RaY

Research at the University of York St John

For more information please contact RaY at
ray@yorksj.ac.uk

EJIS

RESEARCH ARTICLE

The R2P and atrocity prevention: Contesting human rights as a threat to international peace and security

Samuel Jarvis* iD

York St John University, York, United Kingdom
*Corresponding author. Email: s.jarvis@yorksj.ac.uk

Abstract
The significant link between human rights violations and the eventual outbreak of atrocity crimes has been widely promoted across the UN system. However, the question of how the connection between the R2P norm and human rights plays out in the actual practices and debates of the UN Security Council has been relatively under explored. In response, the article builds on constructivist research into norm robustness in order to trace how the R2P's shift to an atrocity prevention focus has generated increased applicatory contestation over the push to expand the link between human rights and threats to international peace and security. Based on extensive analysis of UN Security Council meeting records and three case studies, the article highlights two competing ideological frames that currently divide the Security Council's approach to atrocity prevention. This division has emphasised a key disconnect between the work of the Security Council and other UN institutions such as the Human Rights Council, therefore severely limiting the potential for effective atrocity prevention responses. Thus, without a stronger connection to human rights in the process of threat identification, the R2P norm will remain considerably limited as a prevention tool. Consequently, the article also contributes to a new understanding of the critical role evolving institutional rules and practices play in state attempts to both constrain and reshape human protection norms.

Introduction

In his first formal address to the UN Security Council in January 2017, Secretary-General António Guterres underlined the need to rebalance the Council's approach to international peace and security, emphasising in particular, the link between systematic human rights violations and their potential to lead directly to the outbreak of mass atrocity crimes.[1] Four months later the UN Security Council held, for the very first time in its history, a dedicated meeting on the question of how human rights violations and abuses can lead to the outbreak of atrocity crimes and a breakdown in international peace and security.[2] Both examples highlighted a more concerted effort by the UN Secretariat and certain member states to further expand the connection between the UN's human rights pillar and issues of peace and security, in order to address the Council's previous poor record on atrocity prevention.

---

[1] UN Doc. S/PV.7857, Meeting of the Security Council, 10 January 2017.
[2] UN Doc. S/PV.7926, Meeting of the Security Council, 18 April 2017.

Historically, the pillars of the UN have not received equal treatment, with peace and security seen to represent the dominant purpose of the institution.[3] This would initially begin to shift under the stewardship of UN Secretary-General Kofi Annan, with human rights given greater emphasis in the UN's work, resulting in the development of new human security initiatives as well as shaping the eventual creation of the R2P norm.[4] The development of the R2P in the International Commission on Intervention and State Sovereignty (ICISS) 2001 report[5] made consistent connections to the importance of human rights protection, particularly regarding atrocity prevention. However, the practical links between the R2P and human rights have since remained ambiguous, particularly in terms of how the connection fits into the UNSC's work on atrocity prevention.[6] Yet, as David Karp has highlighted, what is the R2P really for 'if it does not seek to be grounded in and to maintain its alignment with the actual notion of human rights protection?'.[7] Consequently, R2P scholars such as Kirsten Ainley[8] and Hugh Breakey,[9] have both challenged the narrow atrocity focus of the R2P norm eventually agreed in the 2005 World Summit Outcome Document (WSOD), arguing instead for the adoption of a stronger human rights lens to improve the R2P's effectiveness as a prevention tool. Yet the question of how this connection between the R2P norm and human rights plays out in the actual practices and debates of the UNSC has been relatively under-theorised. More significantly, there has been only limited focus on the extent to which reinforcing this connection between human rights and the R2P is actually critical to further strengthening the effectiveness of the R2P norm.

In light of this lacuna in the current literature, it is therefore vital to examine in more detail how recent attempts by states to strengthen the link between human rights and atrocity prevention is playing out in the practices of the UNSC and what this means for the R2P norm's development as a prevention tool. In doing so, the article will specifically focus on the evolving contestation that surrounds the Council's working practices under Chapter VI and its link to the emerging prevention agenda connected to the R2P. While much of the R2P debate has traditionally focused on the role of Chapter VII and coercive responses through the UNSC,[10] the more recent turn to re-emphasise the importance of prevention has heightened the need for improved early warning systems, and better briefing of the Council of potential human rights abuses that may later lead to atrocity crimes.[11] By shining a light on the relatively underexplored relationship between Chapter VI measures and the R2P, this article demonstrates how applicatory contestation of the R2P norm is now increasingly connected to the place of human rights within the UNSC's work and the extent to which such acts reach a threshold of posing a threat to international peace and security. Subsequently, this contestation has allowed states such as China and Russia to remain effective in shielding key allies perpetrating atrocities while still claiming to

---

[3]Hardeep S. Puri, 'Human rights, mass atrocity prevention and the United Nations Security Council: The long road ahead', *UN Chronicle*, 53:4 (2017), pp. 28–31.

[4]Edward Newman, 'The United Nations and human security: Between solidarism and pluralism', in Mary Martin and Taylor Owen (eds), *Routledge Handbook of Human Security* (Abingdon, UK: Routledge 2014).

[5]ICISS, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa, Can.: International Development Research Centre 2001).

[6]Ekkehard Strauss, 'The UN Secretary-General's human rights up front initiative and the prevention of genocide: Impact, potential, limitations', *Genocide Studies and Prevention: An International Journal*, 11:3 (2018), pp. 48–59 (p. 57).

[7]David Karp, 'The responsibility to protect human rights and the RtoP: Prospective and retrospective responsibility', *Global Responsibility to Protect*, 7:2 (2015), pp. 142–66 (p. 146).

[8]Kirsten Ainley, 'From atrocity crimes to human rights: Expanding the focus of the Responsibility to Protect', *Global Responsibility to Protect*, 9:3 (2017), pp. 243–66.

[9]Hugh Breakey, 'Protection norms and human rights: A rights-based analysis of the Responsibility to Protect and the protection of civilians in armed conflict', *Global Responsibility to Protect*, 4:3 (2012), pp. 309–33.

[10]Andrew Garwood-Gowers, 'R2P ten years after the world summit: Explaining ongoing contestation over pillar III', *Global Responsibility to Protect*, 7:3–4 (2015), pp. 300–24.

[11]Edward C. Luck, 'Why the United Nations underperforms at preventing mass atrocities', *Genocide Studies and Prevention: An International Journal,* 11:3 (2018), pp. 32–47.

uphold the spirit of the UN Charter. What this ultimately highlights, is a significant weakness in the R2P's practical application as a prevention tool in the UNSC.

To theorise this weakness, one must first examine the specific applicatory contestation that concerns the link between human rights and R2P. Applicatory contestation can be defined as contestation that provokes debate regarding the situations in which the norm applies and how it should be operationalised, rather than challenging the very existence and validity of the norm itself.[12] Applicatory contestation has arguably worked to strengthen the more traditional 'demand-led' approach to mass atrocity prevention, in which attempts to deploy or even discuss the potential use of fact-finding missions or the monitoring of human rights situations are framed as sovereignty issues in the Security Council, whereby appeals for support must come from the state in question first.[13] This demand-led approach is at the same time presented as both compatible with support of the R2P's Pillar I and II, as well as being seen as respectful of the original purpose and function of the Council, regarding its role in the maintenance of international peace and security.

Certainly, for much of its history, the Security Council has held a restricted conception of threats to international peace and security, very rarely acknowledging human rights abuses as anything other than a state's own domestic business.[14] While there has been a shift to try and better incorporate human rights issues into the Council's decision making over recent decades,[15] member states remain significantly divided on the relationship between threat identification and human rights violations. Subsequently, it is argued that a divide between P5 members over how to approach the implementation of prevention initiatives can be seen as symptomatic of a growing ideological battle over the future connection between the UN's founding pillars. Most notably, how states perceive the relative weight of the human rights pillar and its place within the Security Council's work and focus. It is these factors that make the Security Council such a critical site of investigation for examining the current status of the R2P norm, through which it is possible to explore the interaction between state foreign policy, shared global norms, and institutional rules and practices. While the Security Council is only one of many arenas in which contestation over the R2P plays out, including in domestic political settings and other institutions of the UN, it is unique in both its assumed collective responsibilities for security threats and its power to implement timely action and response.

