

**European Master's Degree in Human Rights and Democratization**

# **Emerging Powers in the New Global Order**

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**IBSA and R2P**

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# Table of Contents

Abstract	2
Introduction	3
<b>Chapter I: R2P as an International Norm</b>	<b>6</b>
1.1. R2P as an International Norm	10
1.2. The Ambiguities of the R2P Concept	16
1.3. A norm leader for R2P?	19
<b>Chapter II: IBSA as a Norm Leader</b>	<b>23</b>
2.1 The Formation of the IBSA Trilateral Dialogue Forum	26
2.2 From Sovereignty Defenders to Human Rights Leaders	29
2.3 Brazil	32
2.4 South Africa	38
2.5 India	45
<b>Chapter III: IBSA's Effect on the Development of R2P</b>	<b>49</b>
3.1 The Effect of the Libyan Crisis on IBSA	49
3.2 IBSA After Libya	60
3.3 Responsibility while Protecting	65
<b>Conclusion and Recommendations</b>	<b>71</b>

## Abstract

*This thesis aims to assess the potential impact of the IBSA group on the Responsibility to Protect. The bloc made up of India, Brazil and South Africa represent a new force of emerging economies. The world is currently witnessing a shift in global power and influence towards the emerging south. India, Brazil, and South Africa in particular have grown to become influential powers within their respective regions. Their shared frustration at having been previously left out of important international decision-making bodies, despite their growing prominence, has led them to challenge the international institutions and submit themselves as leaders in the new global order. The opportunity to prove their shared competence as international powers came in 2011 when all three were elected to the Security Council. In the midst of the Arab Spring the main issue concerning the international community was the implementation of R2P.*

*R2P is a new concept created in 2001 to address the 'intervention dilemma' faced during the 1990s. It argues that sovereignty is based on a state's responsibility to protect its citizens from grave human rights violations. In the event that it is unable or unwilling to do so, it is the responsibility of the international community to protect the people under its administration. Though the concept has been described as an emerging norm, it has been met with reluctance by many states which have been sceptical of its potential for misuse. The Libyan conflict in 2011 clearly demonstrated this divide as R2P supporters hailed its application as a success, while sceptics argued it was used for the sole purpose of regime change. R2P is now facing a legitimacy crisis within the international community. For the concept to become excepted as an international norm it needs clear guidelines and leaders whose endorsement will restore its credibility .*

*Though many critics still view them as staunch defenders of territorial sovereignty, since their emergence as regional powers IBSA have accommodated their stance on R2P. As three democratic emerging powers with increasing influence on the developing world, these countries represent a crossroads between north and south, and east and west. Though often overlooked in favor of established powers, with their regional and international experience, the position of these emerging influential actors on conflict resolution is an important aspect to be analyzed if we are to better understand the future of the R2P debate.*

## **Emerging Powers in the New Global Order**

### **IBSA and R2P**

The UN was founded for the purposes of maintaining peace and security, and promoting human rights. Today the rise of intra-state conflicts has weakened the organization's ability to confront this task. While laws governing inter-state conflict were the priority in the past and have since become institutionalized in the Geneva Conventions and the International Court of Justice, conflicts that arise domestically present a new challenge to the global order. This challenge is due to the inherent conflict between traditional views of sovereignty and international protection for civilians. Ways to solve this conflict have been one of the cornerstones of both Kofi Annan and Ban Ki-moon's terms as UN Secretary General. Both have called for an end to the mass atrocities the world has seen during the massacres at Rwanda and Srebrenica.

The Responsibility to Protect (R2P) was put forward by academics and UN policymakers in a 2001 report to address this problem by offering a re-conceptualization of the definition of sovereignty for the modern era. It argues that sovereignty is based on a state's responsibility to protect its citizens from grave human rights violations. In the event that it is unable or unwilling to do so, it is the responsibility of the international community to protect the people under its administration. The foundation of this concept lies in liberal contract theory and has been reformulated by different philosophers, academics and policymakers throughout history to argue for greater human rights. However, despite attempts to develop the concept, it has failed to become an internationally accepted norm as many countries have been unwilling to give up traditional views of sovereignty. This is apparent in the current division amongst the permanent members of the Security Council over the conflict in Syria, which began in 2011. For R2P to become accepted and internalized as a norm by the international community it needs clear rights and obligations, and state leaders to guide its development.

India, Brazil and South Africa have emerged onto the international scene as important role models for developing countries and leaders for change. In 2003 they formed the IBSA Trilateral Dialogue Forum out of frustration at being excluded from international decision-making bodies despite their growing economic and political influence. Since then they have been drivers for the interests of developing countries and the reform of international institutions. In particular, they have led the international campaign for the reform of the UN Security Council arguing that it should be more inclusive and geographically representative. Being three of the fastest growing countries within their regions, they are the most likely candidates in the event of a Security Council enlargement and as such have become increasingly involved in global issues.

