ON POWER AND NORMS

LIBYA, SYRIA, AND THE RESPONSIBILITY TO PROTECT

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April 2014

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1 INTRODUCTION

I n 2011, a few weeks into the uprising against Muammar Gaddafi, the United Nations Security Council (UNSC) legitimized a no-fly zone over Libya under the normative rubric of the "Responsibility to Protect" (R2P). UN Secretary General (UNSG) Ban Ki-Moon exulted: "Resolution 1973 (2011) affirms, clearly and unequivocally, the international community's determination to fulfil its responsibility to protect civilians from violence perpetrated upon them by their own government."[1] Gareth Evans, co-chair of International Commission on Intervention and State Sovereignty (ICISS), echoed: "the Libyan case was, at least at the outset, a textbook case of the R2P norm working exactly as it was supposed to,"[2] Noteworthy, was the fact that all five "BRICS" (Brazil, Russia, India, China, and South Africa) were represented in the Council at the time. None vetoed the resolution.

As the Libya intervention gained steam, another uprising broke out in Syria. As in Libya, what was initially an unarmed protest militarized rapidly when Bashar al-Assad's regime sought to violently crush the rebellion and the protesters took up arms in response. Yet unlike in the Libya case, the UNSC rejected a military intervention aimed at protecting Syrian civilians. With the spiraling Syrian war now into its fourth year, the UNSC has seen three failed resolutions that, far from mandating intervention, had merely sought to condemn violence, threaten sanctions, and call for a political transition. In more than three years, the Security Council mustered consent only on three resolutions that endorsed an (ultimately unsuccessful) unarmed observer mission, scheduled the dismantling of Syria's chemical weapons arsenal, and called for humanitarian access. Discord between Western actors and (re)emerging powers underpinned the standstill at the Council.

Viewed from a power perspective, the international responses to the crises in Libya and Syria may be read as evidence of a tipping point in the international system: Libya as the "perfect storm"[3] in which liberal Western powers entrenched the liberal R2P norm, cajoling the consent of the sovereignty-first BRICS; Syria as the first crisis in which (re)emerging powers are taking the lead, discarding any move that could be construed as legitimizing intervention, and standing firm in support of state sovereignty. And yet what explains the fact that in such a short time span the international power shift has produced such diametrically opposite outcomes, despite the unchanged power resources of the global players?

Viewed from a normative standpoint, the Libyan and Syrian conflicts may be read as the moment of inflection in the liberal normative order pioneered and diffused by the "West," with the traditional recalcitrance of the "Rest" now becoming normatively consequential. The Libya intervention is the final flames of a liberal Western order; the Syrian conflict is the incipient signs of a post-liberal polycentric world. And yet the BRICS all endorsed, in different shades, the imperative of stopping the bloodshed and protecting civilians in both Libya and Syria. Furthermore, within Europe and the United States too, there has been no consensus on intervention in Syria. What thus do the stories of Libya and Syria tell us about normative evolution at the global level when it comes to key notions

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[1] "Secretary General says Security Council action on Libya affirms international community's determination to protect civilians from own government's violence," March 18, 2011, SG/SM/13454 SC/10201 AFR/2144 http://www.un.org/News/Press/docs/2011/sgsm13454.doc.htm.

[2] Evans, G. (2011) "Ending Mass Atrocity Crimes: The Responsibility to Protect Balance Sheet After Libya," http://www.gevans.org/speeches/speech443.html.

[3] Garwood-Gowers, A. (2013) "The responsibility to protect and the Arab Spring: Libya as the exception, Syria as the norm?" *The University of New South Wales Law Journal*, Vol. 36, No. 2, pp.594-618, p.595.

like civilian protection, intervention, and state sovereignty?

At face value, the Libyan and Syrian crises suggest a tipping of the scales in the international system from the "West" to the "Rest." However, this paper argues that a situated and multifaceted analysis of power reveals that Western and BRICS countries alike played crucial roles in determining the overall international responses to both crises. In doing so, all major international actors involved contributed to the ongoing global normative conversation about when and how to respond to mass atrocities, with likely long-term implications for the responsibility to protect.

2 Libya and Syria on Opposite Ends of the R2P Spectrum

UNSC Resolution 1973 on Libya was the first of its kind. Never before had the UNSC mandated a military intervention in a functioning state with the explicit aim of protecting civilians against their own government. In 1992, UNSC Resolution 781 authorized a no-fly zone in Bosnia, but with the sole objective of providing humanitarian assistance rather than protecting civilians. The same year, UNSC Resolution 794 mandated a unified task force to enter Somalia, but did so in the absence of a central government in Mogadishu. In 2008, following the eruption of post-election violence in Kenya, the UN was guided by the principle of R2P, but rather than authorizing a military intervention, the international community succeeded in mediating a power-sharing agreement. In 2011, recalling the responsibility of each state to protect its citizens, UNSC Resolution 1975 demanded that Laurent Gbagbo step down in Côte d'Ivoire, imposing sanctions on him and his inner circle. Yet only in Libya did UNSC Resolution 1973 (2011) enhance an arms embargo and asset freeze, establish a ban on flights and, most notably, authorize "all necessary measures" to enforce a no-fly zone with the explicit purpose of "protect[ing] civilians and civilian populated areas under threat of attack" by their government. In April 2011, Evans defined Libya as a "high watermark of the application of (R2P)."[4]

Never before did the Security Council react so rapidly and consensually as in the case of Libya.[5] Violence in Libya broke out in mid-February 2011 when Gaddafi's regime sought to violently suppress protesters. The protest rapidly turned violent, with rebels taking over Benghazi and opening the way to armed confrontation between the sides. On February 22, UN High Commissioner for Human Rights Navi Pillay condemned crimes against humanity in Libya. The next day, UNSG Ban reminded the Libyan government of its responsibility to protect endangered civilians. On February 25, the UN Human Rights Council established an International Commission of Enquiry on Libya. On February 26, the UNSC approved unanimously Resolution 1970, which demanded an immediate end to the violence, imposed an arms embargo, a travel ban, and asset freeze on select individuals, and referred the case of Libya to the prosecutor of the International Criminal Court.

As violence persisted, the UNSC reconvened a fortnight later. On March 17, UNSC Resolution 1973 authorized a military intervention to enforce a no-fly zone and protect civilians in Libya. The resolution was supported by ten members of the Council, with five abstentions.[6] On March 24, NATO assumed responsibility for the implementation of the arms embargo and the no-fly zone and, a few days later, for the protection of civilians as well. The whirlwind of decisions in New York was unprecedented. As put by then-U.S. Ambassador to the UN Susan Rice: "I can't remember a time in recent memory when the Council has acted so swiftly, so decisively, and in unanimity on an urgent matter of international human rights."[7]

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[4] Evans, G. (2011) "R2P is breaking a new ground in the development of global governance," *Yale Global*, April 15, http://yaleglobal.yale.edu/content/gareth-evans-responsibility-protect-transcript.

[5] Bellamy, A.J. and P.D. Williams (2011) "The new politics of protection? Côte d'Ivoire, Libya, and the responsibility to protect," *International Affairs*, Vol. 87, No. 4, pp. 825-850.

[6] Bosnia, Colombia, France, Gabon, Lebanon, Nigeria, Portugal, South Africa, U.K., and United States voted in favour. Brazil, China, Germany, India, and Russia abstained on UNSC Resolution 1973.

[7] "The Inside View on the UN," *UN Week 2/28/11*, http://unasouthernny.wordpress.com/2011/03/04/un-week-22811/.

The international response to Syria could not have been more different.[8] Just as world powers were convening in New York to pass Resolution 1973 on Libya, protest broke out in the southern Syrian town of Dara'a. What had begun as a peaceful demonstration against government corruption and human rights violations rapidly spiraled out of control. By April 2011, the Assad regime had deployed the army across the country and engaged in a violent suppression of the protest. Following the military crackdown, the rebels took up arms against the regime. The country descended into a vortex of violence, as the conflict acquired increasingly militarized, regional, and sectarian tones. Three years later, with well over 100,000 deaths, millions of refugees, and a mounting threat to regional stability, the Syrian civil war rages on. Neither an end nor an outcome to the war are in sight. The only thing that can be safely concluded is that the Syria that once was has gone for good. The magnitude of the Libyan uprising pales in comparison to Syria.[9]

Despite the absolute and relative magnitude of the Syrian crisis, the UNSC has dismally failed to agree on a resolute response. In over three years, the UNSC has seen three vetoed resolutions, and four adopted resolutions that have not decisively contributed to bringing an end to the Syrian civil war and ensuring the protection of Syrian civilians. Whereas in the case of Libya, the UNSC agreed on a resolute response in less than one month into the uprising, in Syria the first failed attempt to pass a resolution came upon European impulse

in October 2011, six months after the outbreak of violence. The resolution condemned the regime's crackdown and called on it to protect its citizens. There was no explicit threat of sanctions, although the draft did refer to the possibility of punitive measures in case of noncompliance. Despite the dilution of the language on sanctions, the three non-permanent BRICS members — Brazil, India, and South Africa — abstained, while Russia and China vetoed the resolution. The next failed attempt to forge consensus at the UNSC came in early 2012. The resolution, tabled by Morocco, called for a political transition in Syria through the formation of a national unity government. In order to assuage the BRICS' concerns, it explicitly ruled out coercive measures. This time, the resolution did win the support of India and South Africa.[10] But Russia and China again exerted their veto.

