Bridging the Gap in Human Protection:
Contesting the Responsibility to Protect through the Protection of Civilians Norm

A Comparative Study of Brazil, China and South Africa

Philip Taleski

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Unless otherwise acknowledged in the text, this thesis represents the original research of the author.
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**Abbreviations**

AU – African Union
BRICS – Brazil, Russia, India, China and South Africa
CNDP - *Congrès National pour la Défense du Peuple*
DRC – Democratic Republic of Congo
FARDC – Armed Forces of the Democratic Republic of Congo
FIB – Force Intervention Brigade
IGAD – Intergovernmental Authority on Development
IHL - International Humanitarian Law
M23 - 23 March Movement
MINUSTAH - United Nations Stabilisation Mission in Haiti
MONUC - United Nations Organisation Mission in the Democratic Republic of Congo
NATO – North Atlantic Treaty Organisation
NIF – Neutral International Force
OAU – Organisation of African Unity
POC – Protection of Civilians (in armed conflict).
R2P – Responsibility to Protect
RP – Responsible Protection
RwP – Responsibility while Protecting
SADC - Southern African Development Community
UN – United Nations
UNGA – United Nations General Assembly
UNMISS - United Nations Mission in South Sudan
UNSC – United Nations Security Council
WSOD - World Summit Outcome Document
Abstract

Human protection has been a high priority since the international community’s failure in the 1990s to respond adequately to instances of mass atrocities in Somalia, Rwanda and Bosnia. Consequently, two human protection norms were developed: the ‘Responsibility to Protect’ (R2P) and the ‘Protection of Civilians in armed conflict’ (POC). Implementation of human protection through R2P is still contested, with non-Western states claiming that the concept has been used by Western states to pursue their own agendas. Non-Western rising and regional powers like Brazil, China and South Africa have taken the lead in raising these concerns. This thesis explores how Brazil, China and South Africa attempt to reconcile questions of legitimacy surrounding the pursuit of human protection through R2P. Based on Antje Wiener’s *Theory of Contestation*,1 this thesis analyses discourse of both norms surrounding specific peace operations each country has been involved in and finds that Brazil, China and South Africa contest R2P using normative concepts from POC. Outlining this process builds on the notion that non-Western states have agency in norm contestation of global governance norms, showing that Brazil, China and South Africa strategically shape R2P not only to meet their own normative expectations of human protection, but also the expectations of the global South. Further, their contestation of human protection norms has flow-on effects to the norms of standardised procedures in peace operation mandates and operational components.

Introduction

Protecting vulnerable populations from conflict and mass atrocities has become a core focus of the United Nations (UN) ever since the mid-1990s. Inaction by the international community to instances of mass atrocity crimes such as in Rwanda (1994) and Srebrenica (1995) solidified the recognition that more needed to be done to protect people from gross violations of human rights.\textsuperscript{2} From this emerged two norms of human protection: ‘Protection of Civilians’ (POC) in 1999 and the ‘Responsibility to Protect’ (R2P) in 2001. While the need for human protection is widely accepted, stakeholders in the international community have different expectations for how this protection should be operationalised, with different emphases, for example, on who should provide this protection. This shows that human protection norms are contested in the international community.

Operationalising human protection raises questions when its aims challenge other norms of global governance such as state sovereignty, like in the 2011 NATO-led intervention in Libya in the name of R2P. That Western powers intervened in other states’ internal affairs in the name of R2P raises concerns over the legitimacy in operationalising human protection under R2P for certain state actors in the international community, such as non-Western rising and regional powers like Brazil, China and South Africa. Due to their shared histories of subjugation to imperialism and colonialism by Western states, Brazil, China and South Africa do not just raise their own objections to R2P’s implementation, they actively attempt to shape R2P to improve the way that human protection is operationalised in line with the interests of global South states. This thesis focuses on a central question: how do Brazil, China and South Africa attempt to reconcile questions of legitimacy surrounding the pursuit of human protection’s implementation through R2P?

Brazil, China and South Africa shape R2P through norm contestation with reference to normative ideas contained in a related human protection norm - POC. First, the thesis sets out to account for this mechanism of norm contestation by drawing on Antje Wiener’s \textit{Theory of Contestation} to better understand how standards of legitimacy for human protection norms are

selected. Building on works by Jennifer Welsh and Wiener, this thesis focuses on non-Western rising and regional powers as agents and drivers of normative change.

While having a theoretical basis on Wiener’s theory, it is necessary to distinguish the work of this thesis from Wiener’s. The thesis does not undertake research with a normative purpose like many critical-constructivist works. Wiener’s theory is not limited to an empirical study (asking which norms are contested by whom, where and how) but instead adds a normative element to the research, asking how contestation should be justified and who should have access to norm contestation. Normative claims are not taken up in this thesis’ analysis of norm contestation; it instead explores the normative claims made by Brazil, China and South Africa and clarifies the processes of contestation they use to address the legitimacy gap between human protection and R2P.

Studying these norm contestation processes is to recognise that they are not merely processes, but strategies employed by states to contest global governance norms according to their own expectations. Further yet, while Brazil, China and South Africa all contest R2P with normative concerns drawn from POC, they do so in different ways to achieve different outcomes. As the case studies will show, South Africa and Brazil contest R2P through POC in a similar manner, yet South Africa has used it to support the push for the use of force in peace enforcement operations in contrast to Brazil’s attempts to deter the use of force to achieve human protection.

These three countries are often grouped together under the association BRICS and have common thread as non-Western states, but they hold different political persuasions, foreign policy agendas, as well as economic and military capacities. It is recognised that such a small number of case studies cannot accurately depict normative contestation of all non-Western states. Additionally, the advantages of rising and/or regional power status that Brazil, China and South Africa possess over other non-Western states give them greater opportunities and capacity to challenge global norms of governance. In response to the critique that contestation carried out among actors of unequal power will favour the interests of more powerful states, it is worth studying the norm contestation of non-Western rising and regional powers because

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7 Welsh, “Norm Contestation,” 381-382.
deeper analysis of their normative claims reveals that they are cognisant of their power advantages compared to other global South states, and in fact use their privileged positions to push for greater access of global South states to contest and implement human protection norms.

This thesis explores non-Western norm contestation through case studies of specific peace operations each country has played an integral role in: Brazil’s leadership in the United Nations Stabilisation Mission in Haiti (MINUSTAH); China’s participation in peacekeeping in the United Nations Mission in South Sudan (UNMISS); and South Africa’s support and participation in the Force Intervention Brigade (FIB) as part of the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO). The case studies demonstrate how normative concerns of POC in each of these missions is used to contest R2P, which not only gives an empirical backing to Wiener’s theory, but also shows that non-Western norm contestation can shape operational components of peace operations.

The rest of this introductory chapter proceeds as follows. Firstly providing an overview of the distinctions between R2P and POC, the chapter then situates the interaction between the two norms by comparing conventional and critical constructivism. This establishes the need for norm contestation theory since contestation can be understood as the (re)construction of normative meaning through a norm’s use, which accounts for how Brazil, China and South Africa attempt to reconstruct the normative meaning of R2P. The chapter then provides grounds for using Wiener’s theory over other contestation frameworks, showing that Wiener’s “democratic legitimacy” in norm contestation addresses critical-constructivist concerns for power relations between different actors, and is reflected in the contestation of Brazil, China and South Africa. Following this, the chapter sets out Wiener’s theoretical framework for contestation and how it will be applied in the case studies. In showing how contestation of R2P is undertaken by Brazil, China and South Africa using the adjacent norm of POC, it addresses a critique of Wiener’s theory that it lacks an empirical demonstration of how contestation of one type of norm can affect the normative substance of related norms. As such, the thesis provides an empirical study of how contestation of norms like R2P can have flow-on effects to norms of “standard procedures” for peace operations, these being mandates and operational

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8 Wiener, A Theory of Contestation, 19.
components. Afterwards, a brief explanation of the method (interpretive discourse analysis) and the scope applied to the case studies is given, and ends with outlines of the chapters to come.

Distinctions Between R2P and POC

R2P was first established in 2001 with the Report of the International Commission on Intervention and State Sovereignty. Outlining the primary responsibility of the state to protect its people, it also created a fundamental principle of R2P: “Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.”

At the 2005 UN General Assembly (UNGA) World Summit, world leaders affirmed R2P as contained in the World Summit Outcome Document (WSOD), in particular Articles 138-139. Additionally, in 2009 the UN Secretary-General Ban Ki-moon released his first report on R2P, creating the three pillars of R2P based on the 2005 WSOD in the following manner:

Pillar I draws from Article 138, affirming the state’s primary responsibility to protect its populations; but in contrast to the 2001 version, it scopes the focus of R2P to protection from, and prevention of, four mass atrocity crimes: genocide, war crimes, ethnic cleansing and crimes against humanity. Pillar II is based on Article 139, outlining the international community’s responsibility to assist in protecting populations from the four atrocity crimes by diplomatic, humanitarian, and peaceful means under Chapters VI and VIII of the UN Charter. If a state is unable or unwilling to protect populations from atrocity crimes, Pillar III calls upon the international community, under Chapter VII of the UN Charter and by authority of the UNSC, to take collective, appropriate, decisive, and timely action, and with the use of force if necessary, to carry out R2P.

POC refers to the protection of civilians during armed conflict, with foundations in International Humanitarian Law (IHL) including the 1949 Geneva Conventions and the 1977 Additional

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11 International Commission on Intervention and State Sovereignty, The Responsibility to Protect, XI.
14 Ibid.
15 Ibid.
Protocols. It aims to constrain actions, weapons and tactics in armed conflict that impinge on civilian inviolability. While POC applies to a range of actors in relation to armed conflict, this thesis focuses on POC in peace operations and “Security Council POC”. The first ensures that POC is achieved in line with a mission’s mandate, for example through peacekeeping, peace enforcement or peacebuilding operations. The second refers to the use of POC in UNSC resolutions and how it creates avenues for action to uphold POC based on the principles of the UN Charter, not only with deployment of peace operations but other preventative and coercive measures like aid or sanctions.

The two main distinctions between R2P and POC are the scope and depth of response. R2P strictly applies to the four atrocity crimes described in the WSOD. These are crimes conducted en masse and in a systematic manner, in and outside of armed conflict, towards a specific group of people or populations. R2P also has a deep preventative dimension targeting the root causes of conflict.

POC meanwhile applies to a broader concept of violence, ranging from wide-spread violence to a single instance of violence committed by a combatant against a civilian. POC applies in instances of violence perpetrated against civilians during armed conflict, situations of mass violence, post-conflict situations and instances of internal state tensions and disturbances as defined by IHL. As such, it is much more reaction-oriented than preventative.

When it comes to interaction between the two norms, there are ways in which scholars, interest groups and even international organisations like the UN, view and debate the relationship between the two norms. The first is an unintentional tendency to conflate the two norms without appreciation of their distinct applications by prioritising both norms’ focus human protection, especially in the context of peace operations. In contrast, scholars tend to be more aware of

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17 Ibid.
20 UNGA, Implementing the Responsibility to Protect, 8.
22 See: Anna Kotyashko, “Contested Views of the Responsibility to Protect: The Cases of Brazil and Russia” (masters thesis, Universidade do Minho, 2017), 39-63, https://repositorium.sdum.uminho.pt/bitstream/1822/47994/1/Anna%20Kotyashko.pdf whose discussion on MINUSTAH and RwP uses Brazil’s POC and R2P statements to show its position on R2P without distinguishing them as discussions of two separate norms; Global Centre for the Responsibility to Protect, R2P
this conflation and assert that the norms should be applied distinctly as their conflation may hinder the implementation of both concepts.  

While literature exists on how R2P and POC influence each other, there is less on how state actors engage with both concepts to contest certain normative claims and forward their own. This thesis helps fill this gap by exploring how Brazil, China and South Africa use normative elements of POC to contest R2P and make their own normative claims about human protection. To analyse this process of normative contestation, the next section contextualises the existing norms and norm contestation literature.

**Literature Review**

**What are norms? Shared Understandings vs “Meanings-in-use”**

The concept of a norm in International Relations is a contested concept itself. There are two main theoretical approaches that offer different interpretations of what norms are and how they operate. The first, conventional constructivism, focuses on the structuring nature of norms in international society to create shared understandings, and how these understandings consequently influence state behaviour. The second, critical constructivism, argues the meaning of norms is constructed by, and constituted of, the way states use norms in context and the way states interact with each other. Comparing the two frameworks shows how norms are central for both frameworks in defining and constituting state interests. This in turn affects foreign policy decisions taken by states, since state interests determine preferences and aims that guide specific policy choices. However, the critical-constructivist approach is needed to account for the way new normative meanings are created or reworked through the policy decisions of states – what is known as contestation.

