statement was followed by an articulation of the many concerns which had perhaps caused it to distance itself from the norm in the first place³¹² as it argued that “collective action” must be applied in strict accordance with the UN Charter and that R2P should *only* apply to the four crimes set out in the WSO

³⁰⁸ Cristina G. Badescu & Weiss, 2010, p. 367

³⁰⁹ See Capie, 2012

³¹⁰ Singapore, 2009

³¹¹ For example in 2008 Myanmar’s Ambassador Mr. Swe claimed that he found “it highly objectionable that some delegations have tried to use this debate to politicize a humanitarian issue caused by a natural disaster ICRtoP, 2008a

³¹² See for example Bellamy & Davies, 2009

document.³¹³ Myanmar too made reference to R2P during the 2009 General Assembly debates, perhaps in relation to the 2008 crises, stressing that R2P created an obligation “not to intervene but rather to take timely and decisive steps to save human lives when such atrocities occurred” and reiterated that R2P applies *only* to the four crimes.³¹⁴

Such concerns have been echoed by other states within the region since 2005, most notably by China whose comments have always stressed that the government of a given state bears the primary R2P, that sovereignty and the UN Charter must be adhered to, and that more discussion needs to take place within the General Assembly to reach a consensus on the norm’s content.³¹⁵ While China’s position towards R2P has remained relatively constant, it has elaborated slightly on its initial positions over time. In 2009 China began to stress the importance of using other frameworks to consider the protection of civilians within conflict. It urged the international community to use the full range of tools that are available under international law rather than relying explicitly on R2P³¹⁶ and claimed that “[c]onflict situations vary, and there must be no one-size-fits all approach to the protection of civilians. Various parties still hold divergent views on the [R2P], and the General Assembly should continue its discussion on this matter.”³¹⁷ This statement reflects China’s opinion that R2P’s application should not be expanded beyond the four crimes outlined in the WSO Document, a sentiment felt by all states within the region which has been expressed increasingly since 2009. China has also stressed that the Security Council should focus more on preventing conflicts by engaging with parties through diplomacy before they start fighting and should “not view the protection of civilians in isolation.”³¹⁸ While none of these attitudes are necessarily new, they do reaffirm China’s position as wary of R2P and China’s efforts to ensure that the norm is not expanded beyond what was originally laid out in 2005.

Malaysia’s statements from 2009 to 2012 also offer no improvement to the norm’s reception. In 2009 Malaysia argued that describing R2P “is much like describing the wind- you know it, but you can never really pin down its description to a T”³¹⁹ referring to the disagreement surrounding the norm’s content and application. In 2012 this position had not changed and during an interactive dialogue on R2P Malaysia argued that “R2P is still a relatively new concept, one that requires greater

³¹³ Davide, 2009

³¹⁴ Myanmar, 2009

³¹⁵ See for example ICRtoP, 2006a, 2006b, 2007c

³¹⁶ Zhenmin, 2009; Baodong, 2011

³¹⁷ ICRtoP, 2011b

³¹⁸ ICRtoP, 2011b

³¹⁹ Malaysia, 2009

deliberation. The principle would need to be understood in the same way by all parties... Judging from previous debates on the matter, this is certainly not the case.”³²⁰

While Southeast Asian nations have not been as outspoken towards R2P as critics within other regions such as Africa, most states negatively received the norm due to their adherence to non-interference. One tenet of Ban Ki-Moon’s report was to suggest the establishment of early warning detection systems to increase the preventative capabilities of regions. To many Southeast Asian states, this, like pillar 3, was conceived of as directly interfering with their sovereign rights and talks regarding this proposal have been consistently negated or side lined by Southeast Asian nations since.³²¹

Apart from the consistent attempt to restrain R2P, Southeast Asian nations can be seen to have contributed to R2P discussions in two ways. First, during a United Nations meeting on Working Methods, several governments including two from Southeast Asia, argued against the Security Council’s use of veto to block responses to mass atrocity crimes. Singapore argued that “whatever divisions there may be among the P-5,³²² they are united in having no limits placed on their use or abuse of the veto” and thus considered their moral outrage over situations like Syria as “hypocritical.”³²³ Likewise Malaysia argued that “the use of veto has led us all into a deadlock on how the international community should address the bloodshed in various regions, especially in the Middle East.”³²⁴ The desire to ensure the permanent members of the Security Council do not use their right to veto during instances in which R2P is applicable could be taken as a positive sign that some states have begun to diffuse R2P’s 3rd pillar, however a more critical assessment might conclude that such statements simply reflect the broader desire by states within the region to ensure that the concept is not misused and is applied consistently by the international community all the while reflecting their unhappiness with the continuing failure of UN reform.

Another noticeable trend which emerges from analysing Southeast Asia’s reception to R2P is the steady expansion of what constitutes ‘preventative’ capacity building by both local and non-local actors. Ban Ki-Moon’s efforts in 2009 placed greater emphasis on addressing ‘root cause prevention

³²⁰ Myanmar, 2012

³²¹ See for example Natalegawa (2009) where the Indonesian representative argues “The report suggests that the General Assembly might consider the possibility of conducting a periodic review of what Member States have done to implement responsibility to protect. We feel that this issue needs a clear and practical modality before a discussion on it takes place in order to ensure a true added value of such exercise” [sic]

³²² The P-5 are the Permanent Five members on the UNSC which have the right to veto.