The central analysis of the article examines the push to expand the remit of human rights in the UNSC's work by focusing on three key cases that span the first four years of UN Secretary-General António Guterres's term in office, namely Democratic People's Republic of Korea (DPRK), Myanmar, and Burundi.[16] During this period, Guterres specifically set out to encourage states to rebalance the Council's approach to international peace and security in order to help improve the UN's record on prevention. The selection of the three cases is first informed by a textual analysis of 65 UN Security Council meeting records between 2017–20, centring on meetings called to discuss the maintenance of international peace and security.[17] The

---

[12]Nicole Deitelhoff and Lisbeth Zimmermann, 'Things we lost in the fire: How different types of contestation affect the robustness of international norms', *International Studies Review*, 22:1 (2020), pp. 51–76 (p. 59).

[13]Rosemary Foot, *China, The UN, and Human Protection: Beliefs, Power, Image* (Oxford, UK: Oxford University Press 2020), p. 153.

[14]Hikaru Yamashita, 'Reading threats to international peace and security 1946–2005', *Diplomacy and Statecraft*, 18:3 (2007), pp. 551–72; Bardo Fassbender, *Securing Human Rights? Achievements and Challenges of the UN Security Council* (Oxford, UK: Oxford University Press, 2011).

[15]The beginning of the post-Cold War era was significant in the process of redefining the parameters of the UN's responsibility and interpretations of international peace and security. See Charles Carter and David M. Malone, 'The origins and evolution of Responsibility to Protect at the UN', *International Relations*, 30:3 (2016), pp. 278–97.

[16]This specific period has been selected as it begins with two significant milestones: a new policy agenda set out by Guterres that emphasised prevention as the central UN priority and the very first UNSC meeting on the connection between human rights and threats to peace and security.

[17]A list of the 65 meetings records analysed is available in the online supplementary material.

coding of these documents identified key themes that were critical in shaping such discussions, namely: appeals to sovereign integrity and non-interference, the Security Council's remit and focus, and the connection between human rights and early warning. Through this analysis, it is possible to highlight two significant and competing ideological frames, one defined by the need to view human rights as a central part of threat identification and prevention, and the other defined by the importance of state consent for prevention initiatives and a more restrictive understanding of threat identification. The three cases selected therefore help to evidence how these competing frames have influenced differing levels of applicatory contestation surrounding atrocity prevention activity in the Security Council. In doing so it is argued that the disconnect between the work of the UNSC and other human rights institutions such as the Human Rights Council (HRC),[18] severely limits the potential for effective atrocity prevention responses under the R2P.

The contribution of the article is therefore twofold. Firstly, it provides new insight into both the ideological divisions in the UNSC over attempts to expand the connection between human rights and atrocity prevention, as well as how the institutions' structures and practices have overall constrained the effectiveness of the R2P norm. It is therefore argued that the ambiguity over the link between human rights and the R2P has highlighted an underlying weakness in the potential of the R2P to function as an atrocity prevention tool. Without a clearer connection between the work of the UNSC and human rights monitoring institutions, such as the HRC, there is no process to effectively enforce human rights protection and thus limit the potential for such cases to escalate to atrocity crimes. Secondly, the article builds on recent constructivist research into applicatory contestation,[19] in order to unpack the significance of the R2P's interaction with other normative concepts and thus provides new insights into how complex norms evolve as well as their relation to institutional rules and principles. In this sense, the R2P can be seen to be entering a distinct new phase of contestation, one that is defined by two competing frames for the R2P's application in practice.

To develop this argument, the article is structured in three sections. The first section outlines the progress of the R2P norm, highlighting the growth of new forms of applicatory contestation and the key interaction between Security Council practice and norm implementation. Subsequently, it is argued that to better understand future normative change it is crucial to examine how a norm interacts with competing and complementary norms and institutional rules. The second section outlines the contested evolution of the R2P in relation to the actions and practices of the UNSC, focusing first on key debates over Libya and Syria. It then goes on to explain the recent shift towards a more overt prevention agenda, charting the importance of the connection between R2P and human rights and the extent of the backlash against this more expansive position. In order to analyse this shift in greater detail, the third section provides new analysis of key Security Council meetings, focusing on three country-specific cases, DPRK, Myanmar, and Burundi, which evidence the evolution of contestation surrounding the identification of threats to international peace and the use of Chapter VI measures for atrocity prevention. In doing so it highlights the key weaknesses of the R2P as an atrocity prevention tool. To conclude, it is argued that without greater strengthening of the link between the R2P and human rights, the UNSC will struggle to provide an effective forum for atrocity prevention and support for the human protection norm cluster more broadly, particularly when the work of other UN institutions remains largely outside of the UNSC's authority. Looking forward, the article reflects on the longer-term impact of this ideological divide in the Security Council and examines how it

---

[18]See Universal Rights Group (2021) report on the current issue of connection between the UNSC and HRC, available at: {https://www.universal-rights.org/urg-policy-reports/building-a-coherent-human-rights-council-security-council-relationship-the-prevention-of-human-rights-crises-violent-conflict-and-atrocity-crimes/}.

[19]Deitelhoff and Zimmermann, 'Things we lost in the fire'; Eglantine Staunton and Jason Ralph, 'The Responsibility to Protect norm cluster and the challenge of atrocity prevention: An analysis of the European Union's strategy in Myanmar', *European Journal of International Relations*, 26:3 (2020), pp. 660–86.

is set to further exacerbate the challenge of atrocity prevention at the global level and what innovative practices could be developed in response.

The R2P norm and applicatory contestation

The divergence in the interpretations of prominent R2P scholars when assessing the norm's progress against the pattern of traditional models of norm diffusion[20] has highlighted the consistent difficulties of drawing definitive conclusions on the R2P's relative progress. Part of this problem has been how orthodox models of normative change have 'portrayed predominantly linear and diffusionist logics of norm evolution that underplay the complex interaction implicit in unpredictable outcomes at the systemic level'.[21] In this regard, one can point to the way constructivist literature previously treated norms as relatively static independent variables in order to 'facilitate analysis and dialogue with competing [established IR] perspectives'.[22] Consequently, the assumption of a norm's fixed and static nature often leads to normative contestation being interpreted as 'rhetoric that aims to disguise non-compliance',[23] rather than recognising the often legitimate attempts by actors to reshape and reinterpret norms.

Advances in the second generation of international norm scholarship have thus sought to better conceptualise normative change through a stronger emphasis on the process of norm adaption and localisation at the national level, helping to provide a greater understanding of normative contestation and its impact on a norm's overall robustness.[24] Central to this new emphasis on contestation has been a focus on the limitations of institutionalisation, which is argued not to necessarily represent a moment of triumph for norms. In addressing this contestation, Alexander Betts and Phil Orchard have highlighted the need for greater focus on the role of implementation, and how it represents a crucial complement to existing theoretical accounts of the role of international norms in world politics.[25] In this case, instead of seeing norms as 'fully institutionalised once they are accepted by governments', a greater focus on implementation opens up the possibility of analysing 'how international norms are then diffused from state capitals through a range of regional and local levels'.[26] As Cecilia Jacob argues, this approach seeks to emphasise the norm diffusion process as a 'dynamic and cyclical interaction between levels of governance that continue to feed into the norm making process'.[27] In this sense, meanings must be understood as always in principle contested, and thus contestation is central to a norm's overall legitimacy.[28] It is through the social process of deliberation that a norm's meaning can shift and through which a norm can gain or lose acceptance over time. Even a norm that has

---

[20]Martha Finnemore and Kathryn Sikkink, 'International norm dynamics and political change', *International Organization*, 52:4 (1998), pp. 887–917.

[21]Charles T. Hunt, 'Emerging powers and the Responsibility to Protect: Non-linear norm dynamics in complex international society', *Cambridge Review of International Affairs*, 29:2 (2016), pp. 761–81 (p. 761).

[22]Matthew J. Hoffman, 'Norms and social constructivism in international relations', in Robert A. Denemark and Renée Marlin-Bennett (eds), *The International Studies Encyclopedia,* Blackwell Reference Online (Hounslow, UK: Palgrave Macmillan 2010), p. 3.

[23]Jason Ralph, 'The Responsibility to Protect and the rise of China: Lessons from Australia's role as a "pragmatic" norm entrepreneur', *International Relations of the Asian Pacific*, 17:1 (2017), pp. 35–65 (p. 40).