Then came an initial, short-lived moment of international consensus. In February 2012, the UNSG and the Arab League appointed Kofi Annan as their Joint Special Envoy. Annan devised a six-point plan aimed at ending violence. The Syrian regime accepted the plan and the UNSC unanimously approved Resolution 2042 in April 2012, authorizing the dispatch of 30 unarmed observers to monitor the fragile ceasefire. This was followed by the Russian-sponsored UNSC Resolution 2043 establishing a 90-day United Nations Supervision Mission in Syria (UNSMIS) to monitor the ceasefire. Yet the quiet was not to last. By May 2012, both sides had resumed the fighting and the UNSC was called on to respond. In this context came the third failure at the Security Council. In July 2012, the Western draft would have extended the mandate of UNSMIS and threated sanctions in case of the regime's non-compliance with the six-point plan. While India voted in favor

[8] Zifcak, S. (2012) "The Responsibility to Protect after Libya and Syria," *Melbourne Journal of International Law*, Vol. 13, No. 1, pp. 59-93; Nanda, V. (2013) "The Future Under International Law of the Responsibility to Protect after Libya and Syria," *Michigan State University Journal of International Law*, Vol. 21, No. 1, pp. 1-42.

[9] Kuperman, A. J. (2013) "A Model Humanitarian Intervention? Reassessing NATO's Libya Campaign," *International Security*, Vol. 38, No. 1, pp.105-136.

[10] By then, Brazil was no longer a non-permanent member of the Council.

of the resolution, South Africa abstained. Russia and China again used their vetoes.

After the failure of UNSMIS and Special Envoy Annan's mission, over a year was to pass before the UNSC could find new common ground. This time the impulse came from Russia. After the August 2013 chemical attack on Gouta, a U.S.-led military intervention seemed to be in the offing. Yet no sooner had U.S. President Barack Obama declared his intention to respond to the chemical attack with the use of force than a powerful constituency within and beyond the West mobilized against the imminent war. Most Europeans and Americans were relieved when Russia proposed a plan, which the Assad regime readily accepted, to place Syria's chemical weapons under international supervision. In September 2013, the UNSC unanimously approved Resolution 2118, which endorsed the Organization for the Prohibition of Chemical Weapons' (OPCW) plan for the destruction of Syria's chemical arsenal. UNSC Resolution 2118 was critical in averting a military intervention and dealing with the longstanding problem of Syria's chemical weapons. Yet to the extent that the Syrian civil war has been primarily a conventional weapons war, international consensus over the destruction of chemical weapons was only marginally consequential to the resolution of the crisis and the protection of Syrian civilians.

The chemical weapons agreement was followed by momentum to launch negotiations between the Syrian parties in Geneva. In January-February 2014, negotiations between the Syrian regime and opposition forces mediated by Special Envoy Lakhdar Brahimi centered largely on humanitarian access. The opposition, backed by the Friends of Syria, called for unfettered humanitarian access, but the Syrian regime and Russia feared this could have opened the way to safe zones, no-fly zones and eventually a military intervention. The Geneva negotiations ended in failure, but were followed by a flurry of diplomatic activity in New York. Despite deadlock in Geneva, in February 2014, the UNSC unanimously approved Resolution 2139 demanding all parties, in particular the Syrian authorities, allow access for UN humanitarian agencies, calling for an immediate end to violence, and condemning the rise of al Qaeda-affiliated terror. After three years of violence, Resolution 2139 was the first moment of UNSC consensus on the humanitarian dimension of the Syrian conflict. On the ground, the war rages on.

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3 THE INTERNATIONAL RESPONSE TO LIBYA AND SYRIA: A POWER ANALYSIS

This overview reveals two contrasting stories. The case of Libya has been hailed as a crowning moment for R2P.[11] It was an incontrovertible piece of evidence that (largely Western) norm entrepreneurs are successfully universalizing R2P. The case of Syria has been highlighted by skeptics as proof of persisting international divisions[12] and of the growing assertiveness of the BRICS and their pluralist worldviews.[13] What explains such different stories? What do Libya and Syria tell us about shifting power in the international system and its ensuing effect on human protection norms? Was Libya a final flame of Western-led liberal interventionism? Or was it merely a "welcome aberration,"[14] and Syria the first crisis in which the BRICS are taking the lead in setting the tone and pace of the international community's response?

It has become commonplace to talk about the power shift in the international system. Some openly talk about an incipient era of multipolarity,[15]

in contrast to the bipolar system of the Cold War and the ephemeral "unipolar" moment that prevailed in the 1990s and early 2000s.[16] Here the narrative recounts how the rise of new global players and the resurgence of old ones have brought about the dissolution of an international system marked by the pre-eminence of the West. This is evident particularly in the economic domain. Goldman Sachs for instance predicts that by 2050, the top five economies worldwide will include four BRICS (Brazil, Russia, India, and China) alongside the United States, with Europe's leading economies dropping down the list of the world's largest.[17] Others would insist that the very notion of multipolarity fails to capture the massive interdependence and interconnectivity brought about by globalization, preferring the term "interpolarity."[18] Still others claim that the emerging system is "nonpolar," insofar as the declining power of the former single pole (the United States) is not being offset by the parallel rise of other poles with comparable power resources.[19] In the military domain for instance, the power gap is unlikely to close any time soon — the combined defense budgets of the United States and the EU's six largest military spenders hovers around $950 billion, while the cumulative military expenditure of Brazil, India, Russia, and China lags well behind at $588 billion.[20]

The case of Syria has been highlighted by skeptics as proof of persisting international divisions and of the growing assertiveness of the BRICS and their pluralist worldviews.

[11] Bellamy, A. J. (2011) "Libya and the Responsibility to Protect: The Exception and the Norm," *Ethics & International Affairs*, Vol. 25, No. 3, p 263-269; Glanville, L. (2012) "Gaddafi and Grotius: Some Historical Roots of the Libyan Intervention," *Global Responsibility to Protect*, Vol. 5, No. 3, pp. 342-361; Powell, C. (2012) "Libya: A Multilateral Constitutional Moment?" *American Journal of International Law*, Vol. 106, No. 2, pp. 298-316.

[12] Garwood-Gowers, A. (2013) "The responsibility to protect and the Arab Spring: Libya as the exception, Syria as the norm?" *The University of New South Wales Law Journal*, Vol. 36, No. 2, pp. 594-61; Gifkins, J. (2012) "The UN Security Council Divided: Syria in Crisis," *Global Responsibility to Protect*, Vol. 4, No. 3, pp. 377-393; Hehir, H. (2013) "The Permanence of Inconsistency: Libya, the Security Council, and the Responsibility to Protect," *International Security*, Vol. 38, No. 1, pp. 137-159.

[13] Newman, E. (2013) "R2P: Implications for World Order," *Global Responsibility to Protect*, Vol. 5, No. 3, pp. 235-259.

[14] Hehir, A. (2012) *The Responsibility to Protect. Rhetoric, Reality, and the Future of Humanitarian Intervention*, Basingstoke and New York, Palgrave Macmillan, p.17.

[15] Mearsheimer, J. (2001) *The Tragedy of Great Powers*, New York, Norton.

[16] Krauthammer, C. (1990) "The Unipolar Moment," *Foreign Affairs*, Vol. 70, No. 1, pp. 23-33; Krauthammer, C. (2003) "The Unipolar Moment Revisited," *The National Interest*, No. 70, pp. 5-17; Nye, J. (2002) *The Paradox of American Power*, Oxford, Oxford University Press.

[17] Kupchan, C. (2012) *No One's World: The West, the Rising Rest, and the Coming Global Turn*, New York, Oxford University Press, p.75-76.

[18] Grevi, G. (2009) *The interpolar world. A new scenario*, EUISS Occasional Paper No. 79, Paris.

[19] Haass, R. N. (2008) "The age of nonpolarity: what will follow U.S. dominance," *Foreign Affairs*, Vol. 87, No.3, pp. 44-56.