³²³ (Chua, 2012) which has been reiterated multiple times by the Singapore government see for example Albert, 2012

³²⁴ Haniff, 2012

and capacity building’ or pillar 1 and 2 activities, which has shifted the focus of R2P away from pillar 3 activities significantly. This deliberate shift in emphasis was reaffirmed by R2P advocates in their attempts to garner greater support for the norm by no longer using human security language which had raised ‘red flags’ and caused states to become more wary of it.³²⁵ Instead, norm entrepreneurs stressed the preventative aspects of the norm which, according to Capie, has seen R2P associated with “an astonishingly broad range of activities... These include among other things: ‘economic development’, ‘Reform of the UN and Security Council’, ‘peace operations’, and concern with ‘small arms and light weapons’.”³²⁶ These efforts have been picked up on by some states within the region who have been able to increase their perceived adherence to R2P by undertaking these activities. For example, Vietnam which has for the most part been critical of R2P since 2005³²⁷ argued in 2009 that “we have always maintained that the best way to protect the population is to prevent wars and conflicts and to address the root causes of conflicts and social tensions, which lie in poverty and economic underdevelopment... [c]ultural and religious tensions”³²⁸ and in 2012 argued how it is “immensely important to promote education” to prevent these crimes.³²⁹ Despite this expansion of pillar 1 activities, pillar 2 still remains contentious and suggestions about its implementation are often followed by reaffirming that such activities should only be undertaken with consent.³³⁰

In 2009 it was claimed that “[t]here is almost no support for the reactive – in particular the coercive military – component of the third pillar of R2P” and this assessment has not changed since.³³¹ Ultimately, time has not afforded R2P a significant improvement in support from Southeast Asian states.

Findings

Over seven years have passed since the World summit in which R2P was unanimously endorsed, and for many within Southeast Asia their initial concerns regarding the norm have not dissipated in any significant manner. Southeast Asia’s commitment to R2P remains sporadic and it appears to be invoked more rhetorically by states who continue to express little desire to implement the norm within their regional institutions.

³²⁵ Bellamy & Beeson, 2010

³²⁶ Capie, 2012, p. 88

³²⁷ Capie, 2012

³²⁸ Giang, 2009

³²⁹ Vinh Quang, 2012

³³⁰ “the United Nations can help improve [a state’s] national capacity, provide technical assistance and work with [States] to conduct other awareness-raising activities, for instance through training courses. Bearing in mind.... [that] such an act should respect national sovereignty, territorial integrity, ownership and self-determination.” Vinh Quang, 2012

³³¹ Sighted in Capie, 2012

While efforts to diffuse R2P have increased since the refinement of the concept into three pillars in 2009, much of this has come from civil society groups who tactically switched their emphasis to the norms first pillar. Recently observers including members of civil society and academics have noted that R2P may slowly be undergoing a process of localisation within the region and that there is a growing acceptance by states to conceive of ‘sovereignty as responsibility’ and criticise human rights abuses. While ASEAN’s response to the Myanmar crisis demonstrates an instance of states applying pressure on a government to address an internal crisis, this does not necessarily demonstrate that a broader notion of ‘sovereignty as responsibility’ is being accepted. After all, the idea of applying R2P to the crisis was roundly *rejected* and the pressure applied on the Myanmar government to allow better access for relief workers was in response to a *humanitarian crisis* rather than a conflict. Furthermore ASEAN’s desire to gain authorisation for relief efforts impeded on Myanmar’s sovereignty less than the alternative, as some states were considering a more forceful approach to delivering aid.³³²

States have continued to show reluctance in discussing R2P in any constructive manner, especially pillars 2 and 3, even within the UN where states would normally attempt to appear as if they are complying with ‘universal’ concepts.³³³ This approach by Southeast Asian nations extends out to the institutionalisation of the norm, where most states and much of the regional architecture largely omit any mention of R2P.³³⁴ While in more recent years a growing number of Human Rights organisations have emerged, these are more likely occurring as a result of internal changes to the region and are not emerging in a linear way or showing any sign that the region is ready to talk about coercive intervention.

In conclusion, Southeast Asian states have not received R2P consistently or comprehensively and appear to be, in large, ignoring it. The tendency for non-local advocates to emphasise the preventative aspects of R2P has been reflected by local states who, when they do discuss R2P, rarely talk about pillar 2 or 3 activities. Furthermore, norm entrepreneurs, in their efforts to increase

³³² For example France and the United States were both considering forceful measures of getting relief efforts such as Para dropping aid.

³³³ Coleman, 2011

³³⁴ It must be noted that there has been a growing interest towards human rights in the region in recent years and in 2009 ASEAN signed a Human Rights Declaration and established the ASEAN Intergovernmental Commission on Human Rights. While these acts reflect a growing awareness and desire to conform to human rights standards, as Capie (2012) argues, these have not necessarily resulted from attempts to diffuse R2P. Rather, the nonlinear and cumbersome fashion in which they have emerged suggests that they have resulted due to internal pressures from within the region such as Indonesia’s liberalisation and Myanmar’s recent reforms. While these events may eventually increase the congruence between the region and R2P, there has been little attempt by local actors to link these with R2P to date and states are still unwilling to discuss the responsive capacity of R2P.

congruence have expanded the size of the first pillar to include a large variety of good governance activities which seem to be ‘watering down’ the norm. While these R2P-related activities could be seen as ‘addressing the root causes of conflict’ which, according to Bellamy and Drummond, could signify an accommodation between the principles of “R2P and non-interference”; it is more likely that the accommodation is occurring between what local and non-local actors conceive of R2P as, which in its current state is increasingly becoming a norm about prevention.

Chapter 5: Latin America's unwavering indifference to R2P

Latin America is a region which suffers from large-scale disagreement between states regarding historical-narratives and economic and development models.³³⁵ There is also a large degree of mistrust between states which continue to have out-dated models of security and strictly adhere to a traditional conceptualisation of sovereignty, with a strong emphasis on non-interference. Like the other developing regions analysed by this thesis, this commitment to non-interference is likely caused by the region's colonial legacy, but may have been exacerbated by the hegemonic role of the United States in the region.