[24]Antje Wiener, 'Contested compliance: Interventions on the normative structure of world politics', *European Journal of International Relations*, 10:2 (2004), pp. 189–234; Jennifer Welsh, 'Norm contestation and the Responsibility to Protect', *Global Responsibility to Protect*, 5:4 (2013), pp. 365–96; Holger Niemann and Henrik Schillinger, 'Contestation "all the way down"? The grammar of contestation in norm research', *Review of International Studies*, 43:1 (2017), pp. 29–49.

[25]Alexander Betts and Phil Orchard, 'Introduction: The normative institutionalization-implementation gap', in Alexander Betts and Phil Orchard (eds), *Implementation and World Politics: How International Norms Change Practice* (Oxford, UK: Oxford University Press 2014).

[26]Ibid., p. 12.

[27]Cecilia Jacob, 'From norm contestation to norm implementation: Recursivity and the Responsibility to Protect', *Global Governance*, 24:3 (2018), pp. 391–409 (p. 392).

[28]Wiener, 'Contested compliance', p. 200.

been institutionalised into an organisation, such as the R2P, remains ambiguous and thus subject to different understandings that are built into the norm and remain present.[29]

However, in order to better conceptualise the competing interpretations of a norm at any one time, it is crucial to unpack the construction of the norm itself as well as assess the extent to which it is embedded into broader normative structures. Concerning the R2P, it is first vital to recognise the R2P as a 'complex norm', one that contains more than one prescription.[30] States thus have a responsibility to protect their citizens from mass atrocity crimes as well as the responsibility to act collectively in response to such violations. This ultimately means that the failure to protect one's population can be seen to act as a trigger for the fulfilment of the international community's collective responsibility, creating the conditions for increased contestation over the emphasis being placed on the contrasting pillars of the R2P norm and conditions for its implementation.[31] This form of contestation is an example of 'applicatory contestation', in which states contest how the norm is implemented and in what situations it can be activated. This creates the opportunity to bring about new understanding of how the norm might be applied and under what conditions.[32] Applicatory contestation is not unique to the R2P norm and has been the focus of analysis in regard to other norms and institutions such as the targeted killing norm[33] and the International Criminal Court (ICC).[34] Both these examples also highlight the potentially regressive nature of this form of contestation, which can be effective in challenging new normative developments.

As Eglantine Staunton and Jason Ralph have argued, a key part of the R2P's complexity is the distinction between reacting to atrocities and preventing them.[35] As this article will go on to examine, the R2P's shift towards a greater focus on prevention has generated new forms of applicatory contestation, regarding how the norm relates to both human rights norms and evolving institutional interpretations of what constitutes a threat to international peace and security. In response, this article builds on recent norm scholarship that moves beyond the focus on a singular norm and thus provides a stronger analysis of 'broader norm complexities' created by related norms, principles, and rules that co-exist within the same institutional environment.[36] As Orchard has argued, it makes sense to understand the R2P not as a singular norm but instead as a norm regime,[37] or cluster,[38] in which the R2P exists in a framework that is connected to a range of norms both old and new, concerning issues such as human rights, the protection of civilians, humanitarian action, and international criminal law. More specifically, one can conceptualise the relationship between the R2P and the concept of threats to international peace and security, as a new norm being grafted onto a longer tradition of the Council, in this regard, the full authority the Council has over identifying peace and security issues within the UN.[39]

---

[29]Ingvild Bode and John Karlsrud, 'Implementation in practice: The use of force to protect civilians in United Nations peacekeeping', *European Journal of International Relations*, 25:2 (2019), pp. 458–85 (p. 460).

[30]Jennifer Welsh, 'Norm robustness and the Responsibility to Protect', *Journal of Global Security Studies*, 4:1 (2019), pp. 53–72 (p. 56).

[31]Ibid., p. 56.

[32]Deitelhoff and Zimmermann, 'Things we lost in the fire', p. 52.

[33]Betcy Jose, 'Not completely the new normal: How Human Rights Watch tried to suppress the targeted killing norm', *Contemporary Security Policy*, 38:2 (2017), pp. 237–59.

[34]Nicole Deitelhoff, 'What's in a name? Contestation and backlash against international norms and institutions', *The British Journal of Politics and International Relations*, 22:4 (2020), pp. 715–27.

[35]Staunton and Ralph, 'The Responsibility to Protect norm cluster', p. 5.

[36]Emily Paddon Rhoads and Jennifer Welsh, 'Close cousins in protection: The evolution of two norms', *International Affairs*, 95:3 (2019), pp. 597–617 (p. 598).

[37]Phil Orchard, 'Contestation, norms, and the Responsibility to Protect as a regime', in Charles T. Hunt and Phil Orchard (eds), *Constructing the Responsibility to Protect: Contestation and Consolidation* (London, UK: Routledge, 2020), pp. 28–49.

[38]Carla Winston, 'Norm structure, diffusion, and evolution: A conceptual approach', *European Journal of International Relations*, 24:3 (2018), pp. 638–61.

[39]Hunt and Phil Orchard (eds), *Constructing the Responsibility to Protect*.

Through examining this interrelationship, it is possible to provide a more nuanced understanding of how evolving and competing interpretations of the UN Charter's conception of threats to peace and security are directly intertwined with the normative consistency of the R2P and its future implementation.

It is the question of which situations fall under the specific parameters of the R2P as well as how intrusive certain measures should be, both in terms of preventive responses and military interventions, that have therefore continued to constitute the majority of contestation facing the R2P norm.[40] This contestation can be seen to play out in the Security Council, in which resolutions are most likely to 'reflect various related or overlapping normative urges' that seek to pull the norm in competing directions while simultaneously reshaping the norms meaning in use.[41] Consequently, as this article will demonstrate, the R2P's relationship to human rights and competing interpretations of the Council's role in matters of peace and security threaten to significantly restrict and limit the R2P's implementation as a direct prevention tool.

In assessing the evolving nature of applicatory contestation faced by the R2P, it is crucial to further clarify the influence of non-Western actors in this process. Scholarship focusing on the role of emerging powers in the normative development of the R2P has increasingly emphasised the agency of non-Western actors in reshaping the R2P norm through the development of new ideas and interpretations.[42] While more orthodox and linear approaches to norm scholarship have tended to underplay the participation of emerging powers in the process of norm diffusion, this article reinforces the critical role these actors play in shaping normative behaviour and their influence on the R2P norm's development.[43] Moreover, there has also been a tendency in previous literature to see emerging powers as simply an obstructive force in norm development that can be seen to underestimate the complexity and nuance of the actors involved in shaping the R2P norm over time.[44] A key tactic for emerging powers in this process of pursuing normative change at the international level has been the use of 'rhetorical adaption', to contest pre-existing orders and thus modify norm content while also 'reducing critiques of obstructionism'.[45] The complexity of the R2P norm cluster therefore creates space through which emerging and non-Western powers can both contest the link between human rights abuses and the need to recognise threats to peace and security, while at the same time working to support other principles underpinning the R2P norm. As this article will demonstrate, the future effectiveness of the R2P norm and the growing prevention agenda is deeply connected to the changing interpretations of rules and procedures in the Security Council, which directly shape the horizon of opportunity[46] for the norm's implementation as a direct prevention tool. What this suggests is that how states choose to apply the formal and informal rules of the Security Council has a significant impact on what actions can then be taken in a preventive manner not just in direct response to mass atrocities already occurring. Consequently, this can limit

---

[40]Deitelhoff and Zimmermann, 'Things we lost in the fire'.

[41]Kurt Mills and Alan Bloomfield, 'The Ambiguity of Human Rights Norms and Institutions: Antipreneurs and the International Criminal Court' (2016), p. 9, available at: {http://web.isanet.org/Web/Conferences/HR2016-NYC/Archive/2377113d-3158-42f9-98d7-8171b71700e8.pdf}.

[42]Amitav Acharya, 'Who are the norm makers? The Asian-African conference in Bandung and the evolution of norms', *Global Governance*, 20 (2014), pp. 405–17; Cristina Stefan, 'On non-Western norm shapers: Brazil and the responsibility while protecting', *European Journal of International Security*, 2:1 (2017), pp. 88–110; Oliver Stuenkel, 'The BRICS and the future of R2P: Was Syria or Libya the exception?', *Global Responsibility to Protect*, 6:1 (2014), pp. 3–28.

[43]Hunt, 'Emerging powers and the Responsibility to Protect'.