In conventional constructivism, norms are shared understandings of appropriate behaviour for states and other actors within a specific context or identity created through interactions between

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A common distinction is made between regulative and constitutive norms. Regulative norms constrain behaviour by prescribing and proscribing behaviour, while constitutive norms enable opportunities for mutual benefit and cooperation. State interests and identities are not just regulated by norms - state interests and identities are constituted by them. Constitution of state interests and identities is understood through a community ontology, whereby norms derive their function, recognition, and legitimacy from the international community. Normative diffusion is linear and occurs through top-down processes; through external systemic pressures from the international order and the influence of great powers in shaping norms within the international order, norms are internalised by norm-takers, who simply accept norms and do not participate in norm formation or change. After wide-reached consensus has been established, the norm becomes institutionalised in international organisations as well as international regimes such as international law.

A community ontology where norms are stable and fixed struggles to account for normative change. R2P would not have progressed much further past the fundamental principles in the 2005 WSOD if R2P was simply created by great powers who underpin the international liberal order, being further diffused by systemic pressure, and ending in its acceptance by norm-takers. Moreover, it lacks an adequate explanation for the agency in normative change from non-Western states, who are typically cast as norm-takers. An example is how key elements of R2P, such as intervention when states fail to protect populations from mass atrocities, were conceived by the African Union (AU) before R2P’s conception in 2001. How then is normative change accounted for? Critical constructivism addresses this by taking the meaning of norms as inherently indeterminate. The meaning of norms becomes

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27 Ibid., 327-328.
28 Wiener, A Theory of Contestation, viii.
30 Finnemore and Sikkink, “International Norm Dynamics,” 8-9
33 Welsh, “Norm Contestation,” 367-68.
determined through their “meaning-in-use”: a norm takes on different meanings depending on an actor’s normative disposition as well as the time, place, and social context in which it is applied. This is because for different actors, norms signify different things, and as such these actors decide how to apply norms in specific contexts, or whether they apply at all, which is a matter of politics lending itself to contestation. When states undertake policy, the norms that shape their behaviour become contested since the normative convictions held by a state may lead to that state’s non-compliance with certain norms. In this way, norms become more than causal factors that create behavioural responses from states; states proactively construct new normative meanings. Contestation then is the construction, or reconstitution, of normative meaning by actors. It is from this constructive and reconstitutive quality that non-Western rising and regional states’ agency in contesting R2P stems.

**Competing Notions of Contestation – The Value of Wiener’s Theory**

State actor agency in contesting normative meaning raises questions about the factors involved in norm contestation, such as whose norms matter and how state actors with different normative expectations interact. A common thread among critical constructivists is recognition that power dynamics between different actors play a role in contestation, primarily, how norms are shaped by power relations and their perception by actors subject to these norms. For example, global South states will often try to mitigate the “dominance, neglect, violation, or abuse [of norms] by more powerful central actors” by modifying existing norms. Hence regarding R2P, Brazil, China and South Africa argued that Western states like the UK and France were central players in turning the mandate of the Libyan intervention away from civilian protect and towards regime change.

While critical constructivists agree on the role of power dynamics among states in contestation, how states modify existing norms and how norms derive legitimacy is debated. Amitav Acharya’s foundational concept of norm localisation describes the way a state’s domestic

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35 Niemann and Schillinger, “Contestation ‘All the Way Down’?,” 35, 44.
37 Sundaram, “Norm Contestation and Global Governance,” 139.
42 Ibid.
political structures take transnational norms and mould them to suit the domestic context. International norms’ legitimacy is determined by how much they match with local cultural contexts. Jennifer Welsh meanwhile, examines contestation with direct reference to R2P. R2P is a complex norm, providing different prescriptions for different actors depending on the context, exemplified by the different responsibilities prescribed by each pillar of R2P. Contestation, whether it be procedural (concerning the appropriate forums for debate of norms) or substantive (concerning the actions entailing a norm and the circumstances under which a norm applies) is legitimate and most likely to generate consensus when it takes place in consideration of the sovereign equality of states to maintain diversity and plurality in the international system through an “egalitarian political and legal society at the global level”.

Wiener’s theory differs from these approaches in a fundamental way. It takes contestation as an underlying characteristic of global governance, whereby norms are created and evolve through the intersubjective interaction of a diversity of states. Contestation is a range of social practices reflecting the critical engagement by states of global governance norms under which they operate. Wiener’s core focus is how to create conditions which facilitate access to regular norm contestation for all states affected by a particular norm. Legitimacy of a norm is derived from social recognition through “democratic legitimacy”: consensus over normative meaning can be found by providing actors with the appropriate means to raise their own normative positions, and consequently through interaction with other actors, socialisation may occur between actors, allowing consensus to be generated on normative issues.

Why then does this thesis use Wiener’s Theory of Contestation? The reason is because Wiener’s concern with searching for ways to increase access to norm contestation for stakeholders is reflected in empirical studies of contestation from non-Western rising and regional powers. Furthermore, critical constructivism’s concern for power relations is demonstrated in the contestation of R2P by Brazil, China and South Africa. Welsh contends that Wiener’s theory does not pay adequate attention to the way power impacts meaning-in-use, because negotiations and implementation of norms involving states of unequal power are likely to produce

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44 Welsh, “Norm Contestation,” 386-87.
46 Ibid., 393-395.
48 Ibid., 112.
49 Ibid.
50 Niemann and Schillinger, “Contestation 'All the Way Down'?,” 37.
favourable outcomes for more powerful states.\textsuperscript{51} This critique however overlooks the normative claims made by non-Western rising and regional powers. This thesis demonstrates that Brazil, China and South Africa are aware of the power advantages they have over other global South states, but use this privileged position to contest norms with the interests of global South states in mind to increase these states’ stakeholdership and access to contestation and implementation of human protection norms.

Unlike the normative claims of Wiener’s research, this thesis does not outline the best way to create access to contestation, rather it outlines the contestation processes or strategies Brazil, China and South Africa use to achieve their own normative expectations and create greater access to contestation for more states. Limiting the scope of analysis to the processes of contestation leaves open questions for future research. These questions revolve around how states negotiate normative meanings in “multilogues”,\textsuperscript{52} how successful states are in creating consensus around their own normative positions, and whether other global South states feel represented by these rising and regional powers’ normative claims. Despite this limitation, there are still important analytical insights to be gained from the strategies of contestation used by Brazil, China and South Africa. While both Wiener and Welsh recognise the role of adjacent norms as points of reference in contestation, there lacks empirical studies for how actors might use closely related norms, such as R2P and POC, purposefully in their contestation to shape norms according to their normative expectations. This process is explained in the framework below.

**Framework for Contestation**

Before delving into the details of the case studies, the following section shows how Wiener’s theory can be used as a framework to study the process of norm contestation demonstrated in the case studies: the use of POC to contest R2P. Firstly explaining the three levels of norms described in the theory, this section then clarifies two concepts which are vital to understanding this contestation process: the legitimacy gap and flanking measures. Outlining this process reveals an important contribution of this thesis, in that it addresses Sasikumar Sundaram’s critique that Wiener’s theory does not empirically explain how contestation of one level of norms can influence norms on other levels.\textsuperscript{53} The forthcoming theoretical explanation of

\textsuperscript{51} Welsh, “Norm Contestation,” 381-382.

\textsuperscript{52} This term is used by Sundaram, “Norm Contestation and Global Governance,” 145.

\textsuperscript{53} Sundaram, “Norm Contestation and Global Governance,” 143.
contestation lays the groundwork for an empirical backing of Wiener’s theory, showing that contestation of R2P through POC affects norms of standardised procedures – the mandates and operational components of peace operations.

Wiener establishes a three-tiered typology for global governance norms. At the first level are fundamental norms, such as human protection, which have wide moral validity among a range of actors in the international community and can be ratified in formal documents such as the UN Charter and international law.\(^5^4\)

The problem is, fundamental norms lack specification for how to achieve their prescribed aims.\(^5^5\) The second level of norms, organising principles, represents different policy formulations created by states to implement fundamental norms.\(^5^6\) This is where Wiener situates R2P, hence this thesis situates POC at this level too. Essentially, POC and R2P are two different ways to achieve the fundamental norm of human protection. They differ because organising principles directly relate to the policy-making processes of states, and are therefore subject to different states’ expectations of human protection aims.\(^5^7\)

At the third level of norms are standardised procedures and regulations. These can be thought of as policy implementation to achieve the aims prescribed by organising principles.\(^5^8\) Peace operations are positioned at this level of norm, since while there are norms and rules about how these missions are conducted, they serve different purposes and have different operational tasks depending on the organising principle they operate under (civilian protection for POC and mass atrocity prevention for R2P).

This structure now serves to understand the legitimacy gap. The legitimacy gap is a tension between fundamental norms and policy implementation. This occurs when policy implementation does not meet the aims of fundamental norms.\(^5^9\) For Brazil, China and South Africa, the ways human protection has been implemented thus far, be it through peace operations or interventions like in Libya in 2011, have not adequality met the aims of human protection. The way state actors can try to rectify the legitimacy gap is by contesting organising principles, since they are the norms which specify the objectives standardised procedures, or

\(^5^4\) Wiener, \textit{A Theory of Contestation}, 36.
\(^5^5\) Ibid., “A Theory of Contestation—a Concise Summary,” 119.
\(^5^6\) Ibid., \textit{A Theory of Contestation}, 35.
\(^5^7\) Ibid., “A Theory of Contestation—a Concise Summary,” 119.
\(^5^8\) Ibid., 117-119.
policy implementation, must meet and the ways they are to do this. As such, Brazil, China and South Africa contest R2P as a norm to achieve human protection aims.

How Brazil, China and South Africa contest R2P can be explained through flanking measures. Flanking measures are the way in which fundamental norms become more specified and are required for fundamental norms’ implementation. Flanking measures are the way in which fundamental norms become more specified and are required for fundamental norms’ implementation. Figure 1 visually represents this process. Fundamental norms are implemented through “chains of contestatory practices” - distinct bundles of organising principles and standardises procedures that constitute distinct ways of operationalising a fundamental norm. For human protection, this thesis presents R2P and peace operations as one chain, with POC and peace operations as another chain.

Figure 1 – Chains of contestatory practice for the fundamental norm of human protection. The dash-lined arrows represent one contestatory chain of flanking measures (R2P), and the solid-lined a separate chain (POC).

<table>
<thead>
<tr>
<th>Fundamental norm:</th>
<th>Human Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organising Principles:</td>
<td>R2P</td>
</tr>
<tr>
<td>Standardised Procedures:</td>
<td>Peace Operations</td>
</tr>
</tbody>
</table>

Flanking measures also provide a theoretical basis for including discourse analysis in the case studies. Norms lack empirical evidence for their existence, which means indirect evidence for their existence and influence must be sought out through discourse of actors in relation to specific behaviours. The intersubjective nature of norms means they are often discussed within a group of actors to reach consensus on them and actors will give justifications for their behaviour. In the international community iterated interaction occurs among states, each with their own “normative baggage” to attempt to establish viable, widely-accepted policies through discourse. Norm contestation is bound to happen when states interact and debate norms drawing upon their own unique normative outlooks on the world.

61 Ibid., 120.
63 Ibid.
This thesis emphasises that the legitimacy of organising principles is linked to their practice and change according to iterated interaction among states.\textsuperscript{65} It studies the processes behind how states, with their own unique normative claims, view the legitimacy gap in human protection norms and subsequently attempt to resolve this gap through contestation. It forwards that Brazil, China and South Africa use POC to contest implementation of human protection through R2P. How to demonstrate this is to show how changes in a state’s discourse on one norm can influence its discourse on the other. For example, South Africa’s statements at the UN show that it recognises Brazil’s reworking of R2P, Responsibility while Protecting (RwP), but applies it in discussions on POC.\textsuperscript{66}

Having laid out this process for contestation, it becomes possible to see how the different levels of norms interact. Being able to do this addresses Sundaram’s critique that, “[Wiener’s] argument does little to account for the function of actors’ contestatory practices at the level of organising principles upon fundamental norms and standardised procedures”.\textsuperscript{67} For this thesis, the interaction between organising principles and standardised procedures is key. Since organising principles act as the guidelines for implementing standardised procedures, changes made to organising principles will change the way standardised procedures are carried out. As such, peace operations with a POC mandate require different operational tasks to achieve its mandate than a R2P-mandated operation. It follows that contestation changing organising principles will see parallel changes in standardised procedures, demonstrating the interaction of the two levels of norms.

\textbf{Method and Scope}

This thesis provides a comparative study of China, Brazil and South Africa to show processes of norm contestation. These countries are chosen partly because they have been subject to previous studies on norm contestation, especially concerning R2P. New analytical insights can be gleaned about norm contestation processes from applying Wiener’s theory to these cases; primarily that they strategically use POC to shape R2P to meet their normative expectations of human protection, which in turn has flow-on effects to standardised procedures in peace operations.