Unlike other developing regions however, Latin America is viewed as being relatively peaceful and has suffered few breaches of sovereignty by interstate conflicts in the last hundred and sixty years. This is in part due to the variety of doctrines that deny states the right to use force to back up commercial disputes which have added to the strict adherence to non-interventionism.³³⁶ Furthermore, while the region has suffered gross violations of human rights in its recent past, these have not amounted to the scale of genocides which occurred in other regions of the world. When these abuses did occur, states were able to prevent outside interference and humanitarian intervention from the international community largely due to the influence of the United States' Monroe Doctrine.³³⁷

Institutional architecture and cognitive priors

External intervention was and continues to be "one of the most feared threats to national sovereignty" in the region, thanks in part, to early European colonialism and later United States hegemony.³³⁸ Consequently, Latin America, like Southeast Asia, is a region which strongly adheres to the principles of sovereignty and non-interference. In addition to this, there is a relatively high degree of mistrust between states and though the region has certainly improved its human rights commitment in the last decade, some states such as Nicaragua and Venezuela have notoriously bad reputations for committing abuses,³³⁹ and are unsurprisingly extremely critical of R2P. All of these aspects have created a regional culture or cognitive priors which starkly contrast the tenets of R2P, making diffusion relatively difficult to achieve. As such, literature that has attempted to analyse the diffusion of R2P within the region has suggested that "special attention should be directed to avoid

³³⁶ See for instance the Calvo and Drago Doctrines.

³³⁷ The Monroe Doctrine is the notion that America does not allow for extra-American interference in what it considers its 'own backyard'.

³³⁸ Serbin & Rodrigues, 2011, p. 272

³³⁹ See for instance Amnesty international, 2013

considering [its] reactive dimension”³⁴⁰ so as not to exacerbate fears of misuse. Thus, despite a century of relative peace, one would assume that R2P might have a better chance of gaining acceptance if it was “localised”.

One important point to note for Latin America is that there is currently no immediate threat of violence within the region which, to many, has made the norm seem largely irrelevant. Perhaps because of this, a significant portion of states have accepted R2P to a certain extent³⁴¹ and while the majority remain steadfast in their commitment to neither openly endorsing or criticising R2P, thanks to the efforts from various global society groups, dialogue on the norm is increasing. Non-local proponents such as the Eastwest Institute and the Stanley Foundation are the largest advocates of R2P within the region, and while some states such as Argentina have been enthusiastically supporting the norm since its inception, most discussion has been generated by international actors during a variety of conferences they have held in the last couple of years.³⁴²

Latin American’s primary regional organisation is the Organisation of American States (OAS) which was founded in 1948 and mandated with comparable tasks to ASEAN, such as strengthening peace and security and promoting and consolidating representative democracy “with due respect for the principle of non-intervention.”³⁴³ One of the primary reasons for the creation of this organisation has been reported as being to ensure the foundation of “strict non-intervention and the total abnegation of the use of force.”³⁴⁴ Such tenets are outlined in Chapter IV of OAS Charter which claims that “[n]o State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State”³⁴⁵ and that

“[t]he territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever.”³⁴⁶

The OAS Charter makes only a tacit remark towards human rights which, unlike the AU’s Charter, cannot conceivably be regarded as diminishing the regions doctrine of non-intervention.³⁴⁷ However, recently a host of mechanisms have been set up within the OAS and the Caribbean Community

³⁴⁰ Serbin & Rodrigues, 2011, p. 266

³⁴¹ Argentina, Chile, Colombia, Costa Rica, Guatemala, Panama, Peru, and Mexico

³⁴² For example the Stanley Foundation, the United States Institute of Peace, and the Global Action to Prevent War all held a series of roundtable discussions in 2011 and 2012 in the region.

³⁴³ OAS Document: Charter

³⁴⁴ Kenkel, 2012, p. 9

³⁴⁵ OAS Document: Charter, Chapter IV Article 19

³⁴⁶ OAS Document: Charter, Chapter IV Article 21

³⁴⁷ Cabranes, 1967

(CARICOM) such as the Inter-American Commission and the Inter-American Court of Human Rights which some have noted “offer an elaborate regional framework for the protection of human rights that should, in theory, contribute to the preventative elements of R2P.”³⁴⁸ While these organisations received a small degree of enthusiasm from various Latin American states, the likelihood of the OAS becoming a norm champion and strongly advocating R2P in the region is remote as many states criticise it for being U.S. centric already³⁴⁹ and typically use the UN to negotiate peaceful settlements amongst each other because of this.

Initial reactions

The initial response to R2P from Latin American states was, as in other regions, a mixture of endorsement, rejection, or agreement to discuss the concept further. Just as in Africa and Southeast Asia, many Latin American states were concerned with R2P due to its conflict with the norm of non-interference. Those who did endorse the concept right away often had assisted in its drafting, were some of its strongest advocates in the lead up to 2005, and according to some commentators were able to influence a relatively positive reception to the norm within the region.³⁵⁰

Argentina, has been one of the norm’s strongest advocates since its inception and endorsed the WSO Document stating that the “R2P is an appropriate normative framework for responding to situations such as genocide, ethnic cleansing, war crimes and crimes against humanity.”³⁵¹ Furthermore, Argentina sought to constructively engage with some of the concerns that had been raised against the norm and challenged the reasons states had given for dissent.³⁵² In addition to this, Argentina agreed with Peru’s suggestion that a paragraph should be included calling on the Permanent members of the Security Council to refrain from using their veto in situations of genocide.³⁵³

Other states, such as Chile, Colombia, Mexico and Panama have also been consistent in their positive reception of the norm. Chile embraced the concept as a ‘continuum of responses’,³⁵⁴ as did Colombia which emphasised that regional organisations should be used to create the framework for its implementation.³⁵⁵ Mexico’s response to R2P was also largely positive and it proposed additional language in which it sought to strengthen the concept to include “prevention and international

³⁴⁸ Gerber, 2011, p. 7

³⁴⁹ Bornay-Bomassi, 2009

³⁵⁰ ICRtoP, 2008d

³⁵¹ WFM, 2005

³⁵² ICRtoP ‘State-by-State Positions on the Responsibility to Protect’