[20] GlobalSecurity.org (2012) "Worldwide military expenditure, 2011." http://www.globalsecurity.org/military/world/spending.htm.

However, irrespective of whether the future world will be multipolar, interpolar, or non-polar, what most concur on is that multiple centers of authority within and beyond the West are bound to be a lasting feature of 21st century international politics.

A neorealist power analysis[21] would read the Libyan and Syrian outcomes as proof of the changing power differentials between global players. And yet the two crises have unfolded almost in parallel. During this time, the power resources of the major actors remained broadly unchanged. If anything, they marginally improved in favor of traditional Western actors, who slowly began exiting the economic crisis. But power does play an important role in explaining the different outcomes. A power analysis that asks fundamental counterfactual questions[22] — how things could have been different — would point to consequential roles played by traditional and emerging powers alike in both crises. In Libya, while it is true that NATO conducted a military intervention under the third pillar of R2P,[23] would the intervention have happened without the consent of the BRICS and thus without UNSC legitimization? Probably

not. Likewise, while it is true that in Syria the international community has been deeply divided and, while remaining such, seems to be gradually converging on the Russian-led push for a mediated political rather than military solution to the crisis, had the United States and major EU member states concurred on the imperative of an intervention, would BRICS dissent have been determinant? Probably not. These basic counterfactual questions suggest that power is indeed critical to our understanding of the Libyan and Syrian crises, but also that a systemic power analysis does not suffice.

An analysis that understands power as a relational rather than as a property concept, as a disposition rather than as a fungible resource, and as situational rather than generic[24] sheds light on the contrasting stories of Libya and Syria and their wider implications on international power and norms. Viewing power as a multidimensional concept, understood within specific contexts and relations, where control over resources, including within given policy areas, does not automatically translate into control over outcomes can help us explain this empirical puzzle. The sections that follow situate power in the Libya and Syria crises. In these two contexts, this paper assesses power relations both between major international players — focusing on the United States, EU member states, and the BRICS represented at various points in time as permanent and non-permanent

[21] Guzzini, S. (1993) "Structural power: the limits of neorealist power analysis," *International Organization*, Vol. 47, No. 3, p. 443-478.

[22] Baldwin, D. (1985) *Economic Statecraft*, Princeton, Princeton University Press; Guzzini, S. (2000) "A reconstruction of constructivism in International Relations," *European Journal of international Relations*, Vol. 6, No. 2, pp. 147-182, p.156.

[23] R2P, as articulated in the 2005 World Summit Outcome document (paras 138 and 139) and the Secretary-General's 2009 Report (A/63/677) on Implementing the Responsibility to Protect, follows a three pillar structure:
1) The state's primary responsibility for protecting its population from genocide, war crimes, crimes against humanity, and ethnic cleansing;
2) The international community's responsibility to encourage and assist states in fulfilling this responsibility;
3) The international community's residual responsibility to protect populations from these crimes through all necessary means, including, in cases of manifest failure of the state in question, through military force in accordance with the UN Charter.

[24] Guzzini, S. (2006) "From (alleged) unipolarity to the decline of multilateralism? A power-theoretical critique," in E. Newman, R. Thakur, and J. Tirman (eds.) *Multilateralism Under Challenge? Power, International Order, and Structural Change*, Tokyo, United Nations University Press, pp. 119-138, p123; Guzzini. S (2000) "The use and misuse of power analysis in international theory," in R. Palan (ed.) *Global Political Economy. Contemporary Theories*, London and New York, Routledge, 2000, p. 54-67; Guzzini, S. (2004) "The Enduring Dilemmas of Realism in International Relations," *European Journal of International Relations*, Vol. 10, No. 4, pp. 533-568; Guzzini, S. (2005) "The concept of power: a constructivist analysis," *Millennium*, Vol. 33, No. 3, pp. 495-521.

members of the UNSC between 2011 and 2014 — and between them and the conflict parties in Libya and Syria. In doing so, different forms of power are taken into consideration. Following Barnett and Duvall's typology, this paper considers power in its compulsory, institutional, structural, and productive variants in order to understand how particular global outcomes in these two crises were produced by the multifaceted exercise of power by the major actors involved.[25]

Compulsory Power

Compulsory power refers to an actor's ability to directly affect another's actions, which it would not otherwise perform,[26] and obtain particular outcomes via the mobilization of resources. Change is produced through social relations that alter the pay-off matrix of the actor on whom power is exerted. This can be done through a variety of means, some of which are more coercive than others, but all of which revolve around the notion of altering the cost-benefit calculus of the recipient. These could include (the threat of) military force, economic sanctions, and coercive diplomacy, as well as (the promise of) financial aid, market access, technical assistance, or diplomatic recognition. We can think of a continuum of expressions of compulsory power, ranging from less intrusive methods such as the granting or promising of rewards, to the threat or infliction of punishments,

ending with the most coercive means: the use of force.[27]

In Libya, the United States, France, and the U.K., alongside the rest of the EU, deployed a significant array of coercive instruments. On the eve of UNSC Resolution 1970, the United States adopted sanctions against Libya, including travel bans against Gaddafi and senior regime members, and the freezing of assets. With the passing of the UN arms embargo, EU member states followed suit with an embargo on the supply of armaments to Libya, as well as the prohibition of trade with Libya in equipment which might be used for internal repression. The EU also imposed a visa ban and an assets freeze on Gaddafi and his associates. Notwithstanding talk of "leading from behind," the United States, together with France and the U.K., was instrumental in the initial stage of the UN-authorized intervention in Libya. The United States suppressed Libyan air defenses and coordinated international forces in the establishment of the no-fly zone, before handing over command responsibility to NATO in late March. During the intervention, the United States provided more than 70 percent of the surveillance, intelligence, and reconnaissance capabilities, and flew 70 percent of refueling missions. France and the U.K. played pivotal roles, with British naval forces firing cruise missiles, the British, French, and Canadian air forces undertaking sorties across Libya and conducting air strikes against Libyan tanks, and the coalition as a whole enforcing the no-fly zone and naval blockade on Libya and providing logistical assistance.

Along with coercive measures against the Libyan regime came Western support for rebel forces. On March 10, France was the first to recognize the

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[25] Barnett and Duvall base their typology on two sets of distinctions: first, whether power relations take place in the interaction of pre-constituted actors with predetermined power attributes, or whether actors are social constituted by their interaction; second, whether the effects of power are direct or diffuse. See Barnett, M. and Duvall, R. (2005) "Power in Global Governance," in *Power in Global Governance*, CUP, pp. 1-32.

[26] Dahl, R. (1957) "The Concept of Power," *Behavioral Science*, Vol. 2, pp. 201-215, p.202.

[27] Holsti, K. J. (1995) *International Politics: A Framework for Analysis*, 7th edition, Englewood Cliffe NG, Prentice-Hall, pp. 125-126.

Transitional National Council (TNC) as the sole legitimate representative of the Libyan people. It was followed by Italy in early April, and most other EU member states and the United States in the summer of 2011. Beyond diplomatic recognition, Western actors provided military support for the rebels. During the NATO operation, France, Italy, and the U.K., alongside Qatar and the UAE, provided military training to the opposition and dispatched special operation forces to support them. The U.K. assisted the rebels in establishing a command structure and defense ministry, Qatar shipped French antitank missiles to eastern Libya, and France airdropped weapons in rebel-held areas. In short, the United States, the EU, and key Arab states exerted significant compulsory power in the Libyan crisis in order to secure the UN-authorized intervention and its implementation via NATO.

For the BRICS, Libya was a relatively peripheral interest. They did not participate in the military operation. However, they too exerted a degree of compulsory power against Muammar Gaddafi's regime. With the passing of UNSC Resolution 1970, Russia suspended all contracts for the supply of military hardware to Libya. China in principle also subscribed to the UN embargo, despite rumors of supplying arms to the Libyan regime, which Beijing flatly denied. All other BRICS states approved and complied with the embargo. By the end of the summer of 2011, the BRICS also recognized the TNC. Russia's recognition of the TNC as the legitimate negotiator for the country's future came in May, followed by official recognition of the Council as Libya's legitimate authority in September. China first acknowledged the TNC as a major political force in the summer of 2011. By September, China, as well as India and South Africa, recognized the TNC as Libya's legitimate authority. Brazil's recognition came last. Whereas Brazil insisted that it would recognize the TNC only after its official accreditation to the UN, it

voted in favor of the TNC occupying Libya's seat at the September 2011 UN General Assembly and recognized the TNC soon thereafter.