\textsuperscript{65} Sundaram, “Norm Contestation and Global Governance,” 141.
\textsuperscript{67} Sundaram, “Norm Contestation and Global Governance,” 142.
The framework above outlines how this contestation is carried out theoretically, but further explanation is needed to understand the empirical data for contestation. As a social practice, contestation is fundamentally a form of discourse. As John Ruggie explains, since a state’s actions are interpreted by other states, a state will offer justifications, rationales, admissions of guilt among other responses in their discourse for their policy actions. Other states will then respond to this discourse in certain ways, in turn affecting the original state’s subsequent actions and discourse.  

From a critical-constructivist perspective, discourse also reflects power relations between actors. This gives another motivation for studying rising and regional non-Western powers; as Sundaram argues, R2P’s contestation should result in a shift in relations between rising and established powers, as well as relations between global South states themselves.

From this basis, discourse from Brazil, China and South Africa is analysed to identify “patterns of interpretation” – in this case, their use of POC to contest R2P’s normative prescriptions according to their own normative positions. The discourse analysed comes predominantly from ambassadors and representatives of each country’s UN Permanent Mission, focusing on two UN forums - UNGA informal interactive dialogues on R2P, and UNSC open debates on POC in armed conflict - allowing for direct comparison and analysis of changes in discourse on both norms and how they influence each other. This is supplemented by analysis of discourse surrounding the selected peace operations each of the three countries are involved in to see if the same changes occur in the discourse regarding these peace operations. Since peace operations have existed much longer than POC and R2P, a time scope has been applied to the case studies to examine changes in discourse relating to peace operations parallel to R2P’s conception in 2001 and its development into the present year. This not only relies on analysing policy changes, but interpretive discourse analysis focusing on justifications for these policy changes.

70 Sundaram, “Norm Contestation and Global Governance,” 143.
Chapter Outline

Chapter 1 examines how Brazil has developed the norm of RwP as an alternative normative space to R2P to operationalise human protection. RwP’s development stems from Brazil taking normative concerns of POC and inserting them into R2P. Brazil’s leadership role in MINUSTAH founds its normative position on POC in peace operations with the concept of ‘non-indifference’, which prioritises preventative operational components in multidimensional missions. For Brazil, R2P is a political call to action to prevent mass atrocity crimes. With R2P’s controversial implementation in the 2011 NATO-led intervention in Libya, Brazil merges POC operational concerns from MINUSTAH with the political call for states to carry out protection from mass atrocities in line with existing human rights regimes, consequently forwarding RwP as an alternative way to implement human protection.

Chapter 2 examines how China, contrary to Brazil’s approach, avoids conflation of R2P and POC. Instead, China restricts R2P to a specific definition of human protection, promoting a broader role for POC in human protection. As a starting point, the concept of ‘Responsible Protection’, while not officially endorsed by Beijing, distils three main normative concerns Beijing has with R2P: first, the need of the international community to assist domestic and regional actors to uphold primarily regional peace and stability, then subsequently R2P; second, the need to implement human protection in adherence to international law to ensure accountability and proportionality; third, the importance of peacebuilding in post-conflict situations to prevent protracted conflict. China’s engagement with and participation in UNMISS is then studied in respect to these three claims, noting the way China promotes peacekeeping POC measures while objecting to the use of more coercive measures called upon by R2P despite evidence of ongoing mass atrocity crimes in the civil conflict.

Chapter 3 seeks to explain why South Africa has supported and participated in the FIB as part of MONUSCO in the Democratic Republic of Congo (DRC). The mission is the first POC-mandated peace enforcement operation with an offensive posture to use force to achieve its mandate.\(^\text{72}\) The chapter starts by examining South Africa’s contestation of R2P, which calls for greater ‘regionality’ in R2P, increasing the role of regional actors in R2P’s implementation and countering the selectivity with which it has been previously applied by Western powers and the UNSC. South Africa’s contestation, like Brazil’s, consists of conflating the normative substance of R2P with procedural elements of POC. However, this normative conflation has

changed the way South Africa views impartiality in POC-mandated peace operations. South Africa now views the *raison d’être* of peace operations as human protection and tries to reconcile a greater need for robust measures to achieve human protection aims in peace operations with the reinforcement of state sovereignty. With this conceptual understanding, South Africa’s support and role in the FIB is explained through its normative conflation of POC and R2P.

The concluding chapter discusses the significance and contributions of this research. First, this research adds to existing literature on the agency of non-Western states in shaping norms of global governance. Giving Wiener’s theory an empirical backing using more contemporary case studies, Brazil, China and South Africa’s contestation are strategies to shape R2P to meet not only their own normative expectations, but as they see it, the normative concerns of the global South in the implementation of human protection. Second, because non-Western states have increasing roles in operationalising peace operations, non-Western states’ greater agency to shape norms guiding mandates and operational components of peace operations means their concerns are likely to influence how future missions are undertaken. Third, while this thesis is limited to exploring how Brazil, China and South Africa use contestation strategically to try to shape human protection norms, future pathways for research would be to see how successful these states are in creating consensus around their normative positions, especially from other global South states, and how they go about bringing other states on board with their normative position through interaction.
Chapter 1
Brazil’s Responsibility while Protecting: The Integration of two Human Protection Norms

Brazil’s normative innovation of RwP was formulated in direct response to the 2011 Libyan crisis and the UNSC’s response to mass atrocities being committed. Having a non-permanent seat on the UNSC, although Brazil supported the initial resolution 1970 (2011) enforcing an arms embargo and travel ban on certain individuals in the Libyan authorities, it abstained from voting on the subsequent resolution 1973 (2011) allowing mandated forces to enforce a no-fly zone and carry out its responsibility to protect populations from mass atrocity crimes by “all means necessary”.73 Brazil expressed concern that the use of force was not the best way to achieve the resolution’s mandate,74 with such fears proving right when NATO, authorised to carry out the resolution, overreached its mandate of R2P and instead carried out regime change, overthrowing the Libyan President Muammar Al-Qadhafi.

This chapter demonstrates how Brazil has shown agency in the development of human protection norms. Due to an incongruency between human protection aims and R2P’s implementation on the ground in cases such as in Libya, R2P’s legitimacy is contested. Brazil has sought to address this legitimacy gap by coming up with the normative innovation of RwP. It has achieved this by taking normative elements of the closely related norm POC, and inserting them into normative discussions on R2P’s implementation, seeing a conflation the two norms under RwP.

Contestation provides a theoretical entry point into understanding this process of normative development. Firstly, Brazil had to create an inroad to gain access to the normative debate surrounding R2P. This inroad was facilitated by Brazil’s initial normative and identity shift which occurred during its leadership of MUNISTAH from 2004-2017. For Brazil, MINUSTAH was foundational in developing its own normative ideas, such as ‘non-indifference’, about how human protection should be operationalised, which would be used later to normatively contest R2P.75 MINUSTAH not only gave Brazil operational experience in a multidimensional peace

74 Ibid.
75 Sarah Brockmeier, Philipp Rotmann, and Bruno Gomes Guimarães, Debating the Responsibility to Protect? (Berlin: Global Public Policy Institute, July 2015), 15.
enforcement and peacebuilding mission; it solidified Brazil’s preference for structural prevention of conflict and allowed Brazilian policy makers to adapt the idea of non-indifference to provide normative justification for its unprecedented leadership in a peace operation.

Non-indifference gave Brazil a framework to engage normatively with R2P. Brazil has contested R2P by creating RwP, using normative elements of non-indifference and POC developed during its leadership of MINUSTAH to try and improve upon R2P’s implementation during the Libyan mission. This is demonstrated through a comparison and analysis of Brazilian government officials and UN Ambassadors’ discourse between 2004 and 2017 on POC and R2P.

**Non-indifference “2.0”**

The controversial exile of Haiti’s President Jean-Bertrand Aristide in 2004 exacerbated a longstanding situation of political turmoil. Drug-related crime and armed gangs with ties to several political figures in the following Transitional Government threatened public order and the rule of law, especially in the cities of Bel Air and Cité Soleil.\(^{76}\) Haiti’s Supreme Court Chief Justice Boniface Alexandre became President of the Transitional Government and requested international assistance to restore public order and the rule of law. The UN authorised a three-month Multinational Interim Force under resolution 1529 (2004), led by the US and supported by Canadian and French troops, to establish a stabilisation mission in the country.\(^ {77}\)

Brazil’s involvement in UNMISTAH represents a turning point in Brazilian thinking towards how peace operations should be run, particularly operations under Chapter VII of the UN Charter. While Brazil had voted in favour of resolution 1529, it had declined to deploy troops under a Chapter VII mandate allowing the use of force to carry out the mission’s mandate.\(^ {78}\)

For Brazil, Chapter VII violates the norm of non-interference through the use of coercive force and breaches Article 4 in Brazil’s Constitution which cites strict adherence to non-interference.

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and peaceful settlements to disputes.\textsuperscript{79} Despite Brazil’s long history of participating in peace operations since the 1950s, it had not done so in a Chapter VII capacity. Even during the genocide in Rwanda in 1994 - a key event in the formation of both POC and R2P - Brazil had only endorsed a Chapter VI-mandated response to mass atrocities being committed.\textsuperscript{80}

After a call from French President Jacques Chirac to Brazil’s President Luiz Inácio Lula da Silva (known as ‘Lula’) formally inviting Brazil to lead a follow-up multinational force, this time with a majority of troops coming from Brazil and other South American states, Lula accepted leadership of MINUSTAH authorised under UNSC resolution 1542 (2004). Part of the justification behind the decision was that resolution 1542 only referred to Chapter VII in its first section concerning the mission’s mandate to help the Transitional Government create a “secure and stable environment”,\textsuperscript{81} while Brazilian diplomats argued that the rest of the mandate could be carried out under Chapter VI.\textsuperscript{82} Under this interpretation, Brazil maintained the focus of UNMISTAH was peacebuilding rather than peace enforcement.\textsuperscript{83}

The decision to lead MINUSTAH led Brazil to embrace a shift in its international identity. Foreign policy decisions cannot be understood without attention to how discourse and representations create the conditions which allow for specific courses of action to be considered.\textsuperscript{84} Brazil wanted to use its leadership of MINUSTAH firstly to show its capability as an emerging power, proving it could handle the responsibilities of contributing to international peace and security, and secondly, campaign for a permanent seat on the UNSC.\textsuperscript{85} Yet Brazil’s support for multilateral institutions meant that this new engagement would require Brazilian lawmakers and politicians to justify breaking the constitutional provision forbidding deployment of Brazilian nationals to participate in coercive operations abroad - after all, Brazil

\textsuperscript{79} Brazil, Constitution of the Federative Republic of Brazil, 1988 with 1996 Reforms in English, Title 1, art. 4, \url{http://pdba.georgetown.edu/Constitutions/Brazil/english96.html#mozTocId324543}.


\textsuperscript{81} UNSC, S/Res/1542 (2004), 30 April, 2004, 2, \url{https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4F96FF97%7d/CAC%20SRES%201542.pdf}.

\textsuperscript{82} Almeida, \textit{From Non-Indifference to Responsibility While Protecting}, 8.


was to lead both the security and development branches of MINUSTAH, a multidimensional peace operation which included both peacebuilding and peace enforcement elements. Thus the Brazilian government came up with its own notion of ‘non-indifference’ to quell fears of intervention; a conceptual leap with implications for how Brazil would later engage with R2P.

Non-indifference in the Brazilian context means multilateral action in full respect of sovereignty to manage crises and conflicts without interfering in the domestic affairs of another state. Crucially, this is to be carried out on the invitation by, and in coordination with, the host state in line with international law. Brazil’s non-indifference differs from the AU’s 2000 concept of the same name, which permits AU member states to intervene in other member states without consent if they fail to prevent or halt genocide, war crimes and crimes against humanity.

Brazil’s non-indifference principle gave the country a rationale to participate in MINUSTAH stabilisation activities while respecting sovereignty, framing acceptance of Haiti’s invitation for intervention as “active solidarity”. Brazil’s normative contribution therefore was to demonstrate that MINUSTAH could be an example of a multidimensional mission where peace enforcement complemented peacebuilding to fulfil not only Haitians’ security needs, but also their economic and social needs. Celso Amorim, Brazilian Foreign Minister in 2004, stressed the UN’s failure when its scope had too narrowly focused on security measures and argued, “…in parallel to the efforts to efforts to ensure a safer environment, we need to set in motion a sustainable program to help the Haitian society in the political, social and economic spheres”.

Brazil’s approach aims to improve and revise some aspects of Western peace operation models by cementing peacebuilding at the core of peace operations as a “corrective” for Western peace operation practices favouring militarised approaches, and in doing so creating more equitable relations of power among stakeholders.