³⁵³ *ibid*

³⁵⁴ WFM, 2005

³⁵⁵ WFM, 2005

assistance, including development and capacity building.” Panama also endorsed R2P, but rather tacitly in 2005, claiming more discussion was needed before it could become operational. This endorsement quickly solidified in the following years, and during an open debate in 2007 Panama affirmed its commitment to R2P in its entirety stating that

“It is our understanding that the responsibility to protect implies that, over and above the principles of sovereignty, territorial integrity and non-interference in the internal affairs of States, when a State or, to phrase it more aptly, its governmental institutions are unwilling or unable to meet their responsibility to protect the human rights of their citizens, it is up to the international community, and the United Nations in particular, to adopt timely and decisive collective measures to do so.”³⁵⁶

Other states’ concerns were not so quick to dissipate however. Brazil for example, stated that while it supported the R2P definition in the Draft Outcome Document it did so only as a “basis for further improvement.” Like many other wary Latin American states, Brazil had trouble accepting a norm which might diminish sovereignty. At the World Summit Brazil it claimed that

“We have been called upon to deal with new concepts such as “human security” and “responsibility to protect”. We agree that they merit an adequate place in our system. But it is an illusion to believe that we can combat the dysfunctional politics at the root of grave human rights violations through military means alone, or even economic sanctions, to the detriment of diplomacy and persuasion... The United Nations was not created to disseminate the notion that order should be imposed by force.”³⁵⁷

Jamaica which spoke on the behalf of the G-77³⁵⁸ attempted to propose a new paragraph which would emphasise strict adherence to the principles of sovereignty and territorial integrity³⁵⁹ while CARICOM countries welcomed “the opportunity to discuss the concept further” claiming that they could potentially support it if “necessary safeguards [were] put in place to ensure respect for the principles set forth in Charter and international law.”³⁶⁰ In the same vein, Haiti affirmed the norm but stressed the need for emphasis upon the preventative capacity and argued that the United Nations should “fully respect... the sovereignty of all Member States” when undertaking its duties.³⁶¹ Guatemala too emphasised the importance of prevention in 2007 and in a later forum reaffirmed the need for responses to be undertaken “in keeping with State sovereignty and in accordance with

³⁵⁶ ICRtoP, 2007c

³⁵⁷ Amorim, 2005

³⁵⁸ The G-77 is a group of 77 developing countries that was established in 1964 in Geneva. For more information, see <http://www.g77.org/doc/>

³⁵⁹ WFM, 2005

³⁶⁰ WFM, 2005

³⁶¹ ICRtoP, 2007b

guidelines provided by the Government in question.”³⁶² These states, although cautious and unwilling to accept the norm immediately have since softened their positions towards it.

Other countries have not been so welcoming. While the Latin American region had some of the most supportive statements towards R2P, comparable to those made by countries such as Rwanda, they also had some of most hostile responses, notably from Cuba, Ecuador, Nicaragua, and Venezuela. These states perceive R2P as a tool for Western hegemony and reject every aspect of the norm including the way in which it was ‘unanimously’ agreed upon. Cuba for instance rejected the attempt to ‘impose acceptance of R2P’ upon the assembly and claimed that R2P would only “facilitate interference, pressure and intervention in the domestic affairs of our States by the superpowers and their allies.”³⁶³ Venezuela too claimed that R2P would only serve the interests of powerful states³⁶⁴ and argued

“Today we claim from the peoples, in this case the people of Venezuela, a new international economic order, but it is also eminent a new international political order, let’s not allow a handful of countries try to reinterpret with impunity the principles of the International Law to give way to doctrines like “Preemptive War”, how do they threaten us with preemptivewar!, and the now so called “responsibility to Protect, but we have to ask ourselves who is going to protect us, how are they going to protect us.”[SIC]³⁶⁵

Ultimately the initial responses to R2P within Latin America were relatively comparable with those of other developing regions, with a mixture of states that have embraced and consistently reaffirmed their commitment to the norm and states that were reluctant to endorse the concept in its entirety given their concerns of intervention. While those that rejected R2P were considerably more hostile than states in Southeast Asia had been and actively opposed the norm, the states that endorsed the concept did so with high praise leading to most in the region receiving the norm, at least rhetorically, rather warmly.

One thing to note in regards to Latin American receptions of R2P was the time frame in which these states discussed the norm. Most states voiced their acceptance or dissent of the norm during or immediately after the 2005 World Summit, and apart from those that felt strongly towards or against R2P, did not mention it again until the 2009 General Assembly. To this, commentators have noted that “Latin American and Caribbean countries are currently more concerned by the potential impact of the eruption of social violence and of internal political crisis as the main source of

³⁶² ICRtoP, 2007c

³⁶³ WFM, 2005

³⁶⁴ WFM, 2005

³⁶⁵ ICRtoP, 2007d

potential threats to their stability and regional peace.”³⁶⁶ Thus this seeming indifference towards R2P, which is demonstrated by the dearth of references to it in the years after the World Summit, can be partially attributed to the perception held by many states that R2P is not particularly relevant within their region.

Responses to implementation

Fortunately for Latin America, the region has not suffered a recent incidence in which the international community has needed to invoke the concept of R2P in a responsive capacity, and thus the general lack of dialogue on R2P has not been at the expense of civilian’s lives. There seems to be a general acknowledgement by R2P advocates and civil society groups that Latin America is relatively peaceful in comparison to other areas of the world such as Africa,³⁶⁷ and despite the large number of human rights abuses that have been carried out in the regions recent past, today’s conflicts tend to be more societal violence perpetuated by the large number of paramilitary groups in the region rather than large scale attacks on populations carried out by governments. These atrocities are often relatively small scale and do not fall under R2P’s parameters. Despite this some have attempted to invoke R2P in order to generate greater support for local efforts to halt such atrocities, highlighting how international “cooperation offers a positive contribution ... when facing the fulfilment of obligations to confront criminal phenomena of transnational impact” such as the “trafficking of illegal arms, ammunition and explosives.”³⁶⁸ While such attempts have not necessarily sought to expand R2P’s applicability, they have reaffirmed the need for early warning detection systems which were referred to by Ban Ki-Moon as a way of improving R2P’s preventative capability.