[44]Alan Bloomfield, 'Norm antipreneurs and theorising resistance to normative change', *Review of International Studies*, 42:2 (2016), pp. 310–33.

[45]Courtney J. Fung, 'Rhetorical adaptation, normative resistance and international order-making: China's advancement of the responsibility to protect', *Cooperation and Conflict*, 55:2 (2020), pp. 193–215 (p. 193).

[46]The term 'horizon of opportunity' refers to the time-sensitive nature of implementing effective prevention responses. See Michelle Bachelet, 'United Nations Human Rights, Office of the High Commissioner', press release, Geneva (6 May 2019), available at: {https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24565&LangID=E}.

opportunities to even formally discuss the human rights situation of a particular country, thus directly impacting on what R2P measures can then be agreed upon and applied through the Security Council.

The contested evolution of the R2P norm in the UN Security Council

At the heart of the initial debate sparked by the development of the 2001 ICISS report, was a significant dilemma, how to reconcile the UN's foundational principle of member state sovereignty and the accompanying primary mandate to maintain international peace and security with the growing emphasis on the interests and welfare of people within those states.[47] In the report it was recognised that the UNSC had gradually taken a more expansive view as to what constitutes a threat to international peace and security, underpinned by a moral appeal to 'elevate the prevention of, and end to, human suffering above the principle of non-intervention in the UNSC's determination of threats to international peace and security'.[48] Consequently, the human rights frame was a central component of the report, whereby the protection of human rights was argued to be necessary to the fulfilment of the responsibility to prevent.[49] The report therefore called for 'the development of new and stronger norms and mechanisms for the protection of human rights', recognising the need for atrocity prevention strategies to deploy monitors to observe compliance with human rights standards.[50] Yet in contrast to the ICISS report, the eventual 2005 WSOD agreement can be understood as reinforcing existing, but fragile, state agreement as to the potential of mass atrocity crimes to threaten international peace and security, rather than an attempt to create a distinctly new responsibility or further recognise the connection between human rights and atrocity crimes. Moreover, the 2005 R2P agreement does not demand states to recognise the core crimes of R2P as always constituting threats to international peace and security but does reinforce a political pressure for states to consider them as such, on a case-by-case basis.

Despite the 2005 agreement, the language of the R2P, particularly its use in the UNSC, would still remain incredibly controversial in the following years. As Jess Gifkins has highlighted, 'it took six months to negotiate Resolution 1706 on Darfur in 2006, and language on R2P proved to be one of the most difficult aspects.'[51] This had a knock-on impact on further resolutions on Darfur exposing 'the limits of common ground in the Security Council' and 'the negligible impact of the nascent norm in the real world and its continued contestation'.[52] Yet outside of the formal parameters of the Security Council, there was emerging atrocity prevention success, highlighted most notably by the response to election violence in Kenya in 2007, led by Kofi Annan and the African Union. The case proved to be an important opportunity to further legitimise the R2P norm as 'a non-coercive, preventative policy',[53] opening up space for debate around the role of international institutions in atrocity prevention and threat identification.

While attempts to further expand the recognition of potential threats to peace and security remained deeply challenging, the 2011 intervention in Libya was heralded as a key turning point. As Simon Chesterman argues, what was perhaps more notable about Resolution 1973 was the UNSC's decision not to include language that characterised the situation as 'exceptional'

[47] ICISS, *The Responsibility to Protect*.

[48] Trudy Fraser, *Maintaining Peace and Security?: The United Nations in a Changing World* (London, UK: Palgrave 2014), p. 205.

[49] Ainley, 'From atrocity crimes to human rights', p. 255.

[50] ICISS, *The Responsibility to Protect*.

[51] Jess Gifkins, 'R2P in the UN Security Council: Darfur, Libya and beyond', *Cooperation and Conflict*, 51:2 (2016), pp. 148–65 (p. 149).

[52] Philipp Rotmann, Gerrit Kurtz, and Sarah Brockmeier, 'Major powers and the contested evolution of a responsibility to protect', *Conflict, Security & Development*, 14:4 (2014), pp. 355–77 (p. 366).

[53] Noëlle Crossley, 'A model case of R2P prevention? Mediation in the aftermath of Kenya's 2007 presidential elections', *Global Responsibility to Protect*, 5:2 (2013), pp. 192–214 (p. 214).

or 'unique' in order to persuade states that may have been sceptical to the use of force in Libya, but instead, the resolution directly enforced the broadening of the UNSC's international peace and security mandate.[54] Moreover, initial preventive actions such as the establishment of an International Commission of Inquiry by the HRC and the Security Council's referral of the situation to the ICC, demonstrated a strong collective approach to deterring potential atrocity crimes and a recognition of the UNSC's broader prevention role.[55] For Alex Bellamy this marked a significant shift, whereby 'the Council has now set a precedent that it will not be inhibited as a matter of principle from authorizing enforcement for protection purposes without host state consent.'[56] Yet in the months following the intervention, it became clearer that rather than further clarifying consensus on the identification of threats to international peace and security and the specific prevention role of the Security Council, the Libya example appeared to further divide UNSC practice as to the parameters surrounding threat identification.[57] The fallout from the NATO intervention therefore generated greater contestation over the application of R2P's third pillar, most notably the use of force.

In direct contrast to Libya, the following crisis in Syria was plagued by a distinct lack of agreement as to the best way to ensure protection for those threatened by such crimes, leaving the UNSC in deadlock over its ability to highlight the conflict as a threat to international peace and security and thus agree to reactive measures. Despite clear accounts of crimes against humanity and grave human rights abuses occurring within Syria,[58] China and Russia were both resolute in supporting the need to fully respect 'the sovereignty, independence and territorial integrity of Syria' and defend these rights as essential to maintaining 'peace and stability in the Middle East region, rather than complicate the issue'.[59] The fallout from the Syria crisis subsequently spilt over into wider debates concerning the sovereign rights of states and the extent to which the R2P can challenge these rights. One can therefore highlight how the R2P's case by case basis for implementation often creates clashes between states over the best way to maintain international peace and security and also acknowledge their responsibilities to help avert the outbreak of mass atrocity crimes. The R2P in this sense can be seen to suffer from 'inherent, structural limitations that reflect the compromises that had to be struck at its adoption in 2005'.[60] While the inconsistent nature of the Security Council's response to mass atrocity crimes regarding the use of force has been well documented,[61] how this division shapes questions of atrocity prevention and threat identification beyond these actions has not been significantly explored. In the years following the Libyan intervention, non-Western states in the Security Council became increasingly wary of attempts by the P3 powers to use the threat of potential mass atrocity crimes as a pre-text for direct interventionary practices, such as the use of force.[62] In response to this

[54]Simon Chesterman, 'Leading from behind: The Responsibility to Protect, the Obama Doctrine, and humanitarian intervention after Libya', *Ethics and International Affairs*, 25:3 (2011), pp. 1–7 (p. 280).

[55]Ruben Reike, 'Libya and the Responsibility to Protect: Lessons for the prevention of mass atrocities', *St Antony's International Review*, 8:1 (2012), pp. 122–49 (p. 131).

[56]Alex Bellamy, 'Libya and the Responsibility to Protect: The exception and the norm', *Ethics & International Affairs*, 25:3 (2011), pp. 263–9 (p. 264).

[57]It is notable that Germany was the only Western power that chose to abstain rather than directly support Resolution 1973, however Germany has remained steadfast in its support for the R2P and human rights protection initiatives. See Sarah Brockmeier, Oliver Stuenkel, and Marcos Tourinho, 'The impact of the Libya intervention debates on norms of protection', *Global Society*, 30:1 (2016), pp. 113–33.

[58]UN Doc. A/HRC/27/60, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 13 August 2014.

[59]UN Doc. S/PV.6711, 6711th meeting of the Security Council, 4 February 2012, p. 9.

[60]Martin Mennecke and Ellen E. Stensrud, 'The failure of the international community to apply R2P and atrocity prevention in Myanmar', *Global Responsibility to Protect*, 13:2–3 (2021), pp. 111–30 (p. 124).

[61]Roland Paris, 'The "Responsibility to Protect" and the structural problems of preventive humanitarian intervention', *International Peacekeeping*, 21:5 (2014), pp. 569–603; Aidan Hehir, 'The permanence of inconsistency: Libya, the Security Council, and the Responsibility to Protect', *International Security*, 38:1 (2013), pp. 137–59.