Brazil’s economic and security engagement during MINUSTAH was sourced from Brazil’s own domestic experience and was backed by rhetoric of South-South cooperation to highlight

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86 Brockmeier et al., *Debating the Responsibility to Protect?*, 16.
88 Celso Amorim cited in Brockmeier et al., *Debating the Responsibility to Protect?*, 15.
90 Gomes, “Analysing Interventionism,” 862.
92 Ibid., 17.
the shared social and security challenges faced by both countries.\textsuperscript{93} Since development was removed from the mandate of resolution 1542,\textsuperscript{94} MINUSTAH coordinated with Brazilian civilian agencies to establish demand-driven, bottom-up development projects. A notable organisation is Viva Rio, which used its expertise developed in Rio de Janeiro’s \textit{favelas} to undertake development projects in poor Haitian communities to tackle communal violence.\textsuperscript{95} In the security domain, despite MINUSTAH’s increasingly active role in military peace enforcement over time, Brazil emphasised the way in which it deployed troops with greater contact and proximity to local populations, showing a willingness to interact face-to-face with locals and leave armoured vehicles to walk the streets.\textsuperscript{96}

To combat perceptions that the invitation to lead MINUSTAH was due to its extensive military experience in domestic pacification of gangs,\textsuperscript{97} Brazilian government officials worked to shift the focus of MINUSTAH’s objectives away from security and more towards development. Lula emphasised that Brazilian troops were there “to guarantee security, but without development and employment, all this will collapse soon”.\textsuperscript{98} Lula bolstered this claim with non-indifference:

“…[Brazil’s] contribution to peace and democracy is determined by the principle of non-indifference. That is why we have engaged in the stabilization efforts in Haiti … This is a historical opportunity… to show that a new model of international cooperation is possible. A model in which re-establishing order and security is rooted on economic recovery and social change, never on belligerence … Respecting the principle of non-intervention without arrogance, but also without indifference, we contribute to solving crises in countries of our South America.”\textsuperscript{99}


\textsuperscript{97} For a discussion on Brazil’s motives for leading MINUSTAH see: ibid., 4.

\textsuperscript{98} Gomes, “Analysing Interventionism,” 862.

\textsuperscript{99} Brockmeier et al., \textit{Debating the Responsibility to Protect?}, 15.
Brazil’s Engagement with R2P: from Non-Indifference to RwP

To demonstrate and analyse Brazil’s normative contestation of R2P through POC, the next section is divided into three time periods to show three phases in the development of Brazil’s normative engagement with both norms. In the first period, 2004-2010, Brazil clearly differentiates between R2P and POC. The second period, 2011, reveals how Brazil develops RwP by merging POC concepts with R2P in response to the Libyan intervention. The third period, 2012 - the present, shows the continuation of this normative conflation by Brazil between the two norms.

2004-2010

Before the UNGA debate on R2P in 2009, Brazil had seldom engaged with R2P. Celso Amorim called R2P “the droit d’ingérence […] in new clothes” before its endorsement in the 2005 WSOD.\(^{100}\) Refinement of the concept was needed before Brazil was going to engage with it normatively. Nevertheless, Brazil endorsed R2P as defined in the 2005 WSOD.\(^{101}\) This was occurring concurrently with Brazil’s conception of non-indifference in the POC space without overt linkage between R2P and POC.

As an emerging power, Brazil wished to show greater responsibilities in global collective security without resorting to the historical trend of military force.\(^{102}\) It was only once it had established access to normative debates on human protection through its involvement in MINUSTAH that it could tackle the normative dilemmas of R2P, particularly the role of coercive force in human protection. Brockmeier et al. see non-indifference as a middle ground between non-intervention and R2P, allowing Brazilian policy makers to encourage proactive human protection while addressing their concerns about R2P’s revisionism of non-interference without openly referencing R2P.\(^{103}\)

In 2009 and 2010, Brazil’s Permanent Mission to the UN participated actively in UNGA informal interactive dialogues on R2P. There is a consistent distinction made between POC and R2P by Brazil. From 2009, R2P is considered by Brazil as a “powerful political call for all States to abide by legal obligations already set forth in the Charter, in relevant human rights

\(^{100}\) Kenkel, “Brazil's Peacekeeping,” 280.
\(^{101}\) Brockmeier et al., Debating the Responsibility to Protect?, 14.
\(^{102}\) Kenkel, “Brazil's Peacekeeping,” 280.
\(^{103}\) Almeida, From Non-Indifference to Responsibility While Protecting, 6.
conventions and international humanitarian law…to address, in a coordinated fashion, the four crimes, namely genocide, war crimes, ethnic cleansing and crimes against humanity.”  

The concept of non-indifference is mentioned in Brazil’s 2009 R2P statement, outlining an international responsibility to prevent humanitarian crises such as hunger, poverty and epidemics. While R2P does not cover these crises, Brazil uses non-indifference to call for broader prevention strategies in R2P through peacebuilding, promoting it as R2P’s preventative second pillar and R2P’s primary focus - a constant theme in Brazil’s future R2P statements. Interestingly, despite references to non-indifference in R2P statements during this period, there are no references to MINUSTAH. 

Concerning Brazil’s engagement in POC discourses, POC is strongly linked to best practices in implementing mandates of peacekeeping and peacebuilding operations since, “the considerable normative guidance we have already developed in this area must now be further translated into concrete improvements in the protection of civilians on the ground…” Like its R2P statements, Brazil explicitly favours the broad preventative capacity of peacebuilding to carry out POC. However, unlike assertions that the three R2P pillars should be sequential in nature, Brazil affirms that POC is multifaceted and requires peacekeeping and peacebuilding (prioritising Chapter VI responses, but when necessary allowing for Chapter VII responses) in tandem, combining short and long-term security and development responses to POC challenges. Importantly, MINUSTAH is explicitly cited as a prime example of how this should be undertaken.

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109 Regina Dunlop in UNSC, S/PV.6216 (Resumption 1), Protection of civilians in armed conflict (New York, 11 November, 2009), 5, [https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7d/POC%20SPV%2006216%20resum%201.pdf](https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7d/POC%20SPV%2006216%20resum%201.pdf).

110 Ibid.
In response to the overreach in mandate to protect civilians from atrocity crimes by NATO in Libya, as well as the use of force in contributing to this, in September 2011 President Dilma Rousseff opened the 66th Session of the UNGA introducing the concept of a “Responsibility in Protecting”\(^{111}\). Brazil then released an annex to a previous proposal by the then-Foreign Minister Antonio Patriota on 9 November 2011 to layout a “Responsibility while Protecting” in more conceptual depth. RwP recognises that in some instances military force may be required to protect populations from atrocity crimes, but added some key innovations to distinguish it from R2P. It sequences the implementation of R2P’s three pillars, against the recommendations of the Secretary-General’s 2009 Report on R2P, to ensure that force would be a last resort once all preventative, non-coercive and diplomatic means to ending a conflict were exhausted\(^ {112}\). Further, if and when force is mandated, to guarantee that it strictly follows the mandate authorised by the UNSC, monitoring and reporting mechanisms would be required to hold accountable those who are mandated to carry out operations under Chapter VII\(^ {113}\).

RwP achieves this by incorporating POC normative concerns into R2P. While R2P is reiterated as a strong political call, its controversial implementation in Libya is used to justify that prevention should be the focus of R2P\(^ {114}\). In President Rousseff’s address to the UNGA, she explicitly links RwP as a means of integrating security and development as done in MINUSTAH\(^ {115}\). This is noteworthy since MINUSTAH was only explicitly cited in POC statements prior to 2011. Additionally, UNSC reform is promoted for the continuing legitimacy of the UNSC in implementing R2P.

A fascinating assertion is made in the Brazilian 2011 POC statement:

“The protection of civilians is a humanitarian imperative. It is a distinct concept that must not be confused or conflated with threats to international peace and security, as described in the Charter, or with the responsibility to protect. We must avoid excessively


\(^{113}\) Ibid., 3-4.


\(^{115}\) Rousseff, *Statement at the opening of the 66th Session of the UNGA*, 5.
broad interpretations of the protection of civilians, which could link it to the exacerbation of conflicts, compromise the impartiality of the United Nations, or create the perception that it is being used as a smokescreen for intervention or regime change.”

In the RwP annex itself, despite being a direct response to the implementation of R2P, it raises concerns that, “...the responsibility to protect might be misused for purposes other than protecting civilians...” and that resorting to collective security measures, rather than focusing on collective responsibility, implies that violence against civilians should be taken as a threat to international peace and security. This is significant as R2P only refers to the four mass atrocity crimes in the 2005 WSOD, not POC’s concern with the broader threat of violence against civilians. Furthermore, R2P crimes may be committed against target groups other than civilians and outside situations of conflict. This is emerging evidence of amalgamation between the normative concepts of POC and R2P under the guise of RwP.

Brazil’s 2011 POC statement does however maintain its previous focus on the operational components of peace operations, but this time specifically on the use of force. It makes it imperative for the use of force employed by peacekeepers to be used with the highest restraint and with consent by the host state to avoid the perception of being party to conflicts and disregarding impartiality.

2012 - the present

After RwP’s conception, R2P and POC are conflated in Brazilian dialogues on R2P. RwP takes on prevention of both “armed conflict and mass atrocity crimes”, in addition to advocating a clear distinction between prevention and response mechanisms. RwP also distinguishes between long-term prevention (structural prevention targeting the root causes of conflict) and short-term prevention (through preventive diplomacy) when a crisis is on the verge of taking place. In Brazil’s 2016 R2P statement, after framing Libya in POC terms, Palestine is referred to.

117 Ibid., 2.
118 Maria Viotti in UNSC, S/PV.6531, 11.
120 Ibid.
to as an example of POC where better prevention measures should be applied to curb violent extremism.\textsuperscript{122} Furthermore, in 2017, after outlining that R2P refers only to the four atrocity crimes in the 2005 WSOD, Mauro Veira asserts that, “we need to value, pursue and exhaust all non-military means available for the protection of civilians under the threat of violence”.\textsuperscript{123} POC debates post-2011 continue to focus on the multidimensional nature of peace operations, supporting peacebuilding as a way to address root causes of conflict. However, in 2015 Antonio Patriota forwarded that RwP should incorporate peacekeeping principles to improve the use of force through proportionality and adequate reporting mechanisms to ensure accountability of those carrying out the mandate of such missions.\textsuperscript{124} There is even an implicit acceptance of the use of force in POC, with calls in 2014 for increased planning, training and better resources for peace operations with more robust and more offensive mandates.\textsuperscript{125} Curiously, RwP’s innovations, which were supposed to be in direct response to R2P, are routinely used to find innovations for POC.

**Normative Convergence to Create an Alternative Norm**

So far, this chapter demonstrated how Brazil has actively linked R2P and POC in discussions and debates, causing convergence of both concepts to create a new norm of RwP. Hugh Breakey and Angus Francis point out that conflation can happen between R2P and POC since they share common roots and objectives in human protection and have developed alongside each other over time.\textsuperscript{126} The premise underlying both R2P and POC is that it is the responsibility of the state to protect civilians, which carries over to the international community if the state fails in this respect.\textsuperscript{127} Furthermore, the protection mandates of peacekeeping operations, usually under POC, have been presented as ways to operationalise R2P.\textsuperscript{128} Outside of Brazilian discourse, this convergence first happened in the UNSC with resolution 1706 (2006) concerning Sudan, which linked the POC in armed conflict to the previous resolution 1674 (2006) reaffirming paragraphs

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\textsuperscript{122} Brazil, *Statement at the UNGA informal interactive dialogue on R2P* (New York, 26 February, 2016), 1, \texttt{http://www.responsibilitytoprotect.org/Brazilian\%20Statement\%20.pdf}.

\textsuperscript{123} Veira, *Statement at the UNGA*, 2.

\textsuperscript{124} Antonio Patriota, *Statement at UNGA informal interactive dialogue on R2P* (New York, 8 September, 2015), 2, \texttt{http://www.responsibilitytoprotect.org/brazil(1).pdf}.

\textsuperscript{125} Ibid., *Statement at the UNSC open debate on the POC in armed conflict* (New York, 12 February, 2014), 1, \texttt{http://responsibilitytoprotect.org/Brazil.pdf}.


\textsuperscript{127} Ibid., 46.

