

R2P IDEAS in brief



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UN Security Council Resolutions and the Responsibility to Protect

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Introduction

It is often said that the UN Security Council lost consensus on the responsibility to protect (R2P) after the intervention in Libya.² Gareth Evans, for example, argued that “consensus fell away” after the Libyan intervention, and Ramesh Thakur argued that NATO’s intervention has damaged the international consensus on R2P.³ This presumes however that there was more consensus within the Council before 2011 than there was afterwards. Analysing the language that the Security Council has used on R2P shows a different pattern: references to R2P in resolutions used to be rare yet became common, starting with the Libyan resolutions in 2011. The use of R2P language in Security Council resolutions has not only become more common, but the negotiation of R2P language has become quicker and easier. In particular, there is a clear contrast between early negotiations on Darfur and negotiations during and after the Arab Spring. This Policy Brief contains all Security Council resolutions with R2P language from 2006 until the end of August 2016 and shows that the inclusion of this language has shifted from contentious to commonplace.

R2P Language in Resolutions

To understand how negotiations on R2P have evolved in the Security Council we need to go back to the early instances. Security Council resolutions are built on precedent and it is standard for drafts to be constructed from “previously agreed language” from earlier resolutions.⁴ Prior to 2011, there was only one country-specific resolution which included

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² This article is based on Gifkins, J. (2016) ‘R2P in the UN Security Council: Darfur, Libya and Beyond’, *Cooperation and Conflict*, 51(2): 148-165 and includes an updated set of resolutions.

³ Evans, G. (2012) *The Responsibility to Protect After Libya and Syria*. Annual Castan Centre for Human Rights Law Conference, Melbourne. Available at <http://www.gevans.org/speeches/speech476.html>; Thakur, R. (2013) ‘R2P after Libya and Syria: Engaging Emerging Powers’. *The Washington Quarterly* 36(2): 61-76.

⁴ Dunne T. and Gifkins J. (2011) Libya and the State of Intervention. *Australian Journal of International Affairs* 65(5): 523.



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language on R2P: resolution 1706 on Darfur. This resolution took six months to negotiate, and language on R2P was one of the most contentious aspects of the draft. The UK was ‘penholder’ for resolution 1706 (UN-speak for the state that leads the drafting, which is literally the state that holds the pen).⁵ As insiders have explained, the UK was determined to reference R2P in this resolution to demonstrate seriousness about the concept.⁶ The UK initially attempted to include all of paragraphs 138 and 139 of the World Summit outcome in the resolution, before negotiating language which referred to the two paragraphs.⁷ China however, opposed including R2P language and it was only via a trade with China that the UK was able to include this text. China wanted language on ‘consent’ to appear in the resolution which was traded for language on R2P.⁸ Negotiating R2P into this resolution took significant determination from the British delegation, and would not have happened if they had not championed it. This example highlights the importance of state champions, as shifts in language occur in relation to advocacy (or the absence of advocacy) by states.

In the early years R2P remained contentious and contested. Indeed, there were only two other resolutions which included references to R2P in 2006: one on the Great Lakes region, and one on the protection of civilians (POC) in armed conflict. The POC resolution again required six months to negotiate, led by the UK and France, against considerable resistance from other Council member. These early steps were followed by reluctance to include R2P in resolutions, and as Figure 1.0 shows, there were no references to R2P in resolutions in 2007, 2008, or 2010, and only one in 2009. In 2009, annual dialogues began on R2P in the UN General Assembly, as well as annual reports on R2P from the UN Secretary-General which helped to foster shared understandings on R2P and to decrease some of the earlier divisions. Security Council resolutions on Libya in 2011 actually represented a turning point whereby Council members became more willing to include references to R2P in relation to specific conflicts.