In the Syrian crisis, the deployment of compulsory power has taken a very different form. Of great significance is the compulsory power exerted by Russia in its relationship with the Syrian regime. While it is true that Russian-Syrian relations are considerably weaker than those between the Soviet Union and Hafez al-Assad's Syria, under the rule of Vladimir Putin, Russian-Syrian relations picked up considerably.[28] In 2005, Russia scrapped over 70 percent of Syria's post-Soviet debt, political dialogue between the two countries intensified, and trade rose four-fold in the second half of the 2000s. While accounting for only 0.3 percent of Russian exports, it is noteworthy that the bulk of Russian-Syrian trade regards arms. Especially after Putin announced his candidacy to return to the Russian presidency in September 2011, Moscow's support for the Syrian regime grew.[29] Russian criticism of the Syrian regime was vague and generally portrayed as the disproportionate response to the opposition's provocations, while shows of support for Damascus, including the deployment of Russian warships to Tartus and Syrian territorial waters, as well as the delivery of arms to the regime, intensified.

Alongside the strong Russia-Syrian bond is the relatively weak U.S. and European compulsory power in the Syrian context. In Libya, the West had the military clout to intervene under an R2P

[28] Charap, S. (2013) "Russia, Syria, and the Doctrine of Intervention," *Survival*, Vol. 55, No. 1, pp. 35-41; Menkiszak, M. (2013) "Responsibility to Protect…Itself?" *FIIA Briefing Paper* 131, May 2013.

[29] It is worth recalling that then-Prime Minister Putin had been critical of Russia's abstention at the UN over UNSC Resolution 1973 on Libya under President Dmitry Medvedev. With Putin's return to the presidency in 2012, Russia's rhetoric on the imperative not to repeat the mistakes committed on Libya intensified.

mandate and use such clout to topple the Libyan regime, as well as the conviction — in retrospect unfounded — that the Libyan opposition would have ushered the country into a stable democratic future. After Afghanistan and Iraq, public opinion in the West was war weary, but also inspired by the optimism unleashed by the Arab Spring and eager to support the wave of transformative change in the region. By contrast in Syria, the United States and Europe have increasingly realized not only that the Assad regime, backed by Russia and Iran, is incommensurably more resilient than its Libyan counterpart, but also that the Syrian opposition is a far cry from a reliable democratic alternative. The fact that in Libya the post-war situation has been tumultuous at best entrenched further the skepticism of an intervention in Syria amongst U.S. and European elite and public opinions alike. During the first two years of the crisis, the West grappled with the Syrian opposition's incurable divisiveness. As time went by, it became clear that the opposition's fragmentation was both the reflection of and exacerbated by divisions between the regional members of the Friends or Syria, notably Turkey and Qatar on one hand and Saudi Arabia and UAE on the other. Fragmentation within the opposition gradually gave way to radicalization, as the democratic Syrian opposition withered, dwarfed by the growing influence of extremist Islamist groups like Jabhat al Nusra and the Islamic State of Iraq and Syria. Hence, irrespective of the military might of the United States and Europe and their frustration with the BRICS approach to the crisis, Western compulsory power to affect the Syrian civil war diminished over time. Aware of their relative inability to bring about the desired outcome, realist prudence within the West militated against an R2P intervention.

Structural Power

While compulsory power is exercised through interaction, with A exerting power *over* B,

structural power refers to the social constitution of the actors in question: A and B's power *to* bring about effects. In the case of compulsory power, the role of agency stands out. In the case of structural power, it is the structure within which agents operate, their relations of dependence and interdependence, of super- or sub-ordination that determine their capacities and predispositions to act.[30]

An analysis of structural power in the Libya and Syria cases entails examining the status of the Gaddafi and Assad regimes in their regional and global contexts. At first glance, the relative isolation of the Syrian regime was greater than that of its Libyan counterpart, particularly as far as relations with the West are concerned. True, Libya had been on the West's blacklist at least since the 1988 Lockerbie affair. But after 2003, with Colonel Gaddafi's compensation to the families of the Lockerbie victims, renunciation of weapons of mass destruction, and collaboration with the U.S.-led fight against terrorism, and the EU's concern with energy security and irregular migration, relations with the West improved. In 2006, the United States rescinded Libya's designation as a state sponsor of terrorism. In 2008, Italy and Libya signed a wide-ranging friendship treaty. The same year, the EU and Libya launched negotiations on a Framework Agreement foreseeing free trade. Signaling the normalization of its international status, Libya held a non-permanent seat at the UNSC in 2008-09. By contrast, the Assad's regime's relations with the West were and remained complicated. For a brief moment after the succession from Hafez to Bashar al-Assad in 2000, it looked like Syria's relations with the West could be put on a healthier footing. But after the onset of George W. Bush's "war on terror"

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[30] Strange, S. (1998) *Mad Money*, Manchester University Press, Manchester; Strange, S. (1987) "The persistent myth of lost hegemony," *International Organization,* Vol. 41, No. 4, pp.551-74.

After Afghanistan and Iraq, public opinion in the West was war weary, but also inspired by the optimism unleashed by the Arab Spring and eager to support the wave of transformative change in the region.

and the 2005 assassination of former Lebanese Prime Minister Rafik Hariri, for which Damascus was initially held responsible, Syria's relations with the West saw a turn for the worse.

On closer inspection, however, Colonel Gaddafi was far more of a pariah than Assad, particularly within the regional contexts the two countries are situated in. Gaddafi was somewhat of an outlier both in the Arab League and in the African Union. In Africa in particular, Gaddafi was viewed with suspicion by several members for having fueled conflicts in Liberia, Chad, and Sierra Leone. Unsurprisingly, on February 22, a few days into the uprising, the Arab League suspended Libya's membership. The following day, the African Union's Peace and Security Council condemned the Libyan regime's indiscriminate and excessive use of force against peaceful protests. The reactions of these two regional bodies, of which Libya is part, paved the way for UNSC Resolution 1970. States like South Africa that had previously resisted the referral of African cases like Kenya and Sudan to the International Criminal Court promptly supported Libya's referral. As days went by, Gaddafi's alienation from the region contributed further to the momentum leading to intervention. On March 7, the Gulf Cooperation Council called for all necessary measures to protect civilians including enforcing a no-fly zone. On March 8, the Organization of the Islamic Conference called upon the Libyan authorities to immediately end the military operations targeting civilians, and indicated that it might support a no-fly zone over Libya. On March 12, the Arab League called on the UNSC to impose a no-fly zone over Libya. This explicit endorsement by the Arab League is considered amongst the most consequential factors contributing to UNSC Resolution 1973.[31] In particular, it was crucial in securing the

acquiescence of China and India, as well as the support of the United States and Europe.

Beyond the region, Gaddafi's Libya also had few true friends. In the EU, the member states spearheading the intervention — France and the U.K. — were those with relatively cooler (economic) relations with Gaddafi's regime. Italy, which since 2003 had forged a close relationship with Gaddafi, was initially reluctant to follow its European partners. But as the tables turned against the Colonel, Italy's priority of fostering close relations with Libya, regardless of its ruler, encouraged Rome to switch sides. Amongst the BRICS, Russia and China were particularly uncomfortable with Gaddafi. As put by Walzer: "Russia and China, who opposed intervention, abstained on the final Security Council vote, perhaps because they can't imagine an outcome that better suits their interests in the Middle East and Africa."[32] At the UN, the defection of the Libyan permanent representative on February 21, and his defining Gaddafi a genocidal war criminal, played into the growing international isolation of the Libyan regime.

The same cannot be said for Syria. Not only did the Syrian regime remain largely intact despite the protracted civil war, but in many respects, as the war raged on, the Syrian army became a "leaner, meaner fighting machine."[33] Furthermore, as the war acquired sectarian tones, the regime — traditionally portrayed as a bastion of secularism — became seen as a bulwark against Islamist terrorism in the Levant. With the radicalization of the Syrian opposition, BRICS members like Russia and China, with homegrown reasons for skepticism of political

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[31] Bellamy and Williams (2011) op. cit. p. 846.

[32] Walzer, M. (2011) "The case against out attack on Libya," *The New Republic*, March 20, http://www.newrepublic.com/article/world/85509/the-case-against-our-attack-libya.

[33] Sayigh, Y. (2013) "Syria's Strategic Balance at a tipping Point," *Carnegie Papers*, http://carnegie-mec.org/2013/06/07/syria-s-strategic-balance-at-tipping-point/g95a?reloadFlag=1.

Islam, saw in the Assad regime a welcome halt to the wave of Sunni Islamism unleashed by the Arab uprisings. As the war continued and the Syrian opposition morphed, the EU, the United States (and Turkey) also began appreciating the grave threat posed by al Qaeda-linked groups in Syria and the Mashreq. While remaining staunchly opposed to the Syrian regime, the West came to see that its alternative could be even less palatable.