Given the lack of R2P related threats within the region it is unsurprising that Latin American countries discussion on pillar 3 implementation has, in general, remained relatively unchanged since 2005.³⁶⁹ When states have commented on the norm’s implementation in other areas of the world, their statements have more or less reflected their views on R2P as a whole, with advocate countries supporting implementation and rejectionist countries remaining critical of it.

³⁶⁶ Serbin & Rodrigues, 2011, p. 267

³⁶⁷ See for example (Kenkel, 2010, 2012; Serbin & Rodrigues, 2011)

³⁶⁸ Blum, 2009

³⁶⁹ While perceptions of R2P’s implementation have remained fairly consistent from 2005 to 2013, the region has introduced one notable contribution to discussion on the responsive capacity of the norm. The “Responsibility while Protecting” which was submitted to the UN in 2011 by the Brazilian delegation is discussed in the next section.

For example, many countries within Latin America such as Chile,³⁷⁰ Guatemala,³⁷¹ and Panama³⁷² condemned the actions of the Gadhafi regime in 2011 when it was seen to have violated its citizen's rights and commended the actions of the Security Council in its response. States that had been consistently opposed to R2P such as Cuba, Nicaragua³⁷³ and Venezuela³⁷⁴ on the other hand were less receptive of the Council's decision. For instance, Cuba held the view that the NATO led Libyan intervention demonstrated how easily R2P can be manipulated with coercive intervention having been used *before* "exhausting all diplomatic instruments, and without even trying to use peaceful means"³⁷⁵ which is similar to the view held by many African states (such as South Africa). These critical states also aligned with the African Union in refusing to recognise the Transnational Council as the representative of Libya, saying it had been 'pushed to the fore' by NATO which had "no legal or moral authority to decide who should govern a nation."³⁷⁶

Those states that had been cautious in embracing R2P but had not outright rejected it, though critical of the Libyan government, did not necessarily support the NATO intervention or the manner in which it was undertaken. This might be seen as less critical of R2P as a concept, but more of the way in which the UN has implemented it. Brazil, for example, claimed that it had had

"serious doubts on whether the use of force, to the extent provided for by the Resolution [1973], would lead to the realization of our common objectives... It is regrettable that the manner in which the resolution has been implemented has not dispelled our doubts. Furthermore, the use of force has made a political solution more difficult to achieve" in the region."³⁷⁷

Since 2011, Brazil has issued numerous statements reaffirming its concern over the way in which R2P's responsive pillar is implemented arguing that "Member States too must be clear on how they

³⁷⁰ "Libya has also seriously failed to uphold its responsibility to protect its civilian population" ICRtoP, 2011a

³⁷¹ "There is not any doubt that the most basic human rights of the population... are being systematically and blatantly violated." *ibid*

³⁷² "Any government has the fundamental and unyielding responsibility to protect its own population. The current Libyan regime made a mockery of this responsibility by suppressing its own people." *ibid*

³⁷³ "the illegal nature of the war being carried out by NATO members – is the most recent example of the pathological need of certain States to subordinate the people of the World no matter the cost" and expressed its "firmest rejection of the use of the 'misnamed responsibility to protect' in order to intervene in our countries, to bomb civilians and change free and sovereign governments." Lopez, 2011

³⁷⁴ "we have seen a succession of various concepts and categories that tend towards neocolonial domination" (Venezuela, 2010)

³⁷⁵ Cuba, 2011

³⁷⁶ UN Document: GA/11137

³⁷⁷ Brazil, 2011

are fulfilling the mandate they have received from the Council.... [And that the] use of force by peacekeepers to protect civilians must be carried out with utmost restraint”³⁷⁸ and argued that R2P “must not be used as a pretext for regime change or meddling in domestic politics.”³⁷⁹

Aside from Brazil, Latin American’s response to the Libyan crisis was relatively mute, with the second most vocal group of actors being R2P rejectionists such as Cuba and Nicaragua who took the opportunity to criticise not only the actions undertaken by NATO, but the R2P concept as a whole.³⁸⁰

Developing receptions and contribution to R2P debate

While Latin America’s initial reception to R2P was relatively similar to other regions, in the years following the Summit, conversation regarding the norm petered off somewhat and states rarely discussed it unless they were strong advocates or were criticising its implementation. Few Latin American states have made reference to the norm during the numerous open debates held by the UN on R2P related topics, perhaps not seeing it as intrinsically linked to the maintenance of human rights in the region in the way some African states did. Despite the general impression of indifference, Latin America’s engagement with R2P is more comprehensive in comparison to other regions, and states appear seemingly oblivious to the efforts of distant advocates to shift the emphasis away from pillar 3 to increase the norm’s congruence.

Like in other regions of the world, the release of Ban Ki-Moon’s 2009 report on R2P saw discussion on the topic proliferate, even within Latin America, and in a rare display of interest 16 countries referenced the norm in the General Assembly.³⁸¹ Most of these states were either strong supporters of the norm, such as Colombia and Guatemala or vehement critics like Cuba and Venezuela, and it appears as if there has been little change in reception in response to R2P’s reconceptualization.