⁵ For more on ‘penholding’ see Ralph, J. and Gifkins J. (forthcoming) ‘The purpose of United Nations Security Council practice: Contesting competence claims in the normative context created by the Responsibility to Protect’. *European Journal of International Relations*; and Security Council Report (2013) *Monthly Forecast*. New York. Available at http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/2013_09_forecast.pdf.

⁶ Author Interview, (2011) Author Interview with an Official Involved in the Negotiations. 9 September, Copenhagen.

⁷ Author Interview, (2011) Author Interview with US State Department Official. 15 February, New York; Author Interview, (2011) Author Interview with UN source on Darfur. 25 August, London.

⁸ For further details on this negotiation, see Gifkins, J. (2016), ‘R2P in the UN Security Council: Darfur, Libya and Beyond’, *Cooperation and Conflict*, 51(2): 155-156.

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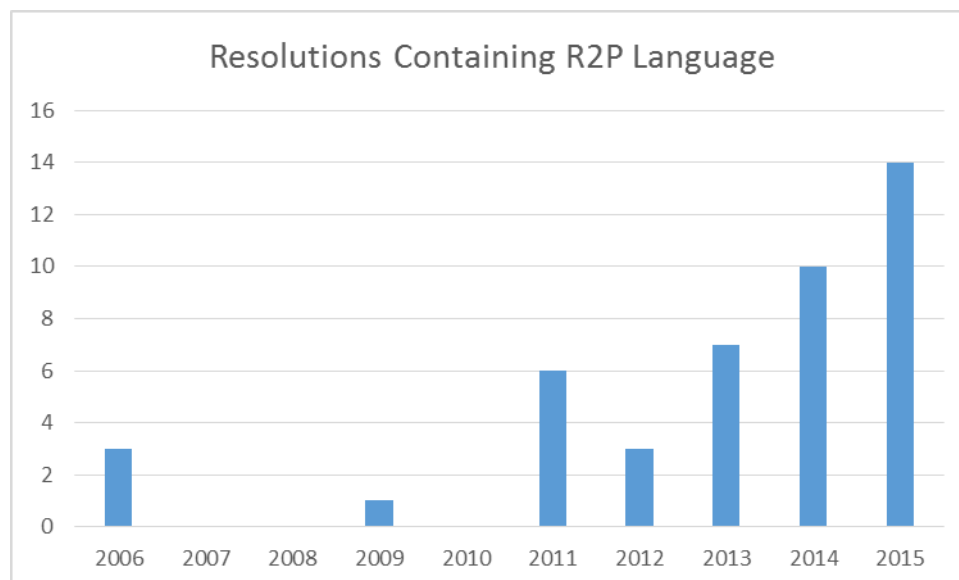


Figure 1.0 Number of UN Security Council resolutions with R2P language per year ⁹

Between 2011 and August 2016 there have been 49 resolutions which have included language on R2P spanning conflicts in; Libya, Cote d'Ivoire, South Sudan, Yemen, Mali, Somalia, the Central African Republic, Syria, the Democratic Republic of the Congo, and Sudan; and thematic areas on Small Arms and Light Weapons, The Prevention and Fight Against Genocide, Terrorism, the Prevention of Armed Conflict, Peacekeeping Operations, Youth, Peace and Security, and the Protection of Civilians in Armed Conflict.¹⁰ It is not only the frequency of language on R2P that is striking, but there has also been a marked shift in the ease and speed of these negotiations. As mentioned above, resolutions 1674 and 1706 in 2006 each took six months of painstaking negotiation, with deep divisions over the inclusion of R2P. Yet since 2011 there have been resolutions with R2P language which have been negotiated within 2-3 weeks, with relative ease, where referencing R2P was not overly contentious.¹¹ This is a significant change within a few years. To understand what this change means we need to delve into how language is used in Security Council resolutions.

⁹ Data compiled from <http://www.un.org/en/sc/meetings/>

¹⁰ See Appendix 1.0 for details of Security Council resolutions with R2P language.