Assad, of course, did have enemies in the region. The Arab Gulf, most notably Saudi Arabia, traditionally had tense relations with Damascus. Largely because of Saudi and Qatari support for (different strands of) the Syrian opposition and the broader revolutionary mood in the Arab world at the time, the Arab League suspended Syria's membership in November 2011. Its suspension contributed to reversing Indian and South African views, from abstention on the first failed UNSC Resolution in October 2011 to support for the resolutions thereafter. But the Gulf's unease with Assad was largely due to the latter's close ties to Iran, which, alongside the Lebanese Hezbollah, turned out to be critical in sustaining the Syrian regime and tipping the balance in its favor as the war went on.

Institutional Power

As in the case of compulsory power, institutional power ascribes much importance to the role of agency. Actors exercise power, but rather than affecting their targets directly as in the case of compulsory and structural power, they do so indirectly through formal and informal institutions. Institutional rules and procedures guide and constrain action, thus mediating the effects of A's actions on B's predicament. In Libya and Syria, international actors exercised institutional power mainly through their roles in the UNSC. In addition to the permanent five members (P5), the presence of all BRICS states in the UNSC in

2011-2012 highlights the role and relevance of institutional power in the two crises.

Briefly recapping the sequence of events discussed above, in the case of Libya, UNSC Resolution 1970 passed unanimously, while UNSC Resolution 1973 passed with the abstention of four BRICS countries — Brazil, Russia, India and China — plus Germany.[34] The U.K., France, and the United States were at the helm of UNSC action which authorized intervention. In the case of Syria, all three UNSC resolutions proposed by Western (and Arab) members of the Council that foresaw either the possibility of punitive measures and/or the stepping down of President Assad were vetoed by Russia and China. The first resolution (October 2011) failed to win the support also of Brazil, India and South Africa.[35] In next two failed resolutions (February and July 2012), dissent from the non-permanent BRICS members mellowed, but Russia and China's firm opposition remained intact.[36] The only resolutions on Syria that passed unanimously (UNSC 2042, 2043, 2118, 2139) regarded issues that could not have been construed as compromising Syrian sovereignty or opening the way for coercive measures.[37]

In both the Libyan and Syrian crises, the BRICS cited similar argumentations to justify their votes.

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[34] UN Security Council, 6491st Meeting, February 26, 2011, http://www.un.org/News/Press/docs/2011/sc10187.doc.htm; UN Security Council, 6498th Meeting, March 17, 2011, https://www.un.org/News/Press/docs/2011/sc10200.doc.htm.

[35] UN Security Council, 6627th Meeting, October 4, 2011, https://www.un.org/News/Press/docs/2011/sc10403.doc.htm.

[36] UN Security Council, 6711th Meeting, February 4, 2012, https://www.un.org/News/Press/docs/2012/sc10536.doc.htm; UN Security Council 6810th Meeting, July 19, 2012, https://www.un.org/News/Press/docs/2012/sc10714.doc.htm.

[37] UN Security Council 6751st Meeting, April 14, 2012, http://www.un.org/News/Press/docs/2012/sc10609.doc.htm; UN Security Council, 6756th Meeting, April 21, 2012, https://www.un.org/News/Press/docs/2012/sc10618.doc.htm; UN Security Council, 7116th Meeting, February 22, 2014, http://www.un.org/News/Press/docs/2014/sc11292.doc.htm.

As the war continued and the Syrian opposition morphed, the EU, the United States (and Turkey) also began appreciating the grave threat posed by al Qaeda-linked groups in Syria and the Mashreq.

In both cases, the BRICS stressed their preference for diplomatic mediation, and their skepticism of coercive intervention, which would have created more harm than good to civilians. At the same time, the BRICS emphasized the imperative of protecting civilians in both Libya and Syria. Yet in the case of Libya, the balance in their voting behavior tilted toward the legitimization of external intervention motivated by R2P, while in the Syria case, opposition to external intervention resulted in the lack of any resolute international response to the crisis. While driven by similar political logics, the exercise of institutional power by the BRICS had opposite effects.

To explain these effects, two principal observations regarding institutional power are of order. First are the different institutional roles played by permanent and non-permanent members of the Council. Abstention by permanent and non-permanent members has very different effects. A non-permanent member, unable to exercise a veto, generally expresses opposition to a resolution through abstention. By contrast, when a permanent member, with the ability to block a resolution, abstains, it de facto signals its implicit — albeit cautious — support for it. In light of this inherent bias in the workings of the UNSC, when applied to the cases of Libya and Syria, it is evident that the determinant factors were not the abstentions of the non-permanent members (which prevailed in both the Libya and Syria resolutions), but rather the shift from abstention to veto by the two BRICS members of the P5: Russia and China, despite citing of similar concerns regarding the two crises.

Institutional dynamics contribute to explaining this consequential shift. As recounted above, the pace of international developments on the Libya crisis was remarkably fast. At each step in the process, from the statements of the UNHCHR and the UNSG through to UNSC Resolution 1970 and 1973, the international community moved further and further along the springboard toward international intervention. After each step, the reputational costs of the P5 of halting or reversing the international momentum increased. To the extent that the unanimously approved UNSC Resolution 1970 demanded an immediate end to the use of force, which was not forthcoming by the regime, the reputational costs of vetoing UNSC Resolution 1973 that essentially aimed at responding to such failure were very high. Precisely because of the recent memory of Libya, the BRICS — notably China and Russia — prevented from the very outset the mobilization of an institutional dynamic that could have led to the same result in Syria. It is in this light that the Russian and Chinese vetoes on far blander resolutions on Syria than UNSC Resolution 1970 (let alone 1973) must be read.

Productive Power

Productive power regards the discursive articulation of mental frames, assumptions, and ways of viewing the world. It is about the imposition of truths, the marginalization of alternatives, and the interpretation of content and causality. As such, productive power concerns the "production" of social meaning and social identity.[38] Meaning and identity are produced by defining the realm of the normal/abnormal, possible/impossible, and right/wrong.[39] Key to productive power is its exercise through social practices and interaction. Like structural power, productive power privileges the role of structures in shaping the social constitution of agents. Like institutional power, productive power operates through diffuse

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[38] Digeser, P. (1992) "The Fourth Face of Power," *The Journal of Politics*, Vol.54, No.4, pp. 977-1007, p. 987; Bevir, B. (1999) "Foucault, Power, and Institutions," *Political Studies*, Vol. 47, No.2, pp. 345-359.

[39] Foucault, M. (1995) *Power*, J. D. Faubion and P. R. Rabinow (eds), New York, The New Press, p.327; Foucault, M. (1983) "Afterword: the subject of power," in H. Dreyfus and P. Rabinow (eds) *Michel Foucault: Beyond Structuralism and Hermeneutics*, 202-20, Chicago University Press, Chicago.

rather than direct channels. Particularly relevant to the analysis below is the fact that through social processes and interactions, specific interpretations of what is right and what is wrong may change in time and place, with consequential effects on international developments.

Debates on R2P crucially affected the international responses to the Libyan and Syrian crises. At first glance, the rapid international consensus over an R2P intervention in Libya, in contrast with the sharp divisions over anything that could have remotely led to such intervention in Syria, suggests a sharp normative turn, particularly in how the BRICS ascribed meaning to and identified with R2P. On closer inspection, ambiguity in the interpretation of R2P existed both within the West and the BRICS, and such ambiguity was revealed in both crises. Moreover, attesting to the importance of the social processes that underpin norm evolution, the normative debate on Libya critically affected the ensuing one on Syria.

In both crises, the international community agreed on the need to protect civilians.[40] Regarding Libya, U.S. President Obama referred to the imperative of stopping an allegedly imminent massacre in Benghazi that would have "stained the conscience of the world."[41] The president went on to describe the intervention in Libya as a "responsibili[ty] to our fellow human beings under such circumstances."[42] Likewise, the European Parliament stressed that "the EU and its Member States must honour their

Responsibility to Protect, in order to save Libyan civilians from large-scale armed attacks."[43] At the UNSC, France emphasized the international community's residual responsibility under R2P: "every hour and day that goes by increases the burden of responsibility on our shoulders."[44] But the West was not alone in citing the international community's responsibilities. Russia declared: "we are consistent and firm advocates of the protection of the civilian population."[45] South Africa claimed that UNSC Resolution 1973 indicated that the "the Council had acted responsibly to answer the call of Libyan people."[46] Brazil affirmed the "need to protect civilians and respect for their rights."[47] India "expressed great concern over the welfare of the population of Libya," a point echoed by China, too.[48]

Also in Syria, however, the West and the BRICS cited the imperative of halting the humanitarian suffering. In October 2011, France claimed that "[u]nited international action was needed" to put "an end to the bloodbath."[49] The United States expressed its "outrage that the Council had failed to address serious human rights violations."[50] In February 2012, Germany deplored how "[t]he people of Syria and the region have been let down again [by the UNSC], and this is a crying shame," while the United States expressed its "disgust" at the Council's failure to "address a deepening crisis

Ambiguity in the interpretation of R2P existed both within the West and the BRICS, and such ambiguity was revealed in both crises.