[62]Stuenkel, 'The BRICS and the future of R2P', p. 8.

context, we have seen a significant pushback against the use of force under R2P's third pillar, alongside continued ineffective UNSC responses to several major incidents of atrocity crimes.[63] This has ultimately reinforced the need to try and reformulate the R2P norm's central focus towards early atrocity prevention, that avoids the need for the use of force.

The push for an R2P prevention agenda: The role of human rights

Following the UN's catastrophic failure to protect those caught up in the final stages of the Sri Lankan Civil war, the then UN Secretary-General Ban Ki-moon launched the Human Rights up Front (HRuF) initiative in 2013 to help mainstream human rights and begin to shift the UN's culture away from reaction and towards a prevention focus across the organisation. Central to the initiative was its emphasis on identifying risks at an early stage in order to leverage the full range of UN mandates and capacities. As the Panel of Experts on accountability in Sri Lanka argued, HRuF would require more creative and strategic engagement with member states to generate political support for early and preventive action.[64] HRUF therefore seeks to reinforce the importance of recognising human rights violations as early indicators for a situation that could deteriorate and thus lead to mass atrocity crimes occurring.[65] For example, as Adama Dieng, former UN Special Adviser on the Prevention of Genocide, has highlighted, 'experience has shown that, be it in Syria, Libya, Iraq, or Yemen, failure to address serious human rights violations often presages more serious acts such as atrocity crimes.'[66] However, the pressing question of how this initiative relates to the peace and security pillar of the UN and the R2P remains fundamentally ambiguous, with little direct mention of its role in situations that the UNSC is engaged. This speaks more broadly to a significant lack of conceptual clarity when it comes to the relationship between the R2P and human rights.[67] As this section will explore, the push to emphasise the role of human rights in connection to the R2P is a significant challenge to the current orthodoxy, particularly in terms of its connection to the work of the UNSC.

The strategic move to reprioritise prevention initiatives across the UN system has resulted in a greater emphasis on the R2P as a key tool of atrocity prevention that can work to influence the broader challenge of maintaining international peace and security.[68] Critical to this approach is better linking the objectives of R2P implementation with stronger accountability for human rights and the rule of law, as by their very nature atrocity crimes are widespread human rights violations.[69] As former UN Assistant Secretary-General for Human Rights Andrew Gilmour has argued, atrocity crimes are not singular events and thus 'there are multiple opportunities for actors to prevent the slide into violence.'[70] Improving overall respect for basic human rights

---

[63]Garwood-Gowers, 'R2P ten years after the world summit'.

[64]UN Doc. S/PV.6711, 6711th meeting of the Security Council, 4 February 2012.

[65]Strauss, 'The UN Secretary-General's human rights up front initiative and the prevention of genocide', p. 51.

[66]Adama Dieng, 'Atrocity crimes and large-scale human rights violations', in Robin Geiß and Nils Melzer (eds), *The Oxford Handbook of the International Law of Global Security* (Oxford, UK: Oxford University Press 2021), p. 349.

[67]Ekkehard Strauss, 'A short story of a long effort: The United Nations and the prevention of mass atrocities', in Tibi Galis, Sheri Rosenberg, and Alex Zucker (eds), *Reconstructing Atrocity Prevention* (Cambridge, UK: Cambridge University Press 2015), pp. 428–49 (p. 446).

[68]Sheri P. Rosenberg, 'Responsibility to Protect: A framework for prevention', *Global Responsibility to Protect*, 1:4 (2009), pp. 442–77; Vito Todeschini, 'Collective security, the common interest, and the Responsibility to Protect doctrine', in Wolfgang Benedek, Koen De Feyter, Matthias C. Kettemann, and Christina Voigt (eds), *The Common Interest in International Law* (Cambridge, UK: Intersentia, 2014).

[69]Cecilia Jacob, 'R2P as an atrocity prevention framework: Concepts and institutionalization at the global level', in Cecilia Jacob and Martin Mennecke (eds), *Implementing the Responsibility to Protect: A Future Agenda* (Abingdon, UK: Routledge 2020), pp. 16–34 (p. 16).

[70]Andrew Gilmour, 'The future of human rights: A view from the United Nations', *Ethics & International Affairs*, 28:2 (2014), pp. 239–50 (p. 246).

is therefore critical to diminishing the risk that atrocity crimes occur in the first place.[71] Moreover, as the 2018 Secretary-General's report on R2P also argued, there is a need to address the root causes of systemic patterns of discrimination and human rights violations along with the 'underutilisation of the UN's human rights system'.[72] Of particular importance is the HRC, and its role in recommending measures to prevent escalation of atrocity crimes and highlighting situations that ought to be addressed by the UNSC.[73] Yet while many states have continued to vocalise the importance of early warning, there remains a strong pushback against such briefings within the Security Council, limiting the possibility for greater collaboration and direct recognition of violations of human rights as precursors to future atrocity crimes.[74] Moreover, not since a 2013 resolution on the Central African Republic has the UNSC itself agreed to mandate an International Commission of Inquiry. So, while the rhetorical shift to this form of prevention has helped to avert attention away from the ongoing contestation over the use of force and the R2P, in practice, the effectiveness of prevention initiatives remains not only deeply contested but also highly ineffective without a stronger connection to the enforcement of human rights monitoring beyond the HRC.

The UN's overall underperformance in atrocity prevention so far suggests that the R2P's influence has been relatively minor and ultimately no more consistent in its application as a preventive tool.[75] As Jennifer Welsh has rightly emphasised, 'prevention is in fact a controversial practice despite the universal rhetorical commitment to its prioritisation.'[76] This is in part due to the inherently intrusive character of many preventive actions that can often exacerbate domestic tensions through increased international involvement, as well as the difficulties of trying to determine 'causal patterns when it comes to identifying specific danger signs'.[77] This is also reinforced by research into the inherently interventionist aspects of prevention strategies by Katja Lindskov Jacobsen and Troels Gauslå Engell who argue that while prevention is seen as a 'pragmatic retreat from "intervening", it is better understood as a different mode of intervention'.[78] Moreover, many member states can be seen to hold a strong aversion to any outside monitoring by international organisations for activities that fall within their sovereign territory.[79] Underpinning this contestation over prevention practices linked to the R2P is thus an evolving debate around the identification of human rights abuses and the extent to which they can represent potential threats to international peace and security. This divide therefore speaks to the increased applicatory contestation surrounding how the R2P norm should be utilised as a prevention tool, the complexities of which the R2P literature has so far been slow to fully recognise. In order to better conceptualise this division, the following section focuses on the explicit push by UN Secretary-General Guterres, to further connect the human rights pillar to the UNSC's work on peace and security, during his first four years in office. The cases of DPRK, Myanmar, and Burundi are directly examined in order to help trace the evolving dynamics of the applicatory contestation and thus highlight the current limitations of the R2P as a prevention tool that is effective in shaping state responses in the UNSC.

---

[71]Ibid., p. 247.

[72]António Guterres, 'Responsibility to Protect: From early warning to early action', A/72/884–S/2018/525 (2018), p. 9.

[73]Ibid.

[74]Strauss, 'The UN Secretary-General's human rights up front initiative and the prevention of genocide', p. 57.

[75]Luck, 'Why the United Nations underperforms at preventing mass atrocities'.

[76]Jennifer Welsh, 'The Responsibility to Prevent: Assessing the gap between rhetoric and reality', *Cooperation and Conflict*, 51:2 (2016), pp. 216–32 (p. 216).

[77]Serena K. Sharma and Jennifer Welsh, 'Introduction', in Serena K. Sharma and Jennifer Welsh (eds), *The Responsibility to Prevent: Overcoming the Challenges of Atrocity Prevention* (Oxford, UK: Oxford University Press 2015), pp. 2–3.

[78]Katja Lindskov Jacobsen and Troels Gauslå Engell, 'Conflict prevention as pragmatic response to a twofold crisis: Liberal interventionism and Burundi', *International Affairs*, 94:2 (2018), pp. 363–80 (p. 364).

[79]Micah Zenko and Rebecca R. Friedman, 'UN early warning for preventing conflict', *International Peacekeeping*, 18:1 (2011), pp. 21–37.