¹¹ For details on these specific negotiations, see Gifkins J. (2016) R2P in the UN Security Council: Darfur, Libya and Beyond. *Cooperation and Conflict* 51(2): 157-158.

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How Language Matters

As Fierke has argued, rather than ask whether language is important in international politics, we should ask how and why language matters.¹² There are three main reasons how and why language used in resolutions matters. First, language is not static and is indicative of current shared understandings. Second, the language used in resolutions informs future decisions. Third, repetition of language is a form of reaffirmation. The use of particular language shows that there were states which advocated this during the negotiations and that it formed part of their discussions. This section unpacks these three aspects.

The Security Council has little in the way of formal guidance on how decisions are made.¹³ Over the decades it has developed structured yet informal processes of negotiation and drafting, of which participants develop a shared understanding. Indeed, the very mandate of the Security Council – to maintain international peace and security – has evolved and become more expansive over time.¹⁴ As a ‘stepping stone’ in this expansion, Resolution 688 on Iraq in 1991 determined that the cross-boundary effects of internal repression could constitute a threat to *international* peace and security.¹⁵ As such, the very mandate of the Security Council expanded via shared interpretations of what was appropriate in that particular case. The language used in resolutions can be thought of as a ‘snapshot’ indicating the political compromise that was considered acceptable to states at a particular moment in time.

Innovation in resolution language can be intensely political, yet repetition in language can become routine over time. For example, language on the protection of civilians was first negotiated for a resolution on Sierra Leone in 1999 and was carefully caveated as states recognised that it was innovative. However it has since become a standard aspect of peacekeeping mandates, used in many different contexts.¹⁶ This is because Security Council

¹² Fierke KM. (2002) Links across the abyss: language and logic in International Relations. *International Studies Quarterly* 46(3): 331 and 351.

¹³ The basic rules are laid out in the UN Charter (1945) and in the Provisional Rules of Procedure of the Security Council (1982), however these have aptly been described by participants as a mere “skeleton” of decision-making, see Schia NN. (2013) Being Part of the Parade - "Going Native" in the United Nations Security Council. *Political and Legal Anthropology Review* 36(1): 140.

¹⁴ For discussion, see Yamashita H. (2007) Reading 'Threats to International Peace and Security' 1946-2005. *Diplomacy and Statecraft* 18: 551-572.

¹⁵ Wheeler NJ. (2000) *Saving Strangers: humanitarian intervention in international society*, Oxford: Oxford University Press: 139-171.

¹⁶ For discussion, see Holt V, Taylor G and Kelly M. (2009) *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges*, New York: United Nations: 36-47.

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members draft resolutions drawing from 'previously agreed language' as it's easier to find agreement on text if states have agreed in the past. Indeed, the Office for the Coordination of Humanitarian Affairs (OCHA) create regular 'Aide Memoires' which include a compilation of previously agreed language to assist UN Security Council members in drafting resolutions.¹⁷ Prior language and concepts then become the starting point for future negotiations. This is common in foreign policy decision-making, as this form of language has a particular tendency towards inertia.¹⁸ As such, shifts and innovations in the language used in Security Council resolutions represent changes in shared understandings between negotiating parties, which are then applied to similar cases.

Repetition of phrases is not simply automation, devoid of meaning. Repeated practices constitute reaffirmation of shared meanings.¹⁹ Indeed, when drafting foreign policy documents, policies without repetition can be weakened.²⁰ This was the position taken by state champions of R2P in early negotiations: it needed to be reaffirmed to demonstrate seriousness about the concept.²¹ The language used in Security Council resolutions can then be seen a reflection of shared understandings between Council members at a given point, which also shapes future drafting.

To be clear, drafting resolutions which reaffirm R2P does not prescribe specific actions on the part of the Security Council. This is evident in the version of R2P agreed by UN members at the 2005 World Summit: that the Security Council will consider situations on a case-by-case basis.²² Discussing cases in relation to R2P will not lead to military intervention in all cases, nor should it.²³ However, framing responses in terms of R2P helps to promote the

¹⁷ See for example, OCHA, (2014) Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Armed Conflict. *Policy and Studies Series*.