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[40] Reinold, T. (2011) "The United States and the Responsibility to Protect: Impediment, Bystander, or Norm Leader?" *Global Responsibility to Protect*, Vol. 3, No. 1, pp. 61-8.

[41] President Barack Obama, "Remarks by the President in Address to the Nation on Libya at National Defense University," March 28, 2011, http://www.whitehouse.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya.

[42] Ibid.

[43] European Parliament, "Resolution March 10, 2011 on the Southern Neighbourhood, and Libya in particular," EP, Doc PV P7_TA(2011)0095, http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0095&language=EN.

[44] UN Security Council, 6498th Meeting, op. cit.

[45] Ibid.

[46] Ibid.

[47] Ibid.

[48] Ibid.

[49] UN Security Council, 6627th Meeting, op. cit.

[50] Ibid.

in Syria."[51] The BRICS too were not oblivious to Syria's humanitarian plight. In October 2011, Russia defined the violence in Syria as "unacceptable"; China claimed it was "highly concerned with the developments in Syria and called on all parties there to avoid further bloodshed."[52] India "deplored all violence, irrespective of its perpetrators," and "urged the Syrian authorities to exercise restraint, abjure violence, and listen to the aspirations of their people."[53] South Africa expressed "deep concern at the humanitarian situation in Syria, condemned the loss of life, and called for maximum restraint from all parties and for an immediate end to the violence."[54] Brazil "called for the violence to end and for humanitarian access to be granted."[55]

Beyond this broadly shared concern for the humanitarian dimension of the two crises, two wider aspects of the international normative consensus are worth pointing out. The first regards the conditionality of sovereignty. To the extent that Western and non-Western states speak out on intra-state crises and acknowledge their responsibility to respond to them, they all implicitly accept the notion that state sovereignty is conditional on its responsible implementation. The concept of "sovereignty as responsibility," first elaborated in the 2001 ICISS Report, has gained international currency. BRICS states such as South Africa and Brazil are outspoken in recognizing the limits of state sovereignty.[56] South Africa is embedded in an African Union whose Charter (Article 4h) lays out "the right to intervene in a member state […] in respect of […] war crimes, genocide and

crimes against humanity."[57] Russia and China are more cautious.[58] Yet all the BRICS endorse the notion that human suffering within a given state is a legitimate concern to all. None of the BRICS fall in the category of outright opponents of R2P such as Algeria, Belarus, Cuba, Venezuela, Sudan, Iran, Pakistan, or Syria.[59]

A second area of consensus regards the non-automaticity of the international response to mass atrocities. While all subscribe to R2P, neither the norm itself — as formulated by ICISS,[60] the 2009 World Summit Outcome document,[61] and the UNSG's 2009 Report[62] — nor its interpretation by major states call for an automatic international response when a state manifestly fails to protect its citizens. Amongst Western nations, the United States, often the most sanguine in responding to crises, is the first to shun the idea of R2P as a "duty" of the international community. Across U.S. administrations, and notably under the George W. Bush and Obama presidencies during which R2P has crystallized as a global norm, the United States has on occasions affirmed the right, never

[51] UN Security Council, 6711th Meeting, op. cit.

[52] UN Security Council, 6627th Meeting, op. cit.

[53] Ibid.

[54] Ibid.

[55] Ibid.

[56] Landsberg, C. (2010) "Pax South Africana and the Responsibility to Protect," *Global Responsibility to Protect*, Vol. 2, No. 4, pp. 436-45.

[57] The AU's Charter is notoriously ambiguous. While Article 4(h) affirms the principle of non-indifference to mass atrocities, Article 3(b) states that a core objective of the AU is to "defend the sovereignty, territorial integrity, and independence of its member states"; Article 4(a) calls for non-intervention, and Article 4(g) affirms the duty of non-interference. See Landsberg, C. (2010) "Pax South Africana and the R2P," *Global Responsibility to Protect* Vol. 2, 436-457.

[58] Pang, Z. (2009) "China's Non-Intervention Question," *Global Responsibility to Protect*, Vol. 1, No. 2, pp. 237-252.

[59] Quinton-Brown, P. (2013) "Mapping Dissent: The Responsibility to Protect and Its State Critics," *Global Responsibility to Protect*, Vol. 5, No. 3, pp. 260-282.

[60] ICISS (2001) *The responsibility to protect*, Ottowa, International Development Research Centre.

[61] Paragraphs 139 and 139 of the World Summit Outcome Document, September 2005, http://responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/398-general-assembly-r2p-excerpt-from-outcome-document.

[62] UNSG (2009) *Report on the Implementation of R2P*, New York, UN.

the automatic duty, to respond.[63] Interestingly, in his address to the nation on the Libyan crisis, Obama portrayed the intervention foremost as a United States' "national interest" rather than a duty.[64] Related, the United States has insisted on the case-by-case appraisal of the adequate international response to each crisis.[65] There is thus broad agreement at the global level both on the need to respond to mass atrocities and on the fact that not all crises solicit the same international reaction. The global normative consensus is that the international community would act when states manifestly fail to protect their populations, but would do so on a case-by-case basis.

The major area of global normative discord stems precisely from this consensus. By articulating the contours of normative agreement around two pillars — the need to respond to mass atrocities and to do so case-by-case — the question of how to respond to each crisis emerges naturally as the area of potential disagreement within and between states. In the case of Libya, the United States was internally divided on the issue, but ultimately the domestic consensus tilted in favor of the intervention hawks.[66] In Europe, despite a general preference for the preventive and rebuilding aspects of R2P, following the French and British lead, most member states ultimately supported the Libya intervention. However, not all were on board. Notoriously, Germany abstained alongside most BRICS, citing the risks involved in the operation and the likelihood of large-scale loss of life. South

Africa was also deeply torn on the Libyan crisis.[67] On March 10, 2011, South Africa chaired a High Level Ad Hoc Committee that had been tasked by the African Union to find a diplomatic solution to the crisis. Yet a week later, South Africa voted in favor of UNSC Resolution 1973, authorizing a military intervention that made the work of the Ad Hoc Committee physically impossible.[68] Within the other BRICS states, the balance tilted against an intervention, but opposition was ambivalent and not sufficiently strong to stand up against the no-fly zone. Hence, although China asserted it "is always against the use of force in international relations," it refrained from vetoing the resolution.[69] Russia, too, did not prevent the resolution, but was "convinced that an immediate ceasefire was the best way to stop the loss of life."[70] Normative divisions and ambiguity regarding the appropriate response to the Libyan crisis were rife both within and between UNSC members. Ultimately, the balance tilted in favor of a military intervention, but the tilt took place within rather than beyond the existing scope for global normative consensus and discord. In Libya, the specific constellation of domestic, regional, and global conditions were such that a "case-by-case" R2P assessment authorized a military intervention.[71] The same was not true for Syria.

The contours of normative consensus and discord transform over time through social practices and interactions. Translated into the language of the R2P literature, the fate of R2P hinges on

The global normative consensus is that the international community would act when states manifestly fail to protect their populations, but would do so on a case-by-case basis.

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[63] Reinold, T. (2011) op. cit.

[64] President Barack Obama, "Remarks by the President in Address to the Nation on Libya at National Defense University," op. cit.

[65] Reinold, T. (2011) op. cit, p. 80.

[66] Mohamed, S. (2012) "Taking Stock of the Responsibility to Protect," *Stanford Journal of International Law*, Vol. 48, pp. 319-339.

[67] Africa, S. and Pretorius, R. (2012) "South Africa, the African Union and the responsibility to protect: the case of Libya," *African Human Rights Law Journal*, Vol. 12, No. 2, pp. 394-416, p. 409.

[68] Dembinski, M. and Reinold, T. (2011) *Libya and the Future of the Responsibility to Protect — African and European perspectives*, Peace Research Institute Frankfurt No. 107, p. 11.

[69] UN Security Council, 6498th Meeting, op. cit.

[70] Ibid.