Colombia for example remained supportive of R2P and thanked Ban Ki-Moon for his contribution to the discussion on the norm, reaffirmed its commitment to all pillars, and elaborated on the necessity for a clearer framework of response to be established.³⁸² Cuba on the other hand remained critical of the norm claiming that the Secretariat’s report “surpassed the intergovernmental agreement” and reaffirmed its position against the norm arguing that there “is no legal standard justifying the

³⁷⁸ Viotti, 2011

³⁷⁹ Brazil, 2011

³⁸⁰ See for example Parrilla, 2011; Briceño, 2011

³⁸¹ These countries were Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Jamaica, Mexico, Nicaragua, Panama, Peru, Uruguay, and Venezuela.

³⁸² Blum, 2009

legal character of a humanitarian intervention by the Security Council under Chapter VII of the Charter.”³⁸³

Despite the 2009 reconceptualization of R2P into 3 pillars, those countries within Latin America that had been highly critical remained so and continued to attack the concept in its entirety rather than just the 3rd pillar. Venezuela for instance, thought that Ban Ki-Moon’s report incorrectly assumed that R2P had been agreed upon and noted

“with concern the attempts of certain States to obstruct the debate on the concept of the responsibility to protect... those countries have baselessly tried to maintain that that concept is a standard that can be applied without engaging in the necessary discussion. Our country fully agrees with those States that have expressed the view that the Security Council is not in a position to interpret or utilize that concept before a consensus has been reached in the General Assembly.”³⁸⁴

In 2010 Venezuela continued to argue that there was no consensus relating to R2P, that the norm undermines state sovereignty, and that R2P is simply a form of “neo-colonial domination.”³⁸⁵ This position has not changed since and Venezuela’s response to Libya was that “powerful countries are manipulating the concept of the responsibility to protect... they are seeking solely to impose their strategic interests on the world.”³⁸⁶

Whereas in other developing regions, Ban Ki-Moon’s reconceptualisation of R2P was followed by a decline in pillar 3 references from both norm-entrepreneurs and states, this trend did not extend to Latin America. For instance while Guatemala is considered an advocate of R2P³⁸⁷ and congratulated the Secretariat in 2009 for its report claiming “I do not say it as a mere courtesy. The document is very well crafted, not only from the angle that matters most, the substance, but also in its structure and drafting”³⁸⁸, it also articulated its concerns with the norm (primarily the tension with non-interference, misuse, and lack of agreement regarding terms).³⁸⁹ States within Latin America also do not seem as opposed to early warning detection systems as those within Asia, with a series of

³⁸³ Pino, 2009

³⁸⁴ ICRtoP, 2009

³⁸⁵ ICRtoP, 2010

³⁸⁶ ICRtoP, 2011b

³⁸⁷ See for instance (Serbin & Rodrigues, 2011)

³⁸⁸ Rosenthal, 2011

³⁸⁹ Rosenthal, 2011

statements made by Latin American countries contributing to debates on how to improve and implement such practices.³⁹⁰

Of all the states within the region it is perhaps Brazil's reception to R2P that has shown the most significant shifts. Brazil has increasingly become one of the most vocal commentators on R2P within the Latin American region and has distinguished itself from its peers by remaining firmly undecided as to its commitment to R2P. Because of this, Brazil's behaviour from a distance appears relatively similar to states from other developing regions. In response to the 2009 report released by Ban Ki-Moon, Brazil argued that the political boundaries of R2P were clearly set in 2005 and that any discussion on the norm should not change these. It claimed that the R2P offered "a powerful political call for all States to abide by legal obligations *already set forth in the Charter*, in relevant human rights conventions and international human law and other instruments" and that Ban Ki-Moon's contribution should remind the community that they "already had the tools to act" which were written within the WSO Document.³⁹¹

Unlike other states that are wary of R2P, Brazil's concerns about coercive responses saw it become one of the more constructive Latin American commentators on pillar 3, and in 2011 it called for the need for "Responsibility while Protecting" (RwP). This concept reflects the country's reservations about the efficacy of military intervention and seeks to establish a framework for response which calls for strict adherence to international conventions and 'responsible' peacekeeping.³⁹² While this report has sparked a number of discussions by R2P proponents and rejectionists alike, it appears to be a 'one off' and Brazil's broader engagement with R2P response continues to be cautious.

Though Brazil agreed that conceiving of R2P as 3 pillars was useful, like so many developing states in other regions, it took advantage of the conceptual shift of R2P into different tenants to distance the norm's uncomfortable aspects arguing that the 3rd pillar *must* be a last and final resort attaching

"particular importance to the aspect of prevention... [Brazil claimed that the] first step towards a durable solution to humanitarian crises 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

³⁹⁰ Guatemala for example contributed to debates by arguing that the need to strengthen the Secretariat in its capacity to gather and analyse information, but also resolve ways to ensure the information is channelled to the appropriate inter-governmental forums. Guatemala, 2010 see also Chile's statement in (ICRtoP, 2011b)

³⁹¹ Viotti, 2009 [emphasis added]

³⁹² For more see UN Document: A/66/551-S/2011/701 11

to devise ways to reduce the disparities of all sorts that exist within nations, and among nations and regions.”³⁹³

In a similar fashion to states in Africa, Brazil’s de-emphasis of pillar 3 saw an emphasis on pillar 1 and 2 as well as an attempt to conflate good governance measures with R2P prevention activities. Despite its release of RwP in 2011, Brazil’s engagement with R2P has taken on a predominantly more ‘preventative’ emphasis in more recent years. In 2011 it stressed the need to promote social and economic development as a way to obtain peace and security as “political stability and social and economic development are closely interlinked and [are] mutually reinforcing”³⁹⁴ and in 2012 it argued that “it is always worth reminding ourselves that prevention is the best policy.”³⁹⁵ Brazil hasn’t explicitly rejected R2P’s 3rd pillar, indeed its engagement is exemplary when compared to sovereignty-wary nations in other developing regions. Despite this, the country still appears to be attempting to reconcile its commitment to non-interference with its continually increasing role in regional and world politics and its position on R2P is likely to continue to fluctuate in the years to come.