138 and 139 of the 2005 WSOD. What is crucial here is that resolution 1674 was referring to the four atrocity crimes in armed conflicts broadly, not as a peacekeeping mandate.\textsuperscript{129} Another instance of conflation applies to resolutions 1970 and 1973 concerning the 2011 Libyan crisis.\textsuperscript{130} While there was clear evidence of mass atrocities being committed, resolutions 1970 and 1973 are full of POC language, such as mandating forces to “to take all necessary measures… to protect civilians and civilian populated areas under threat of attack”.\textsuperscript{131}

Drawing on Wiener’s theory, further analytical insights are to be gained from the normative conflation used by Brazil in attempting to reconcile questions of legitimacy surrounding the pursuit of human protection’s implementation through R2P. Conflation demonstrates that non-Western regional and rising powers have the capacity and agency to contest norms. To show agency, a state can propose a solution to a normative problem by offering alternative norms to solve the problem - in Wiener’s terms, this is called addressing the legitimacy gap. R2P and POC are two separate flanking measures to operationalise human protection. Discourse from Brazilian policy makers clearly identifies that a legitimacy gap lies in implementing human protection with the use of force through R2P. Based on its leadership of MINUSTAH, Brazil forwards its blended focus on security and development for short and long-term conflict prevention, set in the POC normative space, as more a legitimate alternative to human protection than global North security approaches favouring security and militarised options.\textsuperscript{132}

A question then remains: why are POC, and by extension RwP, seen as legitimate for Brazil to contest R2P? According to Wiener’s theory, legitimacy of norms comes from the capacity of actors in the international system to actively participate in a norm’s contestation. Brazil has been outspoken in its calls for UNSC reform, arguing that not having a permanent seat has been detrimental to its capacity to lead normative issues relating to international peace and security.\textsuperscript{133} MINUSTAH was the first time Brazil had led such a substantial peace operation, and its reworking of non-indifference reiterated MINUSTAH as an example of South-South cooperation, preferable to cooperation with global North states that have historically dominated the development of peace operations’ mandates and practices. Considering the intervention in Libya, NATO was the organisation to implement the mandate, highlighting the lack of say

\textsuperscript{129} Tardy, “Protecting Civilians in Africa,” 207.
\textsuperscript{130} Breakey and Francis, “Points of Convergence,” 41.
\textsuperscript{131} Ibid., 40.
global South states have in R2P’s implementation. Therefore RwP is an attempt by Brazil, while it had greater access to contest R2P during its non-permanent tenure on the UNSC in 2011, to open up the normative debate surrounding R2P to normative claims from a closely related norm which Brazil and other global South states have greater access to - POC.

**Conclusion**

This chapter demonstrated how RwP is an attempt by Brazil to provide an alternative normative space to R2P in implementing human protection norms. It achieves this by using normative concerns from a closely related norm, POC, and infusing them into R2P. MINUSTAH represents a foundational event in Brazilian thinking for support for multidimensional missions with a focus on preventative measures. Before the creation of RwP, Brazil viewed R2P as a political call for action to prevent mass atrocity crimes, while POC focused on prescriptions for mandates and operational matters of peace operations. It was not until R2P was first implemented in Libya in 2011 that Brazil was able to converge POC’s normative conventions for implementation with the political call of R2P. In the next chapter, analysis of China’s contestation of R2P, with a central focus on the UN mission in South Sudan, will be compared to Brazil’s to see whether Chinese policy makers have used POC in the same way to find an alternative way to implement human protection norms.
Chapter 2  
China and R2P’s Refinement through POC

Just as it was for Brazil, the international community’s reaction to the Libyan conflict in 2011 was a turning point in China’s engagement with R2P. Historically, China’s support for R2P has been contingent on a very strict interpretation of R2P as endorsed in the 2005 WSOD as well as its implementation in line with principles of the UN Charter. Furthermore, China has been an early proponent of the distinction between POC and R2P since 2005, arguing further consensus must be reached on R2P’s application due to concerns over the expansion and arbitrary interpretation of its scope as well as states’ distortion and abuse of the norm.

This chapter explores how China undertakes normative contestation to combat the conflation of R2P and POC. This will be addressed in two parts. Firstly, in response to the 2011 Libyan intervention, China actively works to restrict R2P’s implementation to a very strict context and in a sequential manner. A lens to study this through is the concept of ‘Responsible Protection’ (RP), coined in 2012 by Ruan Zongze, Vice-President of the China Institute for International Studies - the official think-tank of the Chinese Ministry of Foreign Affairs. While RP is not officially endorsed by the Chinese Government, it shares common critiques of R2P with China’s official discourse before 2012, so it is useful to study Beijing’s position on R2P. Zongze outlines three proposals to improve implementation of human protection through R2P. First, R2P’s second pillar focus must shift to a responsibility of the international community to assist foremost domestic and regional capacities in upholding regional peace and stability, and subsequently their responsibility to protect; second, the need to ground implementation of human protection in international law; and third, the need for a post-conflict responsibility to avoid prolonged conflict.

The second part of this chapter demonstrates how China addresses these three concerns by avoiding conflation of R2P and POC in discourse surrounding a specific conflict after RP’s inception. UNMISS has been in the front-line response to the civil war that has been transpiring

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in South Sudan since 2013. The conflict has been framed through R2P in UNSC resolutions since 2014, with calls for the South Sudanese Government to protect its populations from potential war crimes and crimes against humanity and reiterating previous resolutions on genocide prevention. Yet despite the UNSC invoking R2P, China has actively sought to promote broad and peacekeeping POC as the appropriate means to resolve the conflict.

After the two-part analysis follows a discussion detailing the process behind this normative contestation through Wiener’s theory. China addresses the legitimacy gap between human protection and R2P by restricting R2P’s application and instead broadening the application of POC. Further, its normative contestation refocuses responsibility of the state towards upholding peace and security in the international system as in international law, rather than human rights as in R2P, and by doing so increases access for non-Western states to contest the implementation of human protection norms, particularly through POC.

Responsible Protection as a Starting Point for Contesting R2P

Before delving into RP, it is important to first recognise that China does not reject R2P. If it did, China would not work to engage with R2P and offer alternative solutions for the problems that it sees with the concept. China strictly refers to R2P according to its interpretation endorsed in the 2005 WSOD. Significantly, despite its traditionally strong support of sovereignty under the UN Charter, it does recognise a need for external intervention in specific circumstances:

“For Beijing, if there is any moral justification for external, coercive intervention against sovereign governments, it is primarily to prevent the disruption of international society through widespread (i.e., inter-state) violence and secondarily to prevent state-inflicted mass atrocities through strictly delimited and narrowly defined efforts.”

Notwithstanding this recognition, China seeks to restrict R2P so that it cannot be exploited unilaterally by states and organisations. Alongside corroboration with Chinese officials' discourse up until 2012, RP acts an entry point to understand the flaws China sees with R2P that it wishes to address. In light of the implementation gap between human protection and R2P,

140 Zongze, “Responsible Protection,” 34-35.
RP is a basis for China’s normative claim that POC should be the preferred norm through which to conduct human protection due to its grounding in international law.

While not officially endorsed by the Chinese Government, RP appeared in several speeches by Chinese officials in 2012 and was the subject of an international conference held by the China Institute for International Studies in Beijing in October 2013.141 RP directly responds to the 2011 Libyan crisis, explaining China’s stance on the Syrian conflict in seeking to avoid the way R2P was misused to pursue individual states’ own political agendas, especially by Western powers.142 In 2011 a Chinese UN Ambassador indicated that both resolutions 1970 and 1973 were originally intended to end violence against and protect civilians,143 which Zongze expands on to explain that, “…[r]esolution 1973 was alienated into strategic attempt at realizing “regime change” in Libya.”144 The problem with R2P for China lies in the ambiguity of how to stop intervention becoming a standard operating procedure when implementing human protection.145 China has asserted as far back as 2007 that until more consensus was reached on R2P, states should refrain from invoking it.146

RP crystallises three of China’s primary concerns about R2P. While not an exhaustive list, they are the most relevant concerns for China’s later engagement with UNMISS. A first point RP argues is for a shift in focus for the ‘subjects’ of responsibility. The concept paper highlights the implications spillover effects from intra-state conflict and humanitarian crises can have for regional peace and stability.147 Like R2P, RP emphasises that national governments have the primary responsibility to protect their citizens. However, RP diverges from R2P in respect to where the responsibility to act is placed outside of states when they fail in their responsibility to protect. Highlighting the 2011 intervention in Libya and the resulting protracted regional conflict, RP shifts the focus from R2P’s third pillar of an international responsibility to act to R2P’s second pillar of the international community’s responsibility to assist, but stresses this assistance must foremost be provided to domestic and regional actors to uphold regional peace and security, and subsequently R2P. This is evident in a Chinese statement in relation to peace

143 Li Baodong in UNSC, S/PV.6531, 21.
and security in Africa that, “[w]hile maintaining its authority, the Security Council should give priority to supporting the key role of the African Union in resolving regional conflicts.”

A second point of engagement between RP and R2P is the grounding of human protection in international law. In 2009, Liu Zhenmin stated that, “R2P so far remains a concept. It does not constitute a rule of international law.” Zongze adds, “R2P has brought unnecessary chaos to international relations and fell into a tool of the big powers in practicing power politics.” This explains why Chinese statements consistently reiterate adherence to the UN Charter, respect for sovereignty and the sole legitimacy of the UNSC in implementing human protection outside of national governments, for the purposes of “safeguarding…the UN Charter as well as the basic norms governing international relations”.

Zhang Yesui claims that “…[u]ndoubtedly, what the Council should focus on and deal with is the protection of civilians in armed conflict rather than anything else”. China recognises POC as firmly cemented in international law and stresses the “just and effective implementation” of “a relatively complete system of international legal norms” and prioritises “…pushing forward the effective implementation of these documents rather than rushing into making new rules.” This “effective implementation” is directly linked to POC through peacekeeping, with its three principles of local consent, neutrality, and the non-use of force except in self-defence. In this way, RP shares a common concern with Brazil’s RwP in creating mechanisms of accountability. RP calls for “mechanisms of supervision, outcome evaluation and post factum accountability to ensure the means, process, scope and results of “protection”. Also like RwP, RP looks to restrict the means of protection in a sequential manner, with the exhaustion of diplomatic, political and judicial means before considering the use of force. Additionally, coercive, non-military measures such as sanctions are not generally supported by China.

150 Zongze, “Responsible Protection,” 36.
153 Ibid.
154 Zongze, “Responsible Protection,” 34.
155 Ibid., 39.
156 Ibid., 38; for judicial means see: Yishan in UNSC, S/PV.5319, 30.
China’s aversion to military methods relates to post-conflict responsibilities, a third point of contention of R2P by RP, due to the destruction of infrastructure and the maleffects on economic development caused by war that can lead to protracted conflict.\(^{158}\) Zongze cites the Afghan and Iraq wars as evidence for the need of strategies by “the protectors” (national governments and the UNSC) to take responsibility for post-conflict situations.\(^{159}\) Post-conflict responsibility brings back notions of a ‘responsibility to rebuild’ from pre-2005 iterations of R2P, and is a point which distinguishes RP from RwP.\(^{160}\) This allows China to incorporate peacebuilding into discussions on human protection in a particular way. Scholars often contrast R2P’s deeper structural prevention elements with POC’s more reactive character.\(^{161}\) However, China insists that structural prevention to tackle root causes of conflict through poverty alleviation, economic and social development is a necessary follow-up measure to peacekeeping through POC.\(^{162}\)

**UNMISS – China’s POC Response to a R2P Crisis**

UNMISS was deployed in 2011 at the founding of the South Sudanese state to consolidate peace and security and to help establish conditions for development.\(^{163}\) A civil war started in December 2013 when fighting broke out within the ranks of the Presidential Guard. Salva Kiir, President of the ruling party the Sudan People’s Liberation Movement/Army, accused his Vice President Riek Machar of attempting a coup against him. Fighting between government and opposition forces quickly spread from the capital to other parts of the country, further developing along ethnic lines since President Kiir is from the Dinka ethnic group, and Vice President Machar the Nuer. In 2014 POC became UNMISS’ priority when the fighting intensified, and large numbers of civilians sought shelter and protection from immediate violence in makeshift civilian protection sites in the capital Juba. UNMISS was authorised under resolution 2155 (2014) and Chapter VII of the UN Charter to “use all necessary means” to achieve its POC mandate.\(^{164}\)

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158 Zongze, “Responsible Protection,” 38.
159 Ibid., 33-34; For citation concerning Afghanistan and Iraq, see ibid., 39.
In resolution 2155 and subsequent resolutions, the Sudanese Government is reminded repeatedly of its responsibility to protect its population from mass atrocity crimes, and UNMISS gains an additional mandate to monitor for incidences of atrocity crimes. Stronger warnings of mass atrocity crimes arose in 2015 and 2016 when both the UN Secretary-General’s Special Adviser for the Prevention of Genocide Adama Dieng, and the UN Secretary-General himself Ban Ki-moon, warned that the civil war was heading towards war crimes and crimes against humanity - a fear found to be true in a March 2018 UN report. Nonetheless, China consistently stuck to POC in its engagement with UNMISS and the civil conflict, supporting POC as a more legitimate way of undertaking human protection than R2P for the conflict.

Three claims are discussed below about how China has avoided conflating POC and R2P, following through on the three normative claims outlined through RP: greater responsibility and agency for domestic and regional actors in human protection; grounding implementation of human protection in international law; and finally, the role of peacebuilding in upholding a post-conflict responsibility.

China took a lead role in ensuring that regional organisations were central to mediation efforts in the conflict. As expressed by Wang Min, the international community can help states uphold their responsibility to protect civilians by strengthening states’ judicial and security sectors, but the community cannot replace it. China voted in favour of resolution 2252 (2015) to establish a hybrid AU-South Sudan court to hold accountable perpetrators of international law violations and human rights abuses. In particular, China expressed that, “protecting civilians requires emphasis to be placed on the role of the African Union and other regional organizations.” Hence China supported and coordinated with other mediation initiatives, such as the three-way US-Norway-UK group and Intergovernmental Authority on Development (IGAD) efforts.