¹⁸ Neumann IB. (2007) "A speech that the entire Ministry may stand for," or: Why diplomats never produce anything new. *International Political Sociology* 1(2): 183-200.

¹⁹ Adler E and Pouliot V. (2011) International Practices. *International Theory* 3(1): 17.

²⁰ Neumann IB. (2007) "A speech that the entire Ministry may stand for," or: Why diplomats never produce anything new. *International Political Sociology* 1(2): 190.

²¹ Author Interview, (2011) *Author Interview with an Official Involved in the Negotiations*. 9 September, Copenhagen.

²² United Nations, (2005) *World Summit Outcome - United Nations General Assembly*. A/RES/60/1. For discussion, see also, Welsh, J. (2013) 'Norm Contestation and the Responsibility to Protect'. *Global Responsibility to Protect* 5(4): 365-396; and Brown, C. (2003) 'Selective Humanitarianism: In Defence of Inconsistency'. In *Ethics and Foreign Intervention*, eds. Chatterjee DK. and Scheid DE. Cambridge: Cambridge University Press.

²³ Glanville, L. (2016) 'Does R2P matter? Interpreting the impact of a norm'. *Cooperation and Conflict* 52(2): 184-199.

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“responsibility to *consider*” how best to address mass atrocity crimes.²⁴ Resolutions which include language on R2P show that it was an aspect of the negotiations which took place while drafting the decision. R2P has thus become a “commonly accepted frame of reference” through which states consider their collective responses to mass atrocity crimes.²⁵ Advocates of R2P recognise that it will only ever be one aspect of the Council’s decision-making²⁶ however regular and repeated use of R2P in resolutions shows that it is part of the negotiations and that Council members consider their responses within the remit of R2P.

How the UN Security Council has used Language on R2P

The Security Council’s mandate of international peace and security means that it regularly creates decisions which include provisions on different aspects of both responsibility and protection. Given this, we need a way to distinguish between broader matters and language which refers to the responsibility to protect, as outlined at the 2005 World Summit. Fortunately, there are particular formulations of language which make it clear which forms of responsibility and protection the Council is invoking. There are three phrases which equate to R2P; invocations of the relevant paragraphs of the World Summit outcome document, 138 and 139; the phrases ‘responsibility to protect’ and ‘responsibility for the protection’; and responsibility of [government name] to protect.²⁷ There was no agreed ‘UN definition’ on the responsibility to protect until 2005, so Appendix 1.0 details all UN Security Council resolutions which meet the above criteria between 2005 and the end of August 2016, with a total of 49 resolutions across conflict and thematic areas.

Conclusion

²⁴ Emphasis in original, Welsh, J. (2013) 'Norm Contestation and the Responsibility to Protect'. *Global Responsibility to Protect* 5(4): 368.

²⁵ Bellamy, AJ. (2011) 'Libya and the Responsibility to Protect: The Exception and the Norm'. *Ethics and International Affairs* 25(3): 1.

²⁶ See for example Bellamy, AJ. (2015) *The Responsibility to Protect: A Defence*. Oxford: Oxford University Press: 72 and Welsh, J. (2013) 'Norm Contestation and the Responsibility to Protect'. *Global Responsibility to Protect* 5(4): 387-389.

²⁷ My analysis on this is congruent with Global Centre for the Responsibility to Protect (2014a) R2P references in United Nations Security

Council resolutions and presidential statements. Available at: <http://s156658.gridserver.com/media/files/unscc-resolutions-and-statements-with-r2p-table-as-of-august-2014.pdf> (accessed

5 September 2014); and Morris J. (2013) Libya and Syria: R2P and the spectre of the swinging pendulum. *International Affairs* 89(5): 1267.