Though initially skeptical of R2P, the IBSA countries have grown to become important actors in conflict resolution within their respective regions and internationally. Their position on R2P however was not defined until the Libyan conflict in 2011. Since then the IBSA bloc has become more proactive in international conflict resolution and the development of R2P to achieve its foreign policy goals. Given their image as leaders from the global south who are pushing for the reform of the international order, these countries have the potential to greatly impact the development of R2P into an international norm. As three democratic emerging powers with increasing influence on the developing world, these countries represent a crossroads between north and south, and east and west. Though often overlooked in favor of established powers, with their regional and international experience, the position of these emerging influential actors on humanitarian crises is an important aspect to be analyzed if we are to better understand the future of the R2P debate.

The aim of this thesis is to assess IBSA's potential as a norm leader for R2P. The thesis will be divided into three chapters. The first chapter will establish R2P's position as an international norm using a theoretical analysis of key documents. It will be concluded that R2P is still an emerging norm and has not achieved full norm status due to a lack of leadership at the state level, and a lack of clear rules and obligations. This analysis will serve to provide insight into which aspects of the R2P remain controversial, and provide a framework through which the IBSA position can be assessed.

The second chapter will provide arguments for the IBSA bloc's potential to fill the leadership gap. The first section will discuss the emergence of IBSA and the effect its actions have had on its international image. The change in each members' foreign policy goals since their emergence as economic powers will then be discussed, demonstrating how the members have transformed over time from ardent defenders of sovereignty to leaders in human rights, democracy and south-south cooperation. It will be demonstrated that these changes have greatly affected their involvement in regional and international security concerns.

The third chapter will discuss IBSA's experience as Security Council members during the 2011-2012 period. The first section will assess the IBSA states' reactions to the Libyan conflict and argue that it was the event that triggered their further involvement in the R2P debate. Their contributions to the reform to the content of R2P will then be assessed through an analysis of the Brazilian proposal for 'Responsibility while Protecting' and the contributions of each of the countries to debates held on conflict resolution at the UN. IBSA's efforts to affect the implementation of R2P will be assessed through an analysis of their voting records during the Syrian crisis and the joint actions they undertook to mitigate the conflict. It will be found that the IBSA bloc, though initially demonstrating the potential to push for reform of the R2P concept, has not followed through with its efforts, so far failing to become effective norm changers at the international level.

Finally, the thesis will conclude by providing recommendations for the future of R2P based on the conclusions reached in each chapter. The chapter will contend that the image and characteristics of the IBSA bloc make it the most likely vehicle for furthering the development of the concept at the international level. As powers that will play an essential role in conflict resolution in the future, the recommendations will be aimed at how the group could use its important intermediary position to reinvigorate the international debate on R2P furthering its acceptance as an international norm.

## **Chapter I: R2P as an International Norm**

Since the Treaty of Westphalia in 1648 states have been considered to be the main political units within the international system and therefore necessary to the achievement of international peace and security. International organizations such as the League of Nations and the current UN system were devised based on the sovereign equality of states to eliminate war through cooperation. Since the end of the Cold War we have seen a drastic change in the nature of conflict. Today 90 per cent of the world's conflicts are contained within geopolitical boundaries deining them as internal.<sup>1</sup> Many have been characterized by political, racial, ethnic, and religious divisions that have resulted in brutal acts of violence. Though the international community has attempted to prevent mass atrocities since the Holocaust through the voluntary commitment of states to conventions and treaties, the 1994 Rwandan genocide and the 1995 massacre at Srebrenica signaled to the world that this was not enough. When faced with mass atrocity crimes the international community cannot be prevented from protecting civilians by sovereignty or indifference. In 2000 UN Secretary General Kofi Annan called on the international community to solve this dilemma by asking:

“if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica — to gross and systematic violations of human rights that offend every precept of our common humanity?”<sup>2</sup>

The Responsibility to Protect (R2P) is a concept that was proposed by the International Commission for Intervention and State Sovereignty in 2001. R2P attempted to solve this conflict by creating a new definition of state sovereignty based on a state's responsibility to protect its population from grave human rights violations. It has since been developed further through various reports at the UN level, the most legally significant of which was its inclusion in the 2005 UN World Summit Outcome Document agreed to by heads of state. It was under the basis of R2P that the recent intervention in Libya was carried out in 2011. R2P includes three fundamental pillars:

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<sup>1</sup> UNPO, <http://www.unpo.org/>.

<sup>2</sup> A/55/1, 3 April 2000, p. 48, para. 2.