165 Ibid., 4-5.
this way, China could officially support not only multilateral, but in the case of IGAD, African solutions to conflict resolution.\(^\text{170}\) China even held its own mediation efforts between the warring parties in Khartoum in 2015 in a “Special Consultation in Support of the IGAD-led South Sudan Peace Process”.\(^\text{171}\)

The implementation of POC during the conflict saw the sequencing of non-coercive measures over coercive measures such as sanctions and arms embargoes. There is evidence of China attempting to hinder the use of coercive measures in its voting patterns on UNSC resolutions pertaining to UNMISS. China voted in favour of resolution 2302 (2016) to extend UNMISS’ mandate contingent on the support of IGAD as the main channel for negotiations, respect for state sovereignty and the principles of peacekeeping.\(^\text{172}\) Later that same year, resolution 2304 (2016) authorised an expanded peacekeeping force in the form of a Regional Protection Force.\(^\text{173}\) This time, China abstained on voting since the decision had been made without full consultation of South Sudan’s Transitional Government,\(^\text{174}\) and reflected sentiments of South Sudan’s UNSC representative that the lack of consultation “had contradicted the principles of respect for sovereignty, territorial integrity and political independence of States, principles enshrined in the United Nations Charter.”\(^\text{175}\)

In 2018, coercive measures were prioritised by the UNSC in dealing with the conflict. China abstained on resolution 2418 (2018) which extended sanctions enforced by resolution 2206 (2015) on individuals blocking the peace process in South Sudan.\(^\text{176}\) While China had supported the initial sanctions, agreeing certain individuals had been hindering the multilateral IGAD mediation and peace processes,\(^\text{177}\) this time China insisted that IGAD negotiations were at a critical stage and that sanctioning South Sudanese government officials involved in the talks

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\(^{171}\) Ibid., 45.


\(^{175}\) Ibid.


\(^{177}\) Large, “China and South Sudan's Civil War,” 42.
would be detrimental to reaching a peace accord, tainting the UNSC’s impartial image in the conflict.\textsuperscript{178} From March 2018 the UNSC was considering enforcing an arms embargo, a push led by the United States, which was eventually implemented in July by resolution 2428 (2018).\textsuperscript{179} In what was described by South Sudan’s representative as a “…slap in the face of IGAD, the African Union and the continent itself,” China abstained on voting, expressing its support for a regionally-led peace process and that the UNSC should have had more patience in the ongoing peace process, for which sanctions and the arms embargo would not be helpful.\textsuperscript{180}

Despite each of the resolutions above maintaining the South Sudanese Transitional Government’s responsibility to protect its population against R2P’s four atrocity crimes, analysis of China’s statements over the same period shows a unchanging position that no consensus has been reached on R2P and hence the international community should show caution in invoking it.\textsuperscript{181} In abstaining on voting for resolutions that would hinder mediation efforts or change the role of UNMISS, both framed under POC, China shows its normative preference for POC over R2P. This is evident from China’s unprecedented decision in 2014 to deploy approximately 700 combat troops to UNMISS.\textsuperscript{182} Up until this point, China had limited its peacekeeping participation to non-combat roles such as doctors, engineers as well as logistical and transport units. That China is willing to involve itself militarily in POC peacekeeping, and yet object to non-military coercive measures such as sanctions and arms embargoes which violate respect for sovereignty and consent, reinforces Chinese normative preference for POC over R2P.

In POC statements, China has emphasised the elimination the root causes of conflict.\textsuperscript{183} As the Chinese Foreign Minister Yang Jiechi stated: “We [Chinese policy makers] believe that

\textsuperscript{178} UN, \textit{Security Council Decides to Renew Sanctions}.
\textsuperscript{180} Ibid.
\textsuperscript{181} China, \textit{Statement at the UNGA informal interactive dialogue on R2P} (New York, 8 September 2014), \url{http://www.china-un.org/eng/ChinaAndUN/SecurityCouncil/ThematicIssues/Civilians_in_Armed_Conflict/2014/Statement-2014-09-08.pdf}.
development is the foundation for peace in Africa... If Africa is to achieve durable peace and stability, it needs to speed up economic and social development and let all the people share the benefits of development.”

China promotes its peacebuilding as conflict prevention through common and mutual economic and social development as part of a “shared destiny” with African nations, laying the foundations for future state stability through political trust and cooperation. Conflict prevention and peacebuilding are hence grounded in principles such as indigenous agency in peace and conflict prevention processes, economic development without political strings attached (contingencies such as democratic political reform or human rights concerns), and a more active role for regional organisations and institutions in global security and peace management. These principles challenge core components of liberal peacebuilding including the universal template of human rights, democracy, and market economics. As such, a one-size-fits-all way of conflict prevention is rejected, as expressed in both China’s POC and R2P statements.

On the ground in South Sudan, China has justified its joint infrastructure projects, oil investments and economic cooperation by tying these to conflict prevention. Soon after South Sudanese independence in 2011, China quickly acted to build diplomatic and economic ties with the country, not only through oil ventures, but also telecommunications, agriculture and other infrastructure projects such as hospitals and a national theatre. When the civil conflict started, China used its position as a mediator to stress that “[b]oth sides have the responsibility to protect oil infrastructure in South Sudan, as oil is a critical resource in its reconstruction and economic development during the country's peaceful transition period.” In 2017, 97% of South Sudan’s government income came from oil revenues. Foreign Minister Wang emphasised, Chinese oil interests aside, that “wars and conflict hurt the oil industry”, and with

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188 Large, “China and South Sudan’s Civil War,” 44.
the oil industry being central to the interests of South Sudanese people, China was “…acting on the responsibilities and obligations of a responsible world power”.

**Refining R2P through POC**

This chapter has demonstrated how China has actively worked to restrict the application of R2P in human protection. Due to the lack of consensus surrounding the implementation of R2P, China has called for its invocation to be used sparingly until such time that consensus has been reached. China’s normative claim is that unless a very specific set of circumstances arise, in which mass atrocities calling for R2P threaten international peace and security, the international community should implement human protection under the norm of POC. It sees conflation of the two norms as a slippery slope to the use of R2P to justify intervention outside of mass atrocity situations. It is time now to look at the norm contestation process which underlies China’s avoidance of conflation.

China asserts that the way to solve the legitimacy gap in implementing human protection through R2P is to contribute to refinement of the concept so that it cannot be misused. Therefore, POC is used as reference point, or flanking measure, to reinforce R2P’s limited role and strict application in human protection - especially regarding its third pillar of non-consensual intervention. A secondary normative claim by China is to promote POC in implementing human protection in other situations outside R2P’s very strict scope, due to POC’s large legal backing in IHL and respect of the UN Charter. South Sudan thus represents a case where China, despite growing evidence of atrocity crimes, saw POC through peacekeeping and non-coercive preventative diplomacy as the best means to end the conflict.

In avoiding conflation of POC and R2P, China has tried to increase access to contestation of R2P for a greater number of states in international society. According to Wiener’s theory, the greater the capacity of actors in the international system to regularly contest a norm, the greater the legitimacy of a norm. China’s separation of the two norms may seem to contradict the strategy used by Brazil to merge POC elements into the normative space of R2P to open it up to contestation by non-Western states. China’s solution to R2P’s legitimacy gap is to cast a slightly different focus on where responsibility in the international system is derived from and with whom it lies.

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190 Neethling, “China’s International Peacekeeping Contributions,” 22.
Recalling Swaine’s argument that for Beijing, the state and the international community’s primary responsibility is to uphold international peace and security, Yanzhuo Xu further explains that responsibility stems foremost from upholding international order, peace and security based on a state’s capabilities, rather than a responsibility to uphold human rights. While both interpretations of responsibility emphasise the state’s primary role, the latter interpretation is born out of a Western liberal moral concern and acts as a basis for intervention under R2P’s third pillar. China meanwhile prefers the former interpretation, which is fundamentally a legal concern founded in international law and the UN Charter, significantly reducing the international community’s responsibility to intervene and rather shifts the responsibility onto domestic and regional actors. This is why China’s discourse regarding South Sudan focuses so much on the agency of domestic and regional parties in conflict resolution and mediation, rather than action taken by the UNSC. POC, founded in IHL and respectful of the UN Charter, addresses human protection in consideration of wider responsibilities of the international community. Such an understanding of responsibility creates access for non-Western powers to contest operationalisation of human protection through POC. RP underlines China’s agency in promoting this notion of responsibility: “China shall continue to undertake its due responsibilities in upholding, together with the vast developing countries, the purposes of the UN Charter and the basic norms governing international relations.

**Conclusion**

This chapter focused on the normative agency of China to address the problems it sees in the implementation of human protection through R2P. Unlike Brazil, China contests R2P by avoiding its conflation with POC, refining and restricting the application of R2P to instances of conflict where mass atrocities are occurring and which threaten international peace and security. RP clarifies three normative claims made by China against R2P: first, a shifted focus to an international responsibility to assist domestic and regional actors to uphold regional peace and stability, and in turn a responsibility to protect; second, the need to implement human protection in respect of international law to ensure accountability and proportionality; third, the importance of peacebuilding in post-conflict situations to prevent protracted conflict. To show

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193 Ibid., 37-41.
194 Ibid., 42-48.
this normative contestation, the chapter analysed Chinese engagement with UNMISS and the South Sudanese conflict in respect to the three claims. By stressing regional solutions both during and post-conflict, and adherence to international law, China’s contestation of R2P opens up implementation of human protection to more global South states.
Chapter 3
South Africa’s Push for Robust Human Protection in MONUSCO

This chapter examines South Africa’s support of and contribution to an operational branch under the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO) called the Force Intervention Brigade (FIB) established in 2013. This particular mission is unprecedented in the history of the UN for its robust Chapter VII mandate, using all means necessary, to offensively target and neutralise armed groups threatening the sovereignty of the DRC Government and contributing to violence against civilians.\(^{196}\) Significantly, the mission still retains its POC mandate.\(^{197}\) Given South Africa’s criticism of the coercive force used in 2011 by NATO in Libya, why then has South Africa actively supported the use of coercive force in the DRC?

The argument follows that South Africa’s acceptance of coercive force to achieve POC stems from its contestation of R2P. For South Africa, the legitimacy gap in R2P is twofold. Firstly, it is important to dispel the myth that South Africa has an inconsistent stance on R2P. Although South Africa supports the normative substance of R2P, it argues the international community has thus far undertaken procedural elements of R2P’s implementation with disregard for regional conflict resolution efforts and has been selective in its application of the norm. To address this, South Africa pushes for ‘regionality’ in R2P, calling for greater agency of regional actors in R2P’s implementation to offer more timely responses to crises and act when the international community lacks the will to do so.

Contesting R2P in this way reveals that South Africa conflates R2P with POC. In regionalising agency, the peacekeeping principle of impartiality in human protection is altered. R2P and POC were both originally intended to mitigate sovereign violations of human protection.\(^{198}\) But since coercive force was used against the Libyan state in 2011 under R2P, there has been a shift to work more with states and regional actors to implement human protection; hence an inherent tension needs to be solved.\(^{199}\) South Africa therefore accepts the use of robust measures to

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achieve human protection, including the use of force, but in explicit support of state sovereignty and against non-state actors. This then acts as an entry point to study South Africa’s support for the FIB and the use of force to achieve its POC mandate. The case study shows that the idea of an intervention force was originally conceived by subregional organisations and that the UN only became involved when financial, logistical and political constraints threatened the deployment of the intervention force. The FIB also took on the original mandate of the intervention force created by African subregional organisations, including actively using force to support the DRC Government against internal threats from armed groups.

The chapter concludes with an analysis of the normative basis for MONUSCO and the FIB. For South Africa, the main goal of peace operations is no longer to maintain international peace and security as originally intended under Chapter VII of the UN Charter, but rather human protection. This calls for more robust, partial measures to achieve POC as a strategic goal, tending towards the deployment of stabilisation and peace enforcement missions. To reconcile this, South Africa’s contestation of R2P has used to the flanking measure of POC to conflate the two norms in such a way that the legal basis for the use of force in POC-mandated missions is incorporated with the political imperative of R2P to use robust measures to meet human protection aims.

**A Misunderstood Stance on R2P**

Before R2P’s conception in 2001, South Africa was a leading country within Africa in the transformation of the Organisation of African Unity (OAU) into the AU. The OAU’s staunch support for traditional sovereignty and non-interference was loosened to allow for a greater focus by the AU on human protection under the notion of ‘non-indifference’ in the face of inaction over the Rwandan Genocide in 1994.\textsuperscript{200} Non-indifference is underpinned by a R2P-like concept in the AU Constitutive Act in 2000 with Article 4(h) stating, “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”.\textsuperscript{201} South Africa’s activism for organisational change had its roots in a shift in its foreign policy after the disbanding of apartheid to a core focus on promoting human rights.\textsuperscript{202} Article 4(h) of the

Constitutive Act was incorporated into the Protocol Relating to the Establishment of the Peace and Security Council of the AU in July 2002, the central body which authorises and mandates peace operations and intervention on the continent. South Africa endorsed R2P in the 2005 WSOD, and the same year it contributed to the establishment of the AU’s Ezulwini Consensus, a common African position for reform of the UN, which supports R2P and explicitly links it to Article 4(h) of the Constitutive Act. South African statements on R2P cite its support of non-indifference and Article 4(h) as evidence of the country’s continued support of R2P, even after the Libyan crisis in 2011.