[71] Hehir, A. (2012) op. cit. p.19.

the perceived legitimacy and performance of the missions it authorizes.[72] In this respect, the global practice and interaction on the Libyan crisis shaped the ensuing normative debate on Syria. Indian Ambassador to the UN Hardeep Singh Puri put it bluntly: "Libya has given R2P a bad name."[73] The international response to the Libyan crisis did not generate but it did expose starkly the major concerns of the BRICS regarding R2P: state sovereignty, aversion to the use of force, and politicization and misuse.[74]

The BRICS' concerns with state sovereignty and aversion to the use of force were expressed in the context of UNSC Resolution 1973 on Libya. But the wording used suggested a preference for non-military means rather than an outright opposition to an intervention. Brazil thus affirmed that "[n]o military action *alone* would succeed in ending the conflict" (emphasis added).[75] China asserted its opposition to "the use of force *when those means were not exhausted*" (emphasis added).[76] South Africa stressed the need for a peaceful solution that would preserve the solidarity and integrity of Libya, without delving into how such solution should come about. In comparison to Libya, the importance attached by the BRICS to sovereignty/non-use of force in Syria was markedly higher. In justifying its veto in October 2011, Russia claimed it would only support a resolution at the core of which lay the "respect for sovereignty and non-intervention into State affairs, the unity of Syrians," as well as the "the non-acceptability of

military intervention."[77] China emphasized the imperative of respecting Syria's sovereignty and territorial integrity as well as the UN's principles of non-interference in internal affairs. South Africa stressed the need to preserve the unity, sovereignty, and territorial integrity of Syria and explained its abstention on a resolution that had not explicitly ruled out military intervention in Syria.

Even more striking is the different emphasis attached to regime change in the Libya and Syria resolutions, highlighting the BRICS' suspicion that R2P interventions could be subject to politicization and misuse.[78] In the discussion on UNSC Resolution 1973, worries about regime change were never mentioned. In sharp contrast, in the failed October 2011 resolution on Syria, Russia asserted that "[m]any Syrians did not share the demands for quick regime change"; India added that "[t]he international community should facilitate dialogue and not threaten sanctions or regime change," while South Africa affirmed that "[t]he Council should not be part of any hidden agenda for regime change."[79]

The way the BRICS interpreted NATO's operation in Libya is critical in explaining the distinctly higher importance attached by them to the norms of sovereignty and non-use of force, as well as to the imperative not to instrumentalize R2P in the case of Syria. The BRICS did not criticize the initial military response aimed at destroying the Libyan air force infrastructure and the Libyan army's heavy weapons near embattled towns, as well as the air attacks on Libyan ground forces advancing on Benghazi. All these measures were viewed

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[72] Bellamy and Williams (2011), op. cit.

[73] Bolopion, P. (2011) "After Libya, the question: To protect or depose?" *Los Angeles Times*, August 25, http://articles.latimes.com/2011/aug/25/opinion/la-oe-bolopion-libya-responsibility-t20110825.

[74] For a broader mapping of R2P dissent (not confined to the BRICS) see Quinton-Brown, P. (2013).

[75] UN Security Council, 6498th Meeting, op. cit.

[76] Ibid.

[77] UN Security Council, 6627th Meeting, op, cit.

[78] Bellamy, A. (2011) "The Responsibility to Protect and the Problem of Regime Change," e-IR, September 27, http://www.e-ir.info/2011/09/27/the-responsibility-to-protect-and-the-problem-of-regime-change/#_ftn6.

[79] UN Security Council, 6627th Meeting, op, cit.

as compatible with the UNSC's no-fly zone and protection mandates. Had the NATO operation come to a halt when the Libyan forces ended attacks against civilian populated areas, withdrew to bases, and permitted unhindered humanitarian access, the BRICS would have likely been comfortable with the implementation of UNSC Resolution 1973.

But the operation did not stop there. The intervention persisted despite Gaddafi's call for a ceasefire, which the TNC rejected unless it was accompanied with the Colonel's resignation. The range of NATO's targets was extended to installations like Gaddafi's compound, which neither posed an immediate threat to civilians nor had any military significance. Over time, NATO also increased direct support for the rebels. The impression soon became that NATO would not halt its attacks until the regime was toppled. Declarations of prominent NATO members confirmed the suspicion. In a letter jointly signed by British Prime Minister David Cameron, French President Nicolas Sarkozy, and U.S. President Obama, the three heads of state argued that "it is impossible to imagine a future for Libya with Gaddafi in power…so long as Gaddafi is in power, NATO and coalition partners must maintain their operations so that civilians remain protected and the pressure on the regime builds."[80] The enforcers of UNSC Resolution 1973 were persuaded that R2P in Libya could only be achieved with the toppling of Gaddafi. Regime change had become the definition of the mission's success.

As such, the implementation of UNSC Resolution 1973 became the object of acute criticism by all BRICS states. In May 2011, Russia criticized the "disproportionate use of force," China opposed "any arbitrary interpretation of the Council's resolutions

or of any actions going beyond those mandated by the Council," while South Africa questioned "whether the actions of the implementing States have been consistent with the letter and the spirit" of the resolutions.[81] By the fall of 2011, the tone was distinctly harsher. South Africa claimed that "[a] busing the authorization granted by the Council to advance a political regime-change agenda does not bode well for the future action of the Council in advancing the protection of civilians agenda."[82] Russia deplored that "[t]he demand for a ceasefire had turned into a civil war [...] The arms embargo had turned into a naval blockade on west Libya"[83] and stated that "[a]ttempts to manipulate Council mandates are unacceptable, even when proclaiming the noblest of goals."[84] China echoed: "[n]o party should wilfully misinterpret resolutions, let alone take action that goes beyond the mandate given by the Security Council."[85] Brazil, China, and India were particularly irked by the fact that their questions regarding the enforcement and accountability of the Libya campaign were brushed aside by NATO members.[86] Transparency on the operation, in their view, had not been forthcoming.

Criticism of the Libya campaign in reference to R2P spilled over into Syria. As put by Evans: "we have to frankly recognize that there has been some infection of the whole R2P concept

Brazil, China, and India were particularly irked by the fact that their questions regarding the enforcement and accountability of the Libya campaign were brushed aside by NATO members.

[80] "Obama, Cameron, and Sarkozy: No let-up in Libya until Gaddafi departs. Gaddafi must go and go for good," *The Guardian*, April 15, 2011.

[81] Security Council, 6528th meeting, May 4, 2011, New York, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Libya%20S%20PV%206528.pdf.

[82] Security Council, 6650th meeting, November 9, 2011, New York, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Golan%20Heights%20S%20PV%206650.pdf.

[83] UN Security Council, 6627th Meeting, October 4, 2011, op. cit.

[84] UN Security Council, 6650th Meeting, op. cit.

[85] Ibid.

[86] Pattison, J. (2013) "The Ethics of 'Responsibility While Protecting'," *Human Rights and Human Welfare,* Working Paper 71.

by the perception, accurate or otherwise, that the civilian protection mandate granted by the Council was manifestly exceeded by that [Libya] military operation."[87] Russia was the most explicit in "drawing lessons" from Libya to the unfolding Syrian crisis. In October 2011, Russian Ambassador Vitaly Churkin stated: "The situation in Syria cannot be considered in the Council separately from the Libyan experience…It is easy to see that today's 'Unified Protector' model could happen in Syria."[88] In reference to the Libya-Syria link, a Russian source close to the Kremlin reportedly stated: "we were naïve and stupid…trust this: that was the last mistake of such type."[89] In Russian eyes, Libya was part of a continuum, one more domino falling after Kosovo, Afghanistan, and Iraq.[90] The priority was to prevent Syria from following suit.[91]

As put by Walter Russell Mead, the imperative for the BRICS was not to "fall for that trick again."[92] When it came to Syria, all steps that were either punitive, that may have eventually led to an infringement of state sovereignty, or that were implicitly aimed at regime change were flatly rejected by the BRICS in the Council. None of the three failed UNSC resolutions on Syria included the hint of military intervention. In fact, the February 2012 failed resolution explicitly ruled out such intervention. But they did include the possibility of sanctions and/or made explicit recommendations for a political transition, unlike the UNSC Resolutions on Syria that were

subsequently approved. This was the "trick" the BRICS were intent on averting: they would not agree to measures, no matter how seemingly well-intentioned, that could have sparked what they feared would be an irreversible trend towards intervention. Little did it matter that the United States and Europe were far from being bent on a course of intervention. The United States, frustrated with Russian and Chinese obstinacy, defined these concerns as paranoid and disingenuous.[93] But the truth of the matter is that since the summer of 2011, the United States and key EU member states had been on record calling upon President Assad to step down.[94] In the eyes of the BRICS, given the Libyan precedent, why would their acquiescence on Syria have not led down the Libyan path?

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[87] Evans, G. (2012) "The R2P after Libya and Syria," *Castan Centre for Human Rights Law*, July 20.

[88] UN Security Council, 6627th meeting, op. cit.

[89] Jentleson, B. W. (2012) "The Obama Administration and R2P: Progress, Problems, and Prospects," *Global Responsibility to Protect*, Vol. 4, No. 4, pp. 399-423, p. 419.