1. The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement;
2. The international community has a responsibility to encourage and assist States in fulfilling this responsibility;
3. The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the Charter of the United Nations.<sup>3</sup>

The concept of sovereignty as a responsibility is not new but based on John Locke's social contract theory in which he stated that when a state violates its citizens' fundamental rights, the state forfeits its sovereignty.<sup>4</sup> R2P goes further, arguing that in such a case this responsibility shifts to the international community.<sup>5</sup> The debate over R2P essentially represents the division between Locke's liberal contract theory and Hobbes' realist view that states are given absolute sovereignty in exchange for protection from external interference, upon which the current international system is based.<sup>6</sup> From the beginning policymakers have insisted that the employment of diplomacy, UN resolutions, and non-violent interventional measures, such as fact-finding missions, targeted diplomatic sanctions, arms embargos, and referrals to the International Criminal Court, should be considered first so as not to undermine the objective of the concept: the protection of civilians; despite this, the discussion has become centered upon its most controversial aspect, the possible use of military force. This has dangerously shifted the focus from the primary objective of the protection of civilians, to the ability of the international community to use force against another state, causing division rather than unity.

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<sup>3</sup> Stahn, 2007, p. 101.

<sup>4</sup> Nowak, 2012, p. 344.

<sup>5</sup> Etzioni, 2006, p. 71.

<sup>6</sup> Nowak, 2012, pp. 343-344.



At the 124th United Nations General Assembly plenary meeting on 3 August 2012, Secretary General Ban Ki-moon described the crisis in Syria as a test for the United Nations. The Syrian conflict has signaled to the world that despite attempts to resolve fundamental differences through the development of the Responsibility to Protect, the international community is still unable to undertake timely and effective action in the face of humanitarian crises. With the UN Security Council divided into opposing ideological sides, with the US, UK and France that tend to favor military interventionism, and Russia and China that uphold the principles of traditional sovereignty, no significant consensus has been reached throughout the two-year conflict.

The perspectives of each side on this issue become clear when assessing their views on the creation of the R2P Doctrine. At the General Assembly meeting Ban Ki-moon began his speech by reminding the audience of the failure of the international community to protect civilians during the Srebrenica and Rwandan massacres, citing these atrocities as one of the reasons member states came together to support the R2P concept.<sup>7</sup> In the eyes of intervention supporters, the title of this enigmatic doctrine refers to the responsibility of the international community to protect civilians from the state in the face of grave human rights violations. Conversely, the main reason for the creation of R2P cited by those who uphold the right to territorial sovereignty is to protect against unsanctioned military intervention, such as by NATO in Kosovo, and later the US invasion of Iraq in 2003 under the guise of humanitarian intervention.<sup>8</sup> In the eyes of this group R2P was created as a means to halt the use of humanitarian arguments for ulterior motives.

In 1994 the failure of the international community to act during the Rwandan genocide allowed for the massacre of 800,000 people.<sup>9</sup> In 1995, inaction by the international community resulted in the killing of 8,000 Bosnian Muslims at Srebrenica.<sup>10</sup> The failure of the international community to act during these atrocities is regarded as proof of the inability of states to come to a united agreement on how to act in the face of

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<sup>7</sup> A/66/PV.124, 3 August 2012, p. 2, para 4.

<sup>8</sup> Kotlyar, 2013, p. 31.

<sup>9</sup> Evans, 2013, <http://www.project-syndicate.org/>.

<sup>10</sup> Idem.

humanitarian crises. Bosnian filmmaker Danis Tanovic captures the helplessness in Bosnia in the face of the extreme bureaucracy of UN operations during the 1990s in his film 'No Man's Land'. A report by Secretary General Kofi Annan following the genocide at Srebrenica acknowledged "the gulf between mandate and means" in UN operations, but also questioned "the pervasive ambivalence within the United Nations regarding the role of force in the pursuit of peace" and "an institutional ideology of impartiality even when confronted with attempted genocide".<sup>11</sup>

In response to continued aggression from the Serbian military, an unauthorized NATO airstrike began in Kosovo and Serbia in 1999. Though the action may have been intended to protect helpless citizens in Kosovo, in the process it also led to the deaths of civilians in Belgrade.<sup>12</sup> Today Kosovo is still struggling with instability as Kosovar Serbs living in the north of the country have refused to accept rule by the new provisional government. Serbia, along with its allies at the UN has blocked Kosovo's attempts to attain legal statehood, making it dependent on the UN mission in Kosovo for legal personality. The country has been afflicted by corruption and regular acts of violence. A 2012 corruption index by Transparency International placed it at 105 out of 174 states.<sup>13</sup>

It is clear that there is no standard formula, and no right response to atrocities without consequences. What is needed is the ability for the international community to unite in responding to international crises, and the need for a better assessment of which actions will help to mitigate rather than exacerbate the number of civilian casualties suffered. However, the ideological division at the Security Council level has led in many cases to the clouding of decisions on crisis intervention by political infighting. The reason for this division is that the concept has not reached international norm status, and despite various discussions and evolutions R2P has not resulted in a distinctive, clear and commonly accepted set of rules for the international community. This chapter will make this argument by first laying out a theoretical framework for the development of an international norm. The evolution of the R2P Doctrine will then be assessed within the

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<sup>11</sup> Annan, Kofi, 1999, para. 505.