Findings

Latin America’s reception of R2P is relatively similar to that of other developing regions, in that states have had mixed views on the norm. While the region contains some of R2P’s most vocal commentators, the majority of states have remained overwhelmingly silent in R2P discussions and efforts to diffuse the norm are generally pushed by international actors.

One of the most interesting things to note after analysing the region is the relative stability of states’ receptions to R2P, as most states continue to take the same stance towards the norm that they did when it was first endorsed in 2005. This has seen countries such as Argentina and Colombia continue to support the norm, while others like Cuba and Venezuela continue to criticise it. The refinement of R2P in Ban Ki-Moon’s 2009 report was equally praised and rejected by states within the region, whereas other developing regions began to engage more actively with particular pillars after 2009.

Furthermore, Latin American states have not reacted in any unexpected fashion on account of R2P’s third pillar being implemented in other regions. The way in which states condemned or condoned the NATO intervention in Libya in 2011 generally coincided with their broader views on the norm.

³⁹³ Viotti, 2009

³⁹⁴ Brazil, 2011

³⁹⁵ Viotti, 2012

Some commentators have noted that due to its colonial legacy and strong adherence to non-intervention, the “main dimensions [to be] considered regarding the implementation of the Responsibility to Protect in Latin America and the Caribbean are the preventive dimension and, eventually the rebuilding dimension.”³⁹⁶ While R2P does contrast deeply with the regions cognitive priors, given their relatively restrained responses to the use of R2P in other areas of the world it is unlikely that emphasising the preventative pillars would increase support. The Latin American reception of R2P and the lack of local attempts to institutionalise or localise the norm does not appear to be due to the concerns of the sovereign-wary, rather it is perhaps more shaped by a sense that the norm does not appear to have a great deal of relevance to the region. While many of the regional bodies have made reference to ‘human rights’ in recent years and some have altered their charters or set up mechanisms to monitor these, few have related these new capacities to the R2P norm and have generally remained silent towards the norm reflecting their members disinterest.

It is perhaps the norms almost ‘irrelevance’ to the region that has allowed many Latin American nations to discuss R2P’s more controversial aspects. Unlike other developing regions, Latin American states have treated R2P comprehensively and engaged in debates regarding all 3 pillars which has allowed for some surprisingly positive and innovative contributions, most notably Brazil’s notion of ‘Responsibility while Protecting’. However, this has not seen them actively diffuse the norm within the region, which suggests that local and non-local advocates will have to try other methods to promote the norm and increase its relevance within the region to gain the support of indifferent states.

³⁹⁶ Serbin & Rodrigues, 2011, p. 266

Chapter 6: Conclusion

This thesis has provided a comparative assessment of the diffusion of the R2P norm in Africa, Southeast Asia and Latin America. The findings challenge claims that R2P has been ‘unanimously’ endorsed and suggest that there is an emerging trend by actors to discuss and thus conceive of only the preventative aspects of R2P, even by those states that had previously recognised the norm comprehensively. While this decline in willingness to discuss the reactive capacity of R2P may be short term, the nexus dividing endorsement for pillars 1, 2, and 3 within regions such as Africa appears to have expanded since 2005. This insight contributes to emerging literature which argues for a discursive approach to analysing norm diffusion, as it is clear that R2P is not simply being localised by individual states but is instead being fundamentally altered throughout the developing world and is losing its impetus in responding to mass-atrocities as was originally intended.

Whether or not R2P is being accepted or accommodated within developing regions depends on what one conceives R2P to be. This thesis has sought to conceive of R2P as a process rather than a static entity and as such suggests that what R2P is today, has changed significantly from what R2P was in 2001. The conceptualisation of R2P that seems to increasingly be most warmly received within developing regions appears to be a norm designed to promote the prevention of mass atrocity crimes rather than the response to them. This conclusion creates the foundation for further research in the area and much more work will need to be undertaken in order to discern the extent of this trend.

Africa’s reception to R2P should have been the most positive as its regional architecture reflected the 2005 norm closely. Instead, many states within the region were critical of R2P when it was endorsed in the World Summit and remain so to this day. The reception has not followed a straight line since 2005, and African states have shifted their stance towards the norm in response to how it has been emphasised by local and non-local actors, as well as how it has been used in practice. Most states’ concerns about the norm are a result of the norm effecting change to the conceptualisation of sovereignty and diminishing a state’s claim to non-interference, an apprehension that seems to have increased following implementation of the norm in instances such as Libya.

Despite these concerns, R2P advocates and commentators have claimed that R2P is being diffused within the region, often pointing at the myriad of institutions that have been set up in its wake. True to these claims, African states in general appear to have become more accommodating or at least willing to discuss the norm in recent years. Even though many states disapproved of how NATO carried out the Libya intervention in 2011, no new states have rejected the norm on this account. This increasingly warm reception of R2P is most evident after 2009 when the norm was

reconceptualised into three pillars. While other factors may have contributed to this phenomenon, it seems relatively likely that the emphasis by norm advocates on 1st and 2nd pillar activities as well as the ability for states to discuss and publicly endorse aspects of the norm they agree with, whilst ignoring those they don't, may have contributed to this slightly warmer reception.

Discussion on R2P by African states has increasingly taken a single sided focus and references to its 3rd pillar are rare and are generally either tacit or critical. The steady shift in R2P focus towards its preventative pillars is not merely vocal, but has affected the way states have been internalising the norm as well. While the African Union and its various subsidiaries do reflect tenets of R2P, these are primarily the preventative aspects of the norm. Those organisations that are congruent with R2P's reactive capacities seem to lack the political will or ability to act in instances where atrocities are taking place, as demonstrated by Africa's reluctant performance during the Libyan crisis in 2011. Thus, while Africa appears to be increasingly accommodating R2P, this is overwhelmingly with regard to the preventative aspects of the norm. In a fashion reminiscent of localisation, states within the region are not simply framing R2P but are actively (or tacitly as the case might be) 'pruning it' and removing the 3rd pillar from the norm which has potentially been made easier due to the way in which R2P's tenets were distinguished from one another in 2009.