Threat identification and the link to human rights: Analysing the R2P as an atrocity prevention tool

One of the key challenges UN Secretary-General Guterres positioned before the Security Council in his first opening address, was to consider how the tools currently available to the UNSC could be more effectively used to prevent both conflict and atrocity crimes, highlighting the need to make greater use of Chapter VI of the Charter in particular. Chapter VI referred to as 'Pacific Settlements of Disputes', provides the parameters through which international disputes or situations that are yet to pose a threat to international peace and security, can be fully discussed, following which appropriate action or recommendations can be made. Under Article 34 of Chapter VI, the Charter empowers the Security Council to investigate any dispute or any situation that is likely to endanger international peace and security. This provides member states with the ability to suggest to the Council that an investigation be carried out or a fact-finding mission be dispatched. It is then possible for the Council to decide whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security. Article 34 is thus a critical tool at the Council's disposal, through which it can connect the potential outbreak of human rights atrocities to concrete early warning prevention measures such as the implementation of investigative and fact-finding activities. The Security Council can therefore be seen as uniquely placed to support mediation and prevention efforts through effective use of this initiative.

While a majority of states reaffirmed their support and encouragement for greater and fuller use of the Security Council's prevention toolbox, they remained divided over how the Council locates the early indicators of potential atrocities. This spoke to the two competing frames regarding the R2P's future application as an atrocity prevention tool and the contested role of human rights within the UNSC. For the P3 Western powers and their allies, the move to draw a stronger connection between incidents of human rights abuses and the work of the Council marks a much-needed expansion that is essential to improving the effectiveness of atrocity prevention and the goals of the R2P norm. In contrast, Russia and China both strongly argued for the need to divorce UNSC prevention initiatives from the mechanisms of human rights protection.[80] This division can be further evidenced by analysing comments made at the first ever UN Security Council debate on the link between human rights and threats to international peace and security in April 2017. The US began by suggesting that 'the traditional view has been that the Security Council is for maintaining international peace and security, not for human rights', arguing that this position has often left the Council 'silent when it sees widespread violations of human rights'.[81] In line with the UN's increased prevention focus, it was argued that 'we are much better off acting on the front-end and standing for human rights before the absence of human rights forces us to react.'[82] This marked a historic call to radically rethink the place of human rights in the Council's work and to further utilise this relationship for the goal of atrocity and conflict prevention.[83]

Yet overall, the Council was still effectively split on the decision to even discuss the connection between human rights and peace and security. For those critical, the meeting was framed as part of an increasing move to expand the Council's mandate and thus use the goal of human rights protection as a way to infringe on the internal affairs of states. Moreover, Russia was steadfast in its challenge, arguing that 'the Council cannot serve as a forum for discussions about human rights situations, wherever they may be.'[84] This was a sentiment shared with several members including Ethiopia, Egypt, Bolivia, and China, who all placed human rights issues outside of the Council's remit. For these states, the calling of the meeting represented the formalisation

---

[80]UN Doc. S/PV.7857, Meeting of the Security Council, 10 January 2017.

[81]UN Doc. S/PV.7926, Meeting of the Security Council, 18 April 2017, p. 4.

[82]Ibid., p. 5.

[83]Carrie Booth Walling, 'The United Nations Security Council and human rights', *Global Governance*, 26:2 (2020), pp. 291–306.

[84]UN Doc. S/PV.7926, Meeting of the Security Council, 18 April 2017, p. 12.

of threat expansion, with Bolivia framing the discussion as part of an 'ongoing practice by the Security Council of dealing with human rights issues which do not pose a threat to international peace and security'.[85] This pushback demonstrated a desire to keep the status quo where human rights enforcement/punishment applies only to egregious human rights violations. This means lesser human rights violations, which are limited to monitoring through various mechanisms such as treaty bodies and the Universal Periodic Review (UPR), are therefore separate from the peace and security powers of the UNSC in order to limit any expansion of atrocity prevention initiatives that would further undermine sovereignty. Consequently, as the following case studies will examine, the challenge of trying to expand human rights monitoring into the broader focus of the R2P and the work of the Security Council has met significant resistance. In analysing this contestation, it is possible to highlight the internal weaknesses in R2P's early prevention-oriented focus and to better explain the relative ineffectiveness of this strategy so far.

Democratic People's Republic of Korea (DPRK)

Contestation over the holding of UNSC meetings that address the human rights situation in DPRK has been ongoing since the first meeting of this type took place in 2014.[86] Yet following the heightened focus on the Security Council's relationship to human rights just months earlier, the December 2017 meeting on the situation in DPRK saw much stronger pressure from the P3 to link the failure of atrocity prevention to the wider issue of separating peace and security from human rights. The US noted this division as 'a repeated problem' and went on to argue that 'we must stay true to our word that prevention also includes human rights and the ability to call out countries when they commit abuses like the ones we are seeing.'[87] For those states who did not vote in favour of the meeting, there was a consistent push to reiterate that the Council is 'not the appropriate forum for debating human rights issues'.[88] Yet it was also notable that the division between atrocity crimes and human rights was focused on explicitly, with Egypt suggesting that genocide or ethnic cleansing 'have a direct impact on international peace and security and require the Council to act as one', in direct contrast to human rights situations which are deemed not to.[89] This argument can be seen to encapsulate the critical challenge faced by the current atrocity prevention agenda, whereby states have become at times more likely to rhetorically accept the idea that certain mass atrocity crimes can constitute threats to peace and security, yet any human rights violations not deemed to reach these thresholds can potentially be shut out of Security Council debate and focus. This particular example therefore speaks to a continued flaw in the current R2P prevention agenda, in which the unique authority and powers of the UNSC are often significantly constrained when it comes to acting on early warning reports or HRC mandates that concern human rights abuses. Subsequently, the current construction of the UNSC provides many opportunities for permanent representatives to effectively contest threat expansion and thus shield others from more intrusive human rights-based interference. However, as the next example will argue, this contestation has grown more sophisticated in an attempt to even further disconnect the link between human rights and peace and security.

Myanmar

Just six months into the new Secretary-Generals term, a significant outbreak of violence erupted in Myanmar's Rakhine state, leading to thousands of Rohingya civilians fleeing to Bangladesh.

---

[85]Ibid., p. 23.

[86]This decision was sparked by the 2014 UN Human Rights Council's Commission of Inquiry into human rights in DPRK, which reported 'systematic, widespread and gross human rights violations' committed by DPRK. See UN Doc. UN S/PV.7353, Meeting of the Security Council, 22 December 2014.

[87]UN Doc. S/PV.8130, Meeting of the Security Council, 11 December 2017, p. 2.

[88]Ibid., p. 2.

[89]Ibid., p. 3.

There had historically been examples of systematic human rights violations for decades, with the Rohingya minority systematically stripped of their basic human rights and citizenship over time. The OHCHR judged the incident and treatment of the Rohingyas to be 'a textbook example of ethnic cleansing'.[90] The UNSC subsequently met numerous times in response to calls from the Secretary-General to consider the crisis, yet due to opposition from China and Russia, no formal resolution was ever passed by the UNSC.[91] Despite many weeks of negotiation, the UNSC was only able to pass a presidential statement and thus choose not to take any preventive action. While there was criticism of the violence occurring in Rakhine state, much of the debate focused on the primary responsibility of the Myanmar government to protect its population, despite its considerable role in causing the violence and refugee flight from the region.

The Council's limitations in providing an effective prevention response to the atrocities being committed in Rakhine state continued to shape debate and discussion in the Council regarding how Chapter VI measures and the identification of threats to peace and security should be interpreted. In an open debate in August 2018 on the 'Maintenance of International Peace and Security', there remained considerable consensus on the increased importance of Chapter VI measures in line with the SG's new prevention agenda, with Kuwait highlighting the importance of focusing on Chapter VI measures before resorting to Chapter VII.[92] Yet while states such as China called for the strengthening of mediation activities under Chapter VI, this mediation work they argued must be 'based on respect for national sovereignty and non-interference in the internal affairs of others' and thus the consent must be secured beforehand and be fully respected.[93] For Russia, this also meant respecting the fine line between mediation efforts and pressure on internal political processes, in which they called out recent proposals in the Security Council that were argued to 'amount to interference in the internal affairs of states and their constitutional procedures'.[94]

Respect for national sovereignty and non-interference was therefore also tied to the forceful rejection of any attempt to link the work of the UN HRC to the Security Council's goal of maintaining international peace and security. In October 2018, a letter to the Council presidency from the representatives of Bolivia, China, Equatorial Guinea, and the Russian Federation, strongly objected to the briefing of the Security Council by the head of a human rights fact-finding mission on Myanmar.[95] While the subsequent vote was lost and the briefing able to go ahead, the following debate saw both sides further hardening their stance on the role of the Council in discussing human rights atrocities. The P3 were particularly forceful in presenting the situation as one that clearly endangered international peace and security and thus needed to be heard by the Council. As the US argued, 'the forcible movement of more than 700,000 people across borders is undeniably a matter of peace and security.'[96] Yet China made clear to separate the work of the Council from human rights, arguing that 'the fact-finding mission on Myanmar is a special mechanism of the Human Rights Council and does not have a mandate to brief the Security Council', suggesting that any briefing would 'violate provisions of the Charter' and could lead 'to grave negative consequences'.[97]

[90]UN News, 'UN Human Rights Chief Points to "Textbook Example of Ethnic Cleansing" in Myanmar' (11 September 2017), available at: {www.un.org/apps/news/story.asp?NewsID=57490}.