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An examination of R2P language in Security Council resolutions shows that the Libyan resolutions in 2011 did mark a change, however the shift was that the Council became more likely to refer to R2P rather than less likely. It shows a cultural shift within the Security Council whereby R2P has become a less contentious topic when drafting resolutions. R2P has been championed inside the Council – especially by the UK and France – and while early resolutions took six months of intense debate, inclusion of R2P has now become a regular feature of resolutions. In the past decade, international understandings of R2P have evolved via regular debates in the UN General Assembly, activism from R2P Centres, and normative leadership by both Kofi Annan and Ban Ki-moon, and their Special Advisors. As understandings have changed, Security Council members have found language that they are willing to accept and regularly reaffirm. As such, it has become accepted practice for resolutions to include language on R2P. Over time R2P has become a standard aspect of the Security Council’s internal negotiations and one part of the way the Council frames its response to crisis situations and thematic issues.

Appendix 1.0

Situation	Date	Resolution
Great Lakes region	27 January, 2006	1653
Protection of Civilians in Armed Conflict	28 April, 2006	1674
Sudan/Darfur	31 August, 2006	1706
Protection of Civilians in Armed Conflict	11 November, 2009	1894
Libya	26 February, 2011	1970
Libya	17 March, 2011	1973
Cote d'Ivoire	30 March, 2011	1975
South Sudan	8 July, 2011	1996
Yemen	21 October, 2011	2014
Libya	27 October, 2011	2016
Libya	12 March, 2012	2040
South Sudan	5 July, 2012	2057
Mali	20 December, 2012	2085
Somalia	6 March, 2013	2093
Libya	14 March, 2013	2095
Mali	25 April, 2013	2100
South Sudan	11 July, 2013	2109
Small Arms and Light Weapons	26 September, 2013	2117
Central African Republic	10 October, 2013	2121
Central African Republic	5 December, 2013	2127

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Central African Republic	28 January, 2014	2134
Syria	22 February, 2014	2139
Central African Republic	10 April, 2014	2149
The Prevention and Fight Against Genocide	16 April, 2014	2150
South Sudan	27 May, 2014	2155
Syria	14 July, 2014	2165
Terrorism	15 August, 2014	2170
Prevention of Armed Conflict	21 August, 2014	2171
Peacekeeping Operations	20 November, 2014	2185
South Sudan	25 November, 2014	2187
Central African Republic	22 January, 2015	2196
South Sudan	3 March, 2015	2206
Democratic Republic of the Congo	26 March, 2015	2211
Central African Republic	28 April, 2015	2217
Small Arms and Light Weapons	22 May, 2015	2220
South Sudan	28 May, 2015	2223
Mali	29 June, 2015	2227
Sudan/Darfur	29 June, 2015	2228
South Sudan	9 October, 2015	2241
Somalia	23 October, 2015	2244
Youth, Peace and Security	9 December, 2015	2250
South Sudan	15 December, 2015	2252
Syria	18 December, 2015	2254
Syria	22 December, 2015	2258
Central African Republic	27 January, 2016	2262
Democratic Republic of the Congo	30 March, 2016	2277
Protection of Civilians in Armed Conflict	3 May, 2016	2286
South Sudan	31 May, 2016	2290
Mali	29 June, 2016	2295
Sudan/Darfur	29 June, 2016	2296
Somalia	7 July, 2016	2297
Central African Republic	26 July, 2016	2301
South Sudan	12 August, 2016	2304

Compiled from: United Nations Security Council Meeting Records. Available at:
<http://www.un.org/en/sc/meetings/>

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The *R2P Ideas in Brief* series is produced as part of the activities of the Asia Pacific Centre for the Responsibility to Protect (AP R2P) [DFAT Agreement 71895]. The AP R2P wish to acknowledge the funding support provided by the Australian Government, Department of Foreign Affairs and Trade.