South Africa’s support of R2P continues outside its discourse. While holding a non-permanent seat on the UNSC from 2007-2008 and again from 2011-2012, South Africa voted in favour of resolutions invoking R2P concerning Sudan, Côte d’Ivoire, Guinea Bissau, the Central African Republic, Yemen, Libya, the DRC and Burundi. For all these resolutions, R2P was invoked to call on these national governments to uphold R2P (Pillar I) and in some instances citing the international community’s responsibility to assist (Pillar II). Moreover, South Africa’s concern for human protection has translated into action on the ground, with support for AU-mandated missions in Darfur (2004) and Burundi (2003) as well as AU mediation efforts in Kenya during post-election violence from 2007-2008.

There are, however, some decisions made by South Africa’s Government that make it seem like it has a contradictory position on R2P’s application. Examples include South Africa voting against a UNSC draft resolution in 2007 condemning military attacks in Myanmar against civilians in ethnic minority regions, and then a resolution in 2008 to apply sanctions against Zimbabwe’s President Robert Mugabe. For the former, South Africa reasoned the resolution

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would hinder efforts by the UN Secretary-General to find a solution to the crisis, and at that particular stage of the crisis it was better to be handled by the Human Rights Council rather than the UNSC. 210 Regarding the latter, South Africa expressed concern that sanctions would set back mediation efforts by the Southern African Development Community (SADC) and that the AU had not called for sanctions to be applied. 211

The most high-profile case of South Africa’s ‘contradictory’ relationship to R2P was the 2011 NATO-led intervention in Libya. South Africa voted in favour of resolution 1973, opposing the stance of the AU ad hoc High Level Committee, of which South Africa’s President Jacob Zuma was a member. 212 For South Africa, the implementation of a no-fly zone did not preclude the ongoing mediation efforts by the AU, and it did not think intervention would amount to regime change. 213 Once the intervention had caused the breakdown of AU mediation efforts and led to regime change, South Africa condemned how the mission was carried out. 214

From the examples given, it seems reasonable to assume that South Africa’s support of R2P is inconsistent. However, deeper analysis of the reasons why South Africa has supported or opposed certain resolutions reveals that South Africa in fact maintains support for the normative substance of R2P (human protection from atrocity crimes), it however expresses consistent concerns about how this protection is implemented. The following section outlines how South Africa attempts to address concerns of agency and selectivity in R2P through a concept this thesis calls ‘regionality’. Additionally, it examines how regionality has led South Africa to conflate R2P and POC, which consequently challenges the notion of impartiality.

**Regionality in R2P**

Regionality refers to the consistent notion forwarded by South Africa that regional and subregional organisations should be given more autonomy to implement human protection, 215 while receiving greater support from the international community to prevent and respond to

210 Ibid., (source concerning Myanmar).
211 UN, Security Council Fails to Adopt Sanctions Against Zimbabwe Leadership,.
212 Smith, “South Africa and the Responsibility to Protect,” 396.
214 Ibid.
atrocity crime situations, without the international community setting aside its own responsibility to act as necessary when atrocities occur.\textsuperscript{216} Prioritising pacific measures under Chapter VI and Chapter VIII, it stresses the need for a more regional application of Chapter VII measures when they are required.\textsuperscript{217} Regionality is a lens through which to analyse South Africa’s procedural concerns of R2P’s implementation regarding agency and selectivity.\textsuperscript{218} In addressing these concerns, regionality leads South Africa to conflate R2P and POC, which in turn has alters how impartiality is seen in human protection.

Greater agency for regional actors in R2P stems from the notion of “African solutions to African problems”.\textsuperscript{219} Consistent support is shown by South Africa for AU-led mediation efforts (Kenya in 2007) or peace operations (in Darfur from 2004 and in Burundi from 2003). South Africa, like the AU, argues that since UN bodies like the UNSC and UNGA are too far away from events on the ground during a crisis, regional organisations can provide swifter and more informed responses to mass atrocity situations.\textsuperscript{220} This belief in timely responses is so strong that when intervention becomes an option for AU members in response to mass atrocities, even though it would first normally require approval by the UNSC in line with Chapter VII, the Ezulwini Consensus in fact says, “…in certain situations, such approval [from the UNSC] could be granted after the fact in circumstances requiring urgent action.”\textsuperscript{221}

Admittedly, South Africa recognises not only that regional action under Chapter VII should require UNSC approval, but that especially with peace operations in Africa, regional organisations like the AU lack the resources to adequately respond to conflicts without the UN’s assistance\textsuperscript{222} - hence why AU peace operations have historically collaborated with the UN. It is when international action hinders regional conflict resolution efforts that South Africa sees a problem. South Africa opposed sanctions against Zimbabwean President Mugabe as they threatened SADC mediation efforts, and opposed NATO’s interpretation of the R2P mandate leading to the breakdown of AU negotiations and regime change. Regionality in R2P gives agency to regional actors in solving their own conflicts, stressing when international assistance

\textsuperscript{216} African Union, \emph{The Common African Position}, 6; Xolisa Mabhongo in UNSC, S/PV.5319, 27.
\textsuperscript{219} Smith, “South Africa and the Responsibility to Protect,” 394.
\textsuperscript{220} Sangqu, \textit{Statement at the UNGA Debate on R2P}, 4.
\textsuperscript{221} African Union, \emph{The Common African Position}, 6.
\textsuperscript{222} Mahlatse Mminele in UNSC, S/PV.7711, 71-72.
is required, the international community must first consider assisting regional actors instead of
taking it upon itself to act.\textsuperscript{223}

Another critique by South Africa of the international response to R2P is the selective way in
which it is applied. In responding to criticisms of its non-uniform position of R2P, South Africa
contrasts its longstanding history of involvement in peace operations in Africa to permanent
members of the UNSC, who have had very little involvement with peacekeeping in Africa
themselves,\textsuperscript{224} meaning the UNSC and international community do not employ R2P in a
consistent way and only when they have the political will to do so, such as in Libya or Côte
d’Ivoire. Regionality therefore ensures a greater chance of action in R2P situations by giving
more agency to regional actors to counteract the lack of action or deadlock that may occur on
the international level.

How South Africa has undertaken contestation of R2P is through conflation of POC and R2P
in its discourse on both agency and selectivity in R2P’s implementation. Regarding agency,
from 2005 South Africa has supported regional agency in POC, appealing to “…enhance the
capacity and readiness of regional organisations to respond to protection needs of civilians,”\textsuperscript{225}
and include greater consultation with troop contributing countries to “…ensure that
peacekeeping mandates are well defined and peacekeeping missions well equipped and
adequately resourced.”\textsuperscript{226} South Africa’s conflation of POC and R2P is seen in 2011. Citing
regime change in Libya, Baso Sangqu expresses that POC-mandated peacekeeping operations
must carry out their mandate “without prejudice to the sovereignty of host Governments”.\textsuperscript{227}

Crucially, states’ failure to uphold POC calls for international collective action in adherence to
the UN Charter, but also the 2005 WSOD and the AU Constitutive Act.\textsuperscript{228} Along with the
mirroring of R2P language, the mention of the WSOD and Constitutive Act is significant
evidence of conflation since they do not contain references to POC in armed conflict, and in
fact reflect the normative substance of R2P. The implicit notion is that regionality in
peacekeeping POC can solve the overreach shown thus far in R2P’s implementation. While
South Africa supports other means for accountability such as Brazil’s RwP,\textsuperscript{229} it highlights the

\begin{itemize}
\item\textsuperscript{223} Zaayman, \textit{Statement at the UNGA informal interactive dialogue on R2P}, 1.3.
\item\textsuperscript{224} Verhoeven et al., “‘Our Identity Is Our Currency’,” 521.
\item\textsuperscript{225} Mabhongo, UNSC, S/PV.5319, 27.
\item\textsuperscript{226} Adv. Doctor Mashabane in UNSC, S/PV.6354 (Resumption 1), 5.
\item\textsuperscript{227} Baso Sangqu in UNSC, S/PV.6650, \textit{Protection of civilians in armed conflict} (New York, 9 November, 2011),
22, \url{https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7d/Golan%20Heights%20S%20PV%206650.pdf}
\item\textsuperscript{228} Ibid., 23.
\item\textsuperscript{229} Ibid.
\end{itemize}
proactive role of the AU-UN missions in Darfur, the DRC and Somalia in developing POC strategies to operationalise commitments made in resolution 1894 (2009), which is not clear since the resolution mentions both R2P and POC.\textsuperscript{230}

In terms of selectivity, South Africa notes that the UNSC’s legitimacy is contingent on the consistency with which it pursues POC.\textsuperscript{231} It contrasts the proactive responses seen in Libya and Côte d’Ivoire with other conflicts which have called for POC responses such as in Afghanistan, Iraq, Palestine and the Western Sahara.\textsuperscript{232} Reflecting its statements made on R2P’s politicisation, South Africa emphasises the pursuit of POC in peace operations must avoid politicisation of the mandate to achieve other goals such as regime change.\textsuperscript{233}

Such normative conflation of R2P and POC has consequences for impartiality in human protection and is crucial to understanding South Africa’s support and involvement in peace enforcement in the DRC. As discussed in earlier chapters, in peace operations impartiality refers to treating all parties of a conflict equally.\textsuperscript{234} R2P however fundamentally challenges impartiality. States are central agents of R2P: it is states which have the primary responsibility to uphold R2P. Yet R2P is a response to state impunity, with Pillar III calling for action against states if they are unwilling or unable to uphold R2P.\textsuperscript{235} Nonetheless, the partial use of force against the Libyan state under Pillar III caused controversy among the international community.

Concerns for impartiality are mirrored in South Africa’s perception of POC. Alongside the conflation described above of POC’s implementation in line with the 2005 WSOD and the AU Constitutive Act, documents which embody the normative substance of R2P, Sangqu further recognises that “UN peacekeeping operations are increasingly tasked with mandates for protecting of civilians under imminent threat”, but, “expresses its concern about the impartiality of UN forces being compromised when the UN is seen as taking sides in the conflict…”\textsuperscript{236} Conflation in this manner shows South Africa’s deliberation over robust measures in carrying out POC, similar to the robustness demanded by R2P, while simultaneously trying to avoid the partiality of robust measures in human protection under R2P. Herein lies South Africa’s normative contestation of R2P through the flanking measure of POC. Even backing intervention

\textsuperscript{230} Mashabane in UNSC, S/PV.6790, 27.
\textsuperscript{231} Sangqu in UNSC, S/PV.6650, 23.
\textsuperscript{233} Sangqu in UNSC, S/PV.6650, 22.
\textsuperscript{234} Paddon Rhoads, “Emily Paddon Rhoads: “Taking Sides”,”.
\textsuperscript{235} Mégret, “Between R2P and the ICC,” 126.
\textsuperscript{236} Sangqu in UNSC, S/PV.6650, 23.
through Article 4(h) of the AU Constitutive Act and the Peace and Security Council’s 2002 Protocol, South Africa stresses that peace operations with POC mandates must “operate with great sensitivity to assure the host State that they are there... not to replace the States’ authority.”

South African attempts to harmonise the increasing robustness of POC-mandated peace operations with a respect for sovereignty has consequently contested agency in human protection through POC. When it comes to the responsibility to protect civilians, South Africa includes not only states, but also non-state actors, whose failure to uphold such protection “should not go unpunished”. Through R2P and POC’s conflation, South Africa supports an imperative to pursue POC more partially than previously, especially against non-state actors. This acts as a framework to examine South Africa’s engagement with MONUSCO and the FIB in the DRC.

**MONUSCO and the FIB**

The DRC has been facing violent conflict since 1996, characterised by violence between government forces and armed rebel groups. The United Nations Mission in the DRC (MONUC), mandated under Chapter VII, was set up in 1999 to oversee the signing of a peace accord in 2000, the establishment of a transitional power-sharing government and observe the adherence to the accord by all signatories. Yet after the peace accord, two eastern provinces in the DRC, North Kivu and South Kivu, experienced continually relapsing cycles of conflict characterised by physical and sexual violence against civilians, wide spread killings, and internal population displacement, at the hands of rebel groups. Increasing incidents of this nature resulted in MONUC’s primary mandate changing to POC in 2008, and further evolving into a stabilisation mission (MONUSCO) in 2010, reflecting the increasing robustness of the mission’s mandate to achieve POC.