[91]Andrew Selth, 'Myanmar's Armed Forces and the Rohingya Crisis', United States Institute of Peace (2018), p. 18, available at: {https://www.usip.org/sites/default/files/2018-08/pw140-myanmars-armed-forces-and-the-rohingya-crisis.pdf}.

[92]UN Doc. S/PV.8334, Meeting of the Security Council, 29 August 2018.

[93]Ibid., p .21.

[94]Ibid., p. 23.

[95]This followed the successful blocking of a Security Council meeting on the human rights situation in Syria in March 2018, representing the first time since 1962 that the Council had failed to adopt its provisional agenda following a procedural vote. See Walling. 'The United Nations Security Council and human rights', p. 301.

[96]UN Doc. S/PV.8381, Meeting of the Security Council, 24 October 2018, p. 9.

[97]Ibid., p. 2.

This continued defence of the traditional division between the work of the Council under Chapter VI and human rights drew significant reproach by the UK in a UNSC meeting on strengthening multilateralism just a few weeks after debates on Myanmar. The UK reinforced the principle that 'the Security Council may investigate any dispute or any situation that may give rise to a dispute, and may determine whether or not it constitutes international friction and endangers the maintenance of international peace and security.'[98] Consequently, the UK directly called out the actions of states now trying to further disconnect human rights from Security Council practice, arguing that 'some countries try to stop and stifle Security Council discussion of such situations under Chapter VI – for example, when a government is attacking its own people or abusing its neighbours.'[99] This example speaks to the continued frustration of P3 powers that the Security Council was not able to function as an effective atrocity prevention forum, providing only a hollow R2P response in which the work of the HRC and the UNSC could not be effectively joined up despite previous historic records of human rights abuses.

Burundi

While contestation between states over the case of human rights atrocities occurring in Burundi was less severe, with some initial cooperation possible, it still highlighted the significant limitation of the UNSC to act effectively on the findings of the HRC and in support of the R2P's prevention initiative. Following the 2016 establishment of an HRC Commission of inquiry into significant human rights abuses in the country, the UNSC were able to pass Resolution 2303 under Chapter VI, establishing a Police Component of 228 officers to aid in supporting human rights monitoring.[100] The vote notably saw four abstentions, with Egypt raising concerns that Burundi's national position had not been taken into account and thus the resolution imposed 'an option that Burundian authorities do not support'.[101] Subsequently, due to government opposition in Burundi, these forces were ultimately never deployed. Burundi thus remained a divisive issue for the Council to address, most significantly over whether it should even remain a regular part of the agenda. For the P3, it was critical that Burundi remained on the agenda in order to continue monitoring potential human rights violations, with the UK in 2019 suggesting it 'continues to constitute a threat to international peace and security'.[102] In contrast Russia and China, along with African members, increasingly contested this suggestion and pushed hard for its removal. For Russia, it was suggested that 'the Security Council's continued intense focus on Burundi is counterproductive and that it is high time it was taken off the Council's already overburdened agenda.'[103] Consequently, despite the HRC's CoI concluding that serious human rights violations persisted during 2019 and 2020, regular UNSC briefings on Burundi were eventually removed in December 2020.[104]

Notwithstanding the significant findings of the CoI and the key warning signs highlighted, the UNSC only provided limited follow up on these signals and thus arguably failed to 'transform early warning into early action'.[105] The fact the Burundi government faced only limited pushback from its refusal to accept a legally binding resolution reinforces the largely light touch response to human rights issues from the UNSC. Again, this case speaks to a lack of consensus over the connection between human rights and threats to peace and security, as well as the responsibilities of

---

[98]UN Doc. S/PV.8395, Meeting of the Security Council, 9 November 2018, p. 29.

[99]Ibid., p. 29.

[100]UN Doc. S/PV.7752, Meeting of the Security Council, 29 July 2016.

[101]Ibid., p. 3.

[102]UN Doc. S/PV.8652, Meeting of the Security Council, 30 October 2019, p. 17.

[103]Ibid.

[104]UN Doc. A/HRC/45/32, Report of the Commission of Inquiry on Burundi, 17 September 2020.

[105]Elisabeth Pramendorfer, 'The role of the Human Rights Council in implementing the Responsibility to Protect', *Global Responsibility to Protect*, 12:3 (2020), pp. 239–45 (p. 244).

the UNSC to take stronger action in response to evidence of human rights abuses. In further contrast to the previous two cases, the Burundi example demonstrates the potential for some cooperation on human rights monitoring, particularly when P5 national interests are deemed less critical. However, references to sovereign integrity and scepticism of human rights monitoring being connected to the Council's work, all functioned to limit the R2P's role as a prevention tool and therefore have significant implications for the effectiveness of the human protection norm cluster more broadly.

Norm shaping: Competing frames for atrocity prevention

In response to the UNSC's recent prevention failings, the three cases above all highlight how the P3 and their allies have sought to push for a process of threat expansion, by attempting to create more opportunities to discuss human rights violations in the UNSC that might lead directly to atrocity crimes and threaten international peace and security. Yet as Ekkehard Strauss has previously argued, it is still the case that 'the Secretariat, the Human Rights Council, and the Security Council only take up a small number of situations under the premise of preventing extraordinary violence from turning into mass atrocities.'[106] As the examples outlined above reinforce, without greater pressure to connect the work of these institutions, the R2P is severely weakened, particularly when several states still remain sensitive to even having early warning briefings in the UNSC. Making the R2P effective as an early prevention tool therefore requires building greater consensus on expanding human rights as central to the goal of atrocity prevention in the UNSC. This ultimately means a radical reimagining of the UNSC's central purpose and the importance of the human rights pillar, through which significant human right violations would come under greater scrutiny and potential enforcement actions in response.

This vision for atrocity prevention thus raises multiple red flags for Russia and China who are seeking to limit the rise of a more expansive understanding of threats to peace and security, as well as the potential for human rights issues to be directly called out in the Security Council setting.[107] Behind the Russia and China approach, is clear rhetorical support for the integrity of state sovereignty, one that is presented as both compatible with support of the R2P's Pillar I and II, as well as respecting the original purpose and function of the Council, regarding its role in the maintenance of international peace and security. Consequently, it is critical to highlight that support for the first two pillars of the R2P norm does not limit the space in which states can also work to block certain prevention activities that may be perceived to violate state sovereignty and thus further challenge the importance of the human rights pillar to the work of the UNSC. Distrust of more interventionist actions taken under the guise of Pillar 2 thus provide an important justification for why many non-Western states have rejected the expanded focus on human rights. Through engaging in applicatory contestation of prevention initiatives, such as those forming part of Chapter VI, China and Russia have been able to reinforce firm parameters around prevention activity and strengthen the current status quo concerning the place of human rights within these discussions. Accordingly, as Yongjin Zhang and Barry Buzan argue, China participates in 'deliberative and discursive exchange on the interpretation of and contestation to the idea of human rights – and its institutionalization', in which it seeks not simply to undermine global human rights governance but to protect institutions such as the UNSC from its influence.[108]

Furthermore, for Russia and China, prevention is inherently intertwined with ideas of good governance and economic prosperity, in which there is a focus on 'consolidating norms of state responsibilities towards citizens instead of superseding states in exceptional circumstances

---

[106]Strauss, 'A short story of a long effort', p. 444.

[107]Tanja Börzel and Michael Zürn, 'Contestations of the liberal international order: From liberal multilateralism to post-national liberalism', *International Organization*, 75:2 (2021), pp. 282–305 (p. 295).