[90] Benner, T. (2013) *Brazil as a norm entrepreneur: The "Responsibility while protecting" initiative*, GPPI, March, p.4.

[91] Menkiszak, M (2013) op. cit.

[92] Mead, W. R. (2011) "The Wilsonian World Order has once again been postponed," *The American Interest*, October 5.

[93] UN Security Council 6810th Meeting, op. cit.

[94] Charp, S (2013) "Russia, Syria and the Doctrine of Intervention," *Survival*, Vol. 55, No. pp. 35-41, p.39.

4 CONCLUSION

Libya and Syria stand on opposite ends of a spectrum. In Libya, the international community rapidly reached consensus on the appropriate response: an external intervention aimed at protecting civilians. In Syria, despite a shared concern for the civilian population, the UN Security Council has been deeply divided on the way forward. While it is indisputable that power in the international system is diffusing, the almost concomitant occurrence of the two crises suggests that the ongoing systemic power shift cannot account for such radically different results. However, when power is situated in the contexts of the two crises and viewed through different theoretical lenses, we can begin to make sense of the diametrically opposite outcomes in Libya and Syria. The exercise of compulsory, structural, institutional, and productive variants of power all contribute to explaining why the international response to the two crises has been so different. Once we move beyond a systemic, one-dimensional, and fungible understanding of power, we can begin to delineate the causes for the two juxtaposed outcomes.

The international community's ability to exert compulsory power in the two crises was very different. In Libya, the United States, the EU, and NATO deployed significant coercive measures. The BRICS, while playing more modest coercive roles, rowed in the same direction. In Syria, not only was the West's ability and will to coerce the desired outcome far lower in light of the fragmentation and radicalization of the Syrian opposition, but Russia's compulsory power in support of the Assad regime contrasted with rather than complemented the compulsory power of the West. The different structural power of the two regimes adds to the explanation. While at first glance Colonel Gaddafi had stronger international connections than Bashar al-Assad, on closer inspection, the Assad regime was far more embedded in its regional environment

than its Libyan counterpart. Gaddafi had no true friends. No sooner had the winds changed than the Colonel's former international partners befriended his opponents. Maintaining good relations with Libya, rather than with the Gaddafi regime, was the priority for many. The Assad regime, in view of what it represents — an anti-Islamist, anti-Israeli, and anti-Western regime — has both true friends and staunch opponents. Notably Iran, Hezbollah, and Russia have been instrumental in the resilience of the Syrian regime.

In both crises, the BRICS expressed concern for the plight of the civilian populations. In both crises, they expressed clear preferences for political and non-coercive solutions. Yet in the case of Libya, the skepticism, particularly of the veto-yielding Chinese and Russians, translated into abstention on rather than rejection of an external military intervention. In the case of Syria, similar reasons for skepticism led to repeated vetoes in the Council. Institutional power played out very differently in the two crises. Productive power underlies and explains the different behavior of the BRICS at the UNSC. Throughout the crises, the BRICS' interpretation of right and wrong did not alter substantially in content. The BRICS continued to appreciate the importance of protecting civilians but also to be skeptical of external intervention as a means of doing so. But as the Libya intervention gave way to the Syrian crisis, the emphasis and tone of these concerns sharpened considerably. The widespread perception amongst the BRICS that NATO's campaign had gone far beyond its mandate shed new light on the traditional arguments of R2P-skeptics: the respect for sovereignty and the non-use of force, and the imperative to prevent the misuse of R2P to pursue regime change. By criticizing NATO's intervention, the Libyan crisis generated a knee-jerk normative reaction on Syria and ostensibly sharpened normative divisions between pluralist and solidarist worldviews. In the

Throughout the crises, the BRICS' interpretation of right and wrong did not alter substantially in content.

short-run, Syria has been the unwanted victim of this normative contraction: "Syrians have paid the price of NATO excesses in Libya."[95]

In the longer term, however, while intra- and inter-state divisions on *how to respond* to crises are likely to persist, the normative ambiguity regarding *how not to respond* may have diminished significantly. Counterintuitively perhaps, the Libya-Syria dynamic, by narrowing the space for ambiguity, may have moved forward the global normative conversation on the adequate international response to mass atrocities. The interconnected stories of Libya and Syria suggest that we are unlikely to see a consensual and UN-legitimized military intervention under R2P any time soon. The international community will strive to respond to crises, particularly when these have a serious humanitarian dimension, but to the extent that the international community will respond in concert, such responses are likely to focus on the preventive and rebuilding, rather than reactive, dimensions of R2P. Russia's engagement in the Geneva II talks on Syria could also be read in this light. Not only are (re)emerging powers far more comfortable with these dimensions of R2P, but they also reflect the comparative strengths of Western actors, notably the EU and its member states.

This is not to say that military intervention under the third pillar of R2P is to be ruled out. But the global conversation post-Libya and Syria is likely to focus on the enhanced prudential conditions to be met in order for military action to take place. Alongside the traditional just war criteria raised by the ICISS in 2001 — just cause, last resort, right intention, proportionality, legitimate authority, probability of success — what conditions would need to be met in order for the internationally

community to consensually embark on a military intervention for the sake of protecting civilians? In this spirit, Brazil proposed in November 2011 its "Responsibility while Protecting" (RwP) doctrine, which emphasized precisely the prudential criteria to be met before, during and after an operation.[96] Delving deeper in the last resort criterion, Brazil proposed the sequencing of the three R2P pillars.[97] Related to right intention, RwP specified that any intervention should be strictly limited to the objectives set out by the UNSC mandate. As regards proportionality, RwP affirmed not only that any intervention should be in strict compliance with international law, but also that it should not generate more harm than what it was authorized to prevent. Finally regarding legitimate authority, RwP suggested that beyond authorizing an intervention, the UNSC should develop enhanced procedures to closely monitor the unfolding of an intervention. UNSC authorization would be necessary both before and during an intervention. Brazil's RwP proposal was initially met with skepticism both by Western actors (who found it too restrictive) and the rest of the BRICS (who found it too permissive). While opposition mellowed in time, Brazil itself lost interest in the initiative over time. However, the UNSG did see the value of the initiative at the time, defining it as "a useful pathway for continuing dialogue about ways of bridging different perspectives and forging strategies for timely and decisive responses to crimes and violations relating

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95 Thakur, R. (2013) "R2P after Libya and Syria: Engaging Emerging Powers," *The Washington Quarterly*, Vol. 36, No. 2, p. 61-76, p.70.

96 Permanent Representative of Brazil to the UN (2011) "Responsibility while Protecting: Elements fort the Development and Promotion of the Concept," Letter dated November 9, 2011 from the permanent representative of Brazil to the UN addressed to the UNSG, New York.

97 Initially Brazil referred to the chronological sequencing of the three pillars. In light of criticism by Western actors and UN officials, it then revised its stance proposing a "logical sequencing." See Benner (2013), op. cit.

to R2P."[98] When the global conversation on external intervention restarts, it is likely to pick up precisely where it was left off.

This leads to a final consideration on the nexus between power and norms. The international responses to the Libyan and Syrian crises do not validate a broadbrush account of the systemic power shift. They do reveal how power is diffusing globally, and that global outcomes are already being determined by the complex interplay of various forms of power exercised by various actors. This paper has focused exclusively on the Western and BRICS members of the UNSC during the two crises. A complete power analysis would have warranted consideration of a much wider set of global and regional, state and non-state, actors. This diffusion of power is and will continue to have consequential effects on broadly accepted global norms. The norm cycle literature assumes a degree of immobility of the international system: norm entrepreneurs may succeed in advocating

their norms or not;[99] norm recipients may or may not localize and internalize such norms.[100] But what if, as indeed is happening, recipients and entrepreneurs begin to switch sides? What are the implications for the specific interpretation of global norms? Insofar as R2P is an open-ended norm, the manner in which different actors contribute to its evolution will provide a fascinating laboratory to observe the interplay between power and norms, and a microcosm to test whether a more fragmented global order may tilt towards normative convergence or conflict.

Insofar as R2P is an open-ended norm, the manner in which different actors contribute to its evolution will provide a fascinating laboratory to observe the interplay between power and norms.

[98] UNSG (2012) "Responsibility to protect: timely and decisive response," General Assembly Security Council, July 25, 2012, p. 15, http://www.responsibilitytoprotect.org/UNSG%20Report_timely%20and%20decisive%20response(1).pdf.

[99] Finnemore, M. and Sikkink, K. (1998) "International norm dynamics and political change," *International Organization*, Vol.52, No. 4, pp. 887-917.

[100] Acharya, A. (2004) "How Ideas Spread: Whose Norms Matter?" *International Organization*, Vol. 58, No. 2, pp. 239-275.