Southeast Asia has always been seen as a region that would be resistant to the 'Responsibility to Protect' and true to this call, none of its regional groups and few states have undertaken active steps to institutionalise R2P. The norm's initial reception by states was, as in Africa, split between acceptance, rejection, and a willingness to discuss the concept further. Unlike Africa however, stances towards R2P have not shifted in any significant manner since the initial cascade of endorsement or rejection. While states have occasionally referenced the norm (primarily in roundtables held by non-local norm-entrepreneurs or within the UN) such comments have been few and far between and generally highly critical of the 2nd and 3rd pillars, even with advocate states like Singapore referring to them cautiously.

R2P's third pillar has never been implemented in Southeast Asia, and the one instance in which it was attempted (Cyclone Nargis) led to an outcry from regional states and arguably raised concerns about the potential for its misuse. Claims that R2P is being accommodated within the region seem far-fetched then, given that no state has made any significant effort to institutionalise the norm. Furthermore, the R2P-related policy priorities which are being undertaken by states represent tenets of the ASEAN charter and as such were activities that states were already undertaking. The attempt by both local and non-local actors to conflate an increasingly broad range of activities with pillar 1 to show R2P endorsement, or to argue that the norm is being accepted, has significantly

expanded the 1st pillar and has done little to increase positive receptions of pillars 2 and 3 within the region. As such, Southeast Asia has overwhelmingly focused on the preventative aspects of R2P and has remained silent or critical towards its responsive capacities. In general, the region has remained relatively silent and perhaps indifferent regarding R2P, and there has been no real local effort to diffuse or discuss the norm. External actors remain the primary promoters of the concept.

Latin America on the other hand is the only region that has continued to treat R2P comprehensively. The region's initial reception R2P was comparable to that of Africa and Southeast Asia, however commentators on the norm expressed much stronger opinions regarding their rejection or acceptance of it. Like in Southeast Asia the reception by Latin American states' to R2P has not shifted dramatically since 2005. R2P has never been invoked within the region and its implementation in other regions has not seen these states shift from their earlier stated views (positive or negative). While the majority of the region has seemed to be relatively indifferent to R2P, perhaps due to many conceiving of it as a concept for Africa whence it came, those that do discuss the norm have tended to engage all of its tenets rather than just the preventative aspects like in other regions of the world.

Although regional organisations have been identified as entities that can provide a variety of opportunities for norm advancement and implementation, only those organisations in Africa seem to have made significant efforts towards this goal. However, the myriad of institutions within Africa which contain R2P-like principles in their mandates have suffered from a lack of political will and capacity to respond to atrocities and are increasingly focused on conflict prevention. The OAS and ASEAN have thus far seemed unwilling to embrace R2P in any substantive manner let alone advocate it to their members.

How regions and the states that inhabit them receive R2P is ultimately a question of how congruent the norm is with pre-existing principles and ideas. The obvious point of contention for R2P is that it contrasts heavily with the notion of sovereignty and non-interference which has been a fundamental characteristic of the international system for the past four hundred years. Essentially, whether an actor accepts or rejects R2P is decided by the significance that it attributes to these more traditional norms which are weighted against the relatively new R2P norm. Perceptions of norms can change, and this thesis has attempted to analyse these changes over time and practice in order to discern how R2P has been received by developing regions. Its findings affirm the conception that norms are not static and that their content can change between actors and over time. Thus this thesis has not sought to analyse whether or not developing regions have accepted R2P, but rather *how* they have *received* R2P. How they have accepted or rejected it, how they have perceived it, and how they have engaged in discussion about it. It finds that developing regions and the states that inhabit them are

increasingly unwilling to discuss the 3rd pillar of R2P. This decline in discussion on the reactive tenets of R2P has affected the internalization of the norm within developing regions which have either failed to establish responsive capacities, or have been increasingly unwilling to use them. Thus, R2P seems to be steadily shifting from its original impetus as a norm to *respond* to mass-atrocities towards a norm that is overwhelming designed to prevent them. This raises significant questions as to the need for such a norm, given that many of these preventative tenets can be found in regional charters and existing cosmopolitan norms which were being implemented without the R2P label. Furthermore, if R2P is a norm about the prevention of atrocities, what happens when prevention fails?

Footnotes

ⁱ The constructivist approach taken is in an attempt to recognise that in collecting and codifying the data, conclusions drawn will be subject to this authors own beliefs (Creswell 2009). Although there is no easily obtainable method to overcome this bias within such a short research project, opinions expressed in existing studies which assess how R2P has been diffused within Africa, Latin America, and South Asia are used within the empirical analysis. Constructivism has been chosen as the theoretical framework in which to analyse material and draw conclusions as it offers the widest 'interpretive' lens, allowing context and societal influences to factor into the discussion (Finnemore 1996, Finnemore and Sikkink 1998, Dunne, Kurki et al. 2007). As this is a study comparing different states' interpretations of R2P within the same time period, being able to assess context and societal impacts upon norm interpretation is vital for a variety of reasons. First, while things such as systemic factors could have easily impacted upon the interpretation of R2P, these same factors would have affected all regions which would not account for any discrepancy in interpretation or implementation. Second, other theories of International Relations, such as realism do not place much emphasis on norms and therefore offer very little in the way in which to analyse the norms interpretation and impact (Dunne, Kurki et al. 2007). Third, theories on how and why norms are diffused (such as norm localization) are often written within the same constructivist framework, which make up the theoretical framework (Dunne, Kurki et al. 2007). Constructivism as a theory of IR is best suited to this study then, because of its ability to account for societal and contextual factors, as well as its strong tradition in explaining the phenomena of social norms.

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