[108]Yongjin Zhang and Barry Buzan, 'China and the global reach of human rights', *The China Quarterly*, 241 (2020), pp. 169–90 (p. 17).

of mass atrocities'.[109] In this regard, Russia does not dispute the responsibility of states to protect their populations, instead, it seeks to contest 'the forceful imposition of a liberal system of values which "glorifies individual rights over peace and stability".'[110] Consequently, this ideological divide between a more long-term economic approach to prevention and a more liberal approach, emphasising the critical link between human rights violations and their potential to lead directly to atrocity crimes, is deepening contestation around norms of human protection while also creating a more combative Council, in which tensions remain high. Recognising these patterns of contestation is crucial to informing a greater understanding of current R2P norm dynamics. As this article has argued, the R2P must be viewed as part of a complex norm cluster, focused on the challenge of human protection. Evolving interpretations and practices within the Security Council are therefore directly shaping normative applicatory contestation related to the implementation of the R2P, along with the broader suite of human protection norms.

What the debates outlined above reinforce is the sizeable barriers to effective atrocity prevention that have become further entrenched, through greater contestation over threat identification and the parameters of the Security Council's remit and purpose. The competing interpretations of how Chapter VI should be operationalised throw into doubt claims that the R2P and other human protection norms are currently capable of providing the mobilising force required to implement atrocity prevention strategies. Consequently, while recent norm research has begun to emphasise the importance of applicatory contestation in strengthening overall norm robustness, more concerted efforts by states to fundamentally challenge whether a specific situation does fall under the human protection framework can be seen to significantly dilute the R2P norm's effectiveness, despite greater rhetorical agreement on elements of the norm's function. As Nicole Deitelhoff and Lisbeth Zimmermann argue, applicatory contestation can be used as a 'back-door strategy for watering down norms more generally'.[111] However, rather than just aiming to water down the norm it is clear that contestation over the practice of interpreting and implementing Chapter VI measures in the Council is in danger of becoming a more permanent division that impacts multiple parts of the human protection norm cluster, as states increasingly clash over the validity of these interpretations.

While it is possible to try and dismiss the examples discussed as relatively unique, all three cases evidence consistent ideological division between members states over prevention and human rights scrutiny within the UNSC. Even in the case of Burundi, where the national interests at stake were much lower for the P5, the Council proved itself to be ineffective in following through on the Chapter VI resolution and instead defaulted to Burundi's sovereignty claims against further UN involvement or monitoring in the country. Consequently, the Security Council still remains sceptical about receiving human rights information and when it comes to actually taking early action, such as the dispatch of human rights monitors or emergency visits to conflict sites, it has become far less prepared or supportive of such measures.[112] In contesting the link between human rights and the recognition of threats to international peace and security, China and Russia have thus been effective in rejecting the more expansive human rights focused prevention initiatives put forward in the Council. This applicatory contestation has worked to highlight a significant weakness of the current R2P prevention agenda, most notably the inability to effectively connect the human rights work of other UN institutions to the authoritative power of the Security Council and the tools available to it. Without this connection the R2P will remain relatively ineffective as an atrocity prevention tool, thus opening up the door to potential validity

---

[109]Liselotte Odgaard, 'Responsibility to Protect goes to China: An interpretivist analysis of how China's coexistence policy made it a Responsibility to Protect insider', *Journal of International Political Theory*, 16:2 (2020), pp. 231–48 (p. 13).

[110]Xymena Kurowska, 'Multipolarity as resistance to liberal norms: Russia's position on responsibility to protect', *Conflict, Security & Development*, 14:4 (2014), pp. 489–508 (p. 490).

[111]Deitelhoff and Zimmermann, 'Things we lost in the fire', p. 57.

[112]Security Council Report, 'Human Rights and the Security Council: An Evolving Role', p. 30, available at: {https://www.securitycouncilreport.org/research-reports/human-rights-and-the-security-council-an-evolving-role.php}.

contestation further down the road. Contestation over competing interpretations of Chapter VI's use and the scope and limits of prevention practices are ultimately at the crux of the challenge faced by the complex norm cluster and specifically the R2P's role as an atrocity prevention tool. More broadly, the R2P norm remains confined by the distinctly horizontal nature of the international system, in which human rights abuses are at times subject to monitoring but not enforcement, particularly in situations of major power interest. The positions of Russia and China can therefore be understood as working to reinforce this current status quo rather than attempting to roll it back.

Conclusion

This article set out to, first of all, examine the complex relationship between the R2P and human rights within the UNSC, in order to assess the R2P's effectiveness as an atrocity prevention tool. In doing so the article has built on emerging norm scholarship to highlight how both the structure and practices of the Security Council directly shape the effectiveness of the complex norm cluster associated with human protection and the R2P. More specifically, it has demonstrated how significant applicatory contestation exists over the link between human rights and atrocity prevention, as states continue to challenge attempts to expand the work of the UNSC into the area of human rights. It is clear, for example, that states such as Russia and China are working to reinforce the original parameters of the R2P norm, as well as limit its overall use as a prevention tool connected to human rights monitoring and enforcement. The current division in the Council can therefore be seen to directly limit the horizon of opportunity for the R2P's implementation, both in terms of reacting to atrocity crimes and delivering preventive initiatives.

It is important to note here that there are limitations to the content analysis undertaken, in terms of both the central focus on the UNSC and the narrowness of the time frame examined. The period selected marks both the beginning of a new Secretary-General term and most notably, the first ever UNSC meeting on the connection between human rights and peace and security. The analysis outlined therefore examines the subsequent reaction to these events and explores how they have shaped UNSC practice in regard to several country-specific examples. In doing so the analysis does still provide notable evidence of a significant divide between two competing frames for early prevention, shaped by contestation over what constitutes a potential threat to international peace and security and the apparent connection between human rights and the R2P. Further research to fully conceptualise the domestic influences on shaping these positions will be crucial in order to reinforce how applicatory contestation expands beyond the institutional level.

Looking forward, it remains clear that the R2P norm will not be disappearing any time soon, buts its implementation as an atrocity prevention tool now appears to be the key battleground in the development of applicatory contestation. The impact of which is likely to lead to graver questions regarding the norm's overall validity, particularly if discussion of direct atrocity prevention measures continues to be blocked or limited. Furthermore, the growth in national mechanisms and strategies for prevention demonstrates that the broader challenge of human protection is still salient within states, however the lack of a stronger global consensus on prevention points to the weak cosmopolitan ambition in an emerging pluralist global order. As a result, the future effectiveness of the R2P remains significantly diluted by the lack of agreement in the Council over how human rights violations are connected to its role and responsibilities regarding atrocity prevention. Consequently, the R2P norm cannot be artificially severed from debates concerning human rights protection, whereby the norm remains constrained by the status quo dynamics of the current international system, defined by the specific absence of human rights enforcement.

Consequently, the use of more inventive methods for building consensus and support for human protection norms outside of the UNSC is likely to remain increasingly relevant. A key starting point at the institutional level will thus be the development of stronger governance

frameworks that can help to better align the work of the Security Council with other relevant bodies and improve information sharing and coordination.[113] The underutilised role of the UN General Assembly and other regional organisations, in terms of preventing and responding to atrocity crimes, arguably provides the most obvious avenue to further pursue.[114] Yet these forums cannot solely address the divisions in the Security Council and thus the R2P will continue to face many stern tests over the coming years, in which the shift to atrocity prevention alone cannot be regarded as a panacea for human protection.

Samuel Jarvis is Lecturer in International Relations at York St John University. He is author of *The Limits of Common Humanity Motivating the Responsibility to Protect in a Changing Global Order* (McGill Queen's University Press, 2022) as well as articles in journals such as *International Affairs*, *British Journal of Politics and International Relations*, and *Journal of International Political Theory*. His current research focuses on the complex interaction between politics, morality, and law at the global level, with particular emphasis on the UN Security Council and its response to climate and health emergencies.

[113]Jacob, 'R2P as an atrocity prevention framework', p. 24.

[114]Rebecca Barber, 'The Powers of The UN General Assembly To Prevent And Respond To Atrocity Crimes: A Guidance Document', Asia Pacific Centre for the Responsibility to Protect (2021), available at: {https://r2pasiapacific.org/files/6710/UNGA_2021%20%283%29.pdf}.