A turning point came in May 2012 when a rebel group called the 23 March Movement (M23), previously part of the armed group Congrès National pour la Défense du Peuple (CNDP) which had signed a peace deal with the DRC Government on 23 March 2009, mutinied from the

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237 Mashabane in UNSC, S/PV.6354 (Resumption 1), 5.
239 Kayode, “’Intervention Brigade’ for the Congo,” 103-104.
240 Ibid., 102-103.
Armed Forces of the DRC (FARDC) over dissatisfaction of this peace deal.\textsuperscript{241} By November 2012, M23 had occupied Goma, the capital of North Kivu, driving out FARDC and MONUSCO forces. The FIB was established in response to these events by resolution 2098 (2013). The rest of this chapter examines South Africa’s support and contribution to the FIB’s establishment and operationalisation. It analyses the FIB through the lens of regionality to see first how the FIB addresses South Africa’s concerns of agency, and second how impartiality has been altered through the conflation of POC with R2P.

Although UNSC resolution 2098 officially established the FIB, it was subregional organisations that had first conceived the idea of an intervention force. A ‘Neutral International Force’ (NIF) was first conceived at the International Conference on the Great Lakes Region Heads of State Summit on the Security Situation in Eastern DRC held on 15 July 2012.\textsuperscript{242} On 8 December 2012 at the Extraordinary Summit of SADC Heads of State and Government, SADC decided to deploy its standby force to the eastern DRC under the guise of the NIF.\textsuperscript{243} In the face of financial and operational constraints, the UN decided to support the mission, but placed it under the operational command of MONUSCO and renamed it the ‘Force Intervention Brigade’.\textsuperscript{244}

South Africa played a large role in operationalising the FIB and supported the mandate due to its normative position of regionality and the way it had reconceptualised impartiality in achieving POC aims. South Africa received commendation for its contribution of one garrison and logistics support to the NIF,\textsuperscript{245} and under the FIB, contributed 1345 of approximately 3000 troops making up the force.\textsuperscript{246} South Africa was a signatory of the Peace, Security and Cooperation Framework for the DRC and the Region in 2013 calling for the consolidation of the DRC’s state authority and respect of non-interference from armed groups,\textsuperscript{247} some of which like M23, according to a UN Group of Experts report, were receiving support from the

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\textsuperscript{244} Touko Piiparinen, “Intervening to Strengthen Sovereignty: The Lessons of the UN Intervention Brigade for Global Peacekeeping.” \textit{International Relations} 30, no. 2 (2016): 165.

\textsuperscript{245} SADC, \textit{Communiqué}, 2.


neighbouring states of Rwanda and Uganda.\textsuperscript{248} Resolution 2098 carried on this mandate by authorising the FIB, unilaterally or in cooperation with MONUSCO and/or FARDC, to “…neutralize these groups, and to disarm them in order to contribute to the objective of reducing the threat posed by armed groups on state authority and civilian security in eastern DRC and to make space for stabilization activities.”\textsuperscript{249} To ensure that agency was returned to the DRC Government, the FIB was originally mandated with a one-year exit strategy to hand over the mission to a Congolese Rapid Reaction Force.\textsuperscript{250}

South Africa’s justification for its participation in the FIB as bolstering the DRC’s state authority and as “harmonised with the imperatives of the AU’s collective security…”,\textsuperscript{251} presents challenges to the notion of impartiality. MONUSCO and the FIB are fundamentally POC-mandated peace operations.\textsuperscript{252} POC-mandated operations have traditionally respected the foundational peacekeeping principles of impartiality, neutrality and use of force in self-defence or defence of the mandate.\textsuperscript{253} Why then does MOUNSCO break this mould? The answer lies in the way that states like South Africa have normatively engaged with human protection through POC and R2P. In 2016, South Africa highlighted that “…all United Nations peace operations have an obligation to protect civilians…” and further, “the credibility of United Nations peacekeepers depends largely on their willingness and capability to act when civilians are threatened.”\textsuperscript{254} The original \textit{raison d’être} of robust measures including the use of force in peace operations, as outlined in Chapter VII, was to maintain international peace and security.\textsuperscript{255} The primacy of international peace and security was evident for China in \textit{Chapter 2}. Yet for South Africa:

“Since 1999, Protection of Civilians has become one of the central concerns of UN Peacekeeping operations, yet both policy and practice has not evolved quickly enough in order to realise full and effective protection of civilians…in order for UN

\textsuperscript{249} UNSC, S/Res/2098 (2013), 6, art. 12(b).
\textsuperscript{250} Ibid., 6, art. 9-10.
\textsuperscript{252} UNSC, S/Res/2098 (2013), 6, articles 9-10.
\textsuperscript{254} Mminele in UNSC, S/PV.7711, 72.
peacekeeping operations to effectively carry out their protection of civilians’ mandate, they would require the requisite resources and capabilities to assume a robust posture to implement their mandate.”

From the perspective of Wiener’s theory, the legitimacy gap to address in human protection for South Africa is not only the need for greater agency for regional actors, but insufficient robustness to achieve human protection under POC, because POC is now the raison d’être for peace operations. This is noteworthy since R2P’s third pillar, and not POC, is usually cited as the norm which requires the use of robust measures at a strategic level to realise its human protection aims. South Africa addresses the legitimacy gap by conflating POC and R2P through, what Thierry Tardy contends happened in Libya and Côte d’Ivoire, a greater tendency to combine the legal basis for the use of force in POC with the political imperative of R2P to ensure peace operations meet expectations of human protection.

None of the mandates of MONUSCO, including resolution 2098, refer to R2P explicitly, yet they employ R2P-like language when referring to MONUSCO and the FIB’s mandate to protect civilians, as well as the DCR Government’s primary responsibility to protect civilians. This respect of sovereignty acts as the legal basis for robust human protection. Tardy argues while the use of force at a strategic level is central to R2P, an example being the use of force against the Libyan state, the use of force in POC, with the consent of the DRC Government with the FIB, is tactical. This interpretation however does not take into account that for the FIB, POC is the strategic imperative of MONUSCO, with a mandate to use all force necessary to achieve this, leading even to the use of attack helicopters and unmanned aerial vehicles in the pursuit of POC. The only difference is in Libya, the use of force was against a state, while the use of force in the DRC is against non-state actors.

For Frédéric Mégret, this is significant as “…robust peacekeeping, the ICC and R2P may tend to reinforce each other’s tendency to adopt an anti-non-state actor bias, even as they were

258 Tardy, “Protecting Civilians in Africa,” 210-211
259 Ibid., 208.
261 Tardy, “Protecting Civilians in Africa,” 214.
imagined as tools to fight sovereign excesses."263 This pro-sovereignty, pro-consent form of robust human protection is at the crux of stabilisation and peace enforcement operations.264 MINUSTAH in Chapter 1 is such an example, however Brazil contested that focus of the operation should be on peacebuilding rather than peace enforcement. By abiding with international law and the UN Charter, gaining the consent of the host state, and employing robust measures when sanctioned by the UNSC, cases like the FIB align with South Africa’s normative position on using force to achieve human protection.

Conclusion

This chapter explored why South Africa has supported the FIB considering the mission employs force offensively to achieve its POC mandate. It has shown to be a case of normative agency on the part South Africa in contesting the norm of R2P. South Africa sees a legitimacy gap in R2P’s implementation in two ways: a lack of access to its implementation by regional actors and the selectivity which with the norm has been applied by the international community. South Africa looks to rectify this through ‘regionality’ in human protection norms, by increasing the role of regional organisations in their implementation. This is achieved through reference to a flanking measure, POC, and conflating the two concepts.

This conflation has consequences for impartiality in respect to human protection. Although POC and R2P have their origins in mitigating state violations of human protection, South Africa has tried to reconcile increasing robustness to achieve human protection imperatives with support for state sovereignty. The FIB is an example of how South Africa and African regional organisations are applying regionality in human protection. Furthermore, it demonstrates how South Africa now sees human protection, rather than international peace and security, as a strategic goal of peace operations, and as such, combines the legal basis for the use of force in POC with the political imperative of R2P to meet expectations of human protection.

263 Mégret, “Between R2P and the ICC,” 146.
Conclusion

This thesis set out to answer the central question: how do Brazil, China and South Africa attempt to reconcile questions of legitimacy surrounding the pursuit of human protection and its implementation through R2P? It did this by analysing discourse in three case studies of each country’s involvement with a specific peace operation: Brazil and MINSTAH, China and UNMISS, and South Africa and the FIB as part of MONUSCO. The thesis drew on Wiener’s Theory of Contestation to identify processes of norm contestation present in each of the case studies – the use of the flanking norm POC to contest the normative claims of R2P.

What then is the significance of identifying and analysing this process of norm contestation? The significance is threefold. First, it builds on the existing literature highlighting the agency of non-Western states in shaping norms of global governance. Using contemporary case studies, it demonstrates that the processes of contestation undertaken by Brazil, China and South Africa can be understood as strategies to shape R2P not only towards their own normative expectations, but those of global South as well. Second, given an increasing reliance on non-Western states in operationalising peace operations, strategies of contestation which give them greater agency means that in future peace operations, their concerns are likely to be reflected in the mandates and operational components of these missions. The third contribution this thesis makes relates to future avenues of research. This thesis limits its analysis to how Brazil, China and South Africa use contestation strategically to shape human protection according to their own normative expectations. A next step in this research would be to see how successful they are in establishing consensus on their normative position among the international community, especially those from global South states, and how they attempt to achieve this through interaction with other state actors.

There is already a substantial body of work in International Relations that has sought to explain and analyse the increasing agency of non-Western states in contesting norms of global governance. Further, research into human protection as a norm of increasing importance in global governance has started to focus on the way related human protection norms such as POC and R2P change over time and interact with each other. This has been noted in the way R2P and POC have been conflated in multiple contexts such as in UNSC resolutions and the discourse of states like Brazil and South Africa. The first contribution of this thesis is to highlight that non-Western rising and regional powers are agents who actively shape the way POC and R2P interact with each other to meet their own normative expectations of human...
protection. It does this by using contemporary case studies to contribute further empirical evidence for norm contestation by non-Western states. The case studies demonstrate the influence of the unique normative “baggage” – in the words of Wiener – of Brazil, China and South Africa on their contestation practices. Despite their common usage of POC to contest R2P, the normative baggage with which they enter into normative contestation of R2P dictates what they see as the legitimacy gap in R2P. For example, the selectivity in R2P’s application from the global North has seen South Africa push for greater regional agency in Africa in implementation of human protection, while for Brazil, the main problem in R2P’s implementation is its lack of accountability in the Libyan intervention, which it sought to rectify with RwP.

Although their own normative expectations might be different, Brazil, China and South Africa frame their contestation with a common aim: the call for greater agency by the global South in the implementation of human protection norms. For Brazil, this was born out of South-South cooperation in MINUSTAH, and for China and South Africa, the need to prioritise the involvement of regional actors before the international community.

This leads into the second contribution of the thesis, which is to show the impact of non-Western states’ agency in shaping human protection norms on the mandates and operational components of peace operations. Recalling Wiener’s theory, organising principles such as POC and R2P shape the priorities and aims of standardised procedures in peace operations. It follows then, the more non-Western powers can influence organising principles, the more they can shape the mandates and operational components of peace operations. This is evident in the China and South Africa case studies. Concerning UNMISS, despite China’s increased peacekeeping presence under a Chapter VII mandate, it sought to restrict additional coercive measures like sanctions which could threaten peace negotiations happening in parallel to peacekeeping efforts. For the FIB, South Africa was a key player in operationalising the FIB and supported the robust mandate of the mission because it fit with its normative position on achieving POC aims through robust measures in support of state sovereignty.

Non-Western agency is significance for two reasons. First, the troops that make up UN peace operations increasingly come from the global South, from countries that are at times situated in regions where peace operations currently operate. Second, if non-Western states are increasingly able to influence the organising principles which guide the aims and activities of peace operations through norm contestation processes like the one explored in this thesis, it is likely that future peace operations will increasingly have to factor in the normative concerns of
troop-contributing countries in order to ensure successful and legitimate implementation of human protection through peace operations.

The third and final contribution that this thesis makes is to possible future pathways for research based on the findings of this work. One of the key findings in this thesis is that Brazil, China and South Africa have different strategies in their contestation of R2P. While Brazil and South Africa conflate POC with R2P, China restricts R2P by expanding the role for POC in human protection. Whether they conflate both norms, or try to restrict and separate them, depends on their broader aims in contesting R2P. While this thesis limits its analysis to how Brazil, China and South Africa use contestation to shape R2P, future research could analyse how successful these strategies of norm contestation are in, firstly, achieving their aims, and secondly, garnering consensus and support around their normative claims by interacting with other actors, especially global South states. For example, it would be worth investigating why Brazil’s RwP has attracted wide attention in both political circles and in academia, while China’s Responsible Protection has not. Concerning South Africa, it would be interesting to determine whether the conceptual shift to place human protection as the raison d’être of peace operations is shared by others, and whether it will continue to encourage robust measures and mandates for peace operations.
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