<sup>12</sup> BBCNews, 2009, <http://news.bbc.co.uk/>.

<sup>13</sup> Transparency International, 2012, <http://cpi.transparency.org/>.

context of this framework. This assessment will conclude that the concept has not acquired internationally accepted status due to two fundamental reasons: precisely because policymakers have attempted to appease different sides, R2P has not attained clear rules or guidelines for its implementation, and the concept lacks the backing of a legitimate norm entrepreneur.

### *1.1 R2P as an international norm*

Stephen D. Krasner defines norms as, “standards of behavior defined in terms of rights and obligations.”<sup>14</sup> The study of norms is a relatively new field emerging from within the Constructivist school of thought at the end of the Cold War. Previously, neo-realists and neo-liberals dominated international relations theory. Their focus has been on how material gains influence a state’s behavior.<sup>15</sup> Constructivists, on the other hand, study the ideas, knowledge, norms, and rules that influence state’s interests and world politics.<sup>16</sup> Norms constitute an internationally accepted standard of behavior. For example, the Westphalian concept of sovereignty is a norm that has conditioned behavior between states. Its meaning has traditionally been viewed as, “the monopoly of the legitimate use of force within a given territory.”<sup>17</sup> When states violate the sovereignty of another by interfering in its territory militarily or otherwise it has been seen as a violation of the norm equalling an act of war or aggression. Similarly, international organizations have conformed to the norm of Westphalian sovereignty. Respect for the sovereign equality of all UN Members was enshrined in the UN Charter, and all international human rights treaties hinge on cooperation and implementation by states.

R2P was developed out of the need for an international paradigm shift. Previously, the international community was focused on preventing inter-state conflict. Since the end of the Cold War the rise of intra-state conflicts has caused a crisis in the international community’s attempt to maintain international peace and security. This crisis has emerged out of the contradiction between the respect for state sovereignty over

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<sup>14</sup> Krasner, 1983, p. 2.

<sup>15</sup> Barnett, 2008, p. 252.

<sup>16</sup> Idem.

<sup>17</sup> Idem, p. 172.

domestic affairs and the international protection of human rights by external bodies in a domestic context, what former UN Secretary General Kofi Annan termed as “the dilemma of intervention”.<sup>18</sup> Though various UN reports have cited R2P as an “emerging norm”<sup>19</sup> the concept has failed to become internationally internalized due to attempts by policymakers to appease all parties, and the lack of a legitimate state leader to champion its progress.

To assess R2P’s status as an international norm it is necessary to compare its development with that of other norms. In Martha Finnemore and Kathryn Sikkink’s ‘International Norms Dynamics and Political Change’, the authors review the scholarship on international norms to draw conclusions on their origins, which mechanisms they use to influence, and how they become influential in world politics. They describe three stages of norm development - emergence, acceptance, and internalization - using the examples of women’s suffrage and the development of laws of war.<sup>20</sup>

#### *Norm Emergence*

In the first stage, norm entrepreneurs with a strong desire to change international behavior towards a particular issue create a norm. Norm entrepreneurs are motivated by a sense of empathy or altruism. The authors refer to Kristen Monroe’s definition of altruism as, “a shared perception of common humanity.... a very simple but deeply felt recognition that we all share certain characteristics and are entitled to certain rights, merely by virtue of our common humanity.”<sup>21</sup> During this stage they attempt to convince world leaders to adopt a new norm. The new norm must have an organizational platform upon which it can be diffused.<sup>22</sup>

Finnemore and Sikkink distinguish between organizational platforms that were created for the purpose of promoting a norm, such as Greenpeace and the Red Cross, and those that have multiple agendas other than the promotion of one particular norm, such as the

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<sup>18</sup> A/55/1, 3 April 2000, p. 5, para. 36.

<sup>19</sup> see A/59/565, para. 203 and A/59/2005, para. 135.

<sup>20</sup> Finnemore & Sikkink, 1998, pp. 894-5.

<sup>21</sup> Finnemore & Sikkink, 1998, p. 898.

<sup>22</sup> Idem, p. 896.

World Bank and the UN. Organizational platforms that fit into the latter category are different as their structural features influence the types of norms they disseminate.<sup>23</sup>

For a norm to pass from the first stage of norm emergence to the second stage of norm acceptance or “norm cascade” it must pass a certain threshold of international acquiescence.<sup>24</sup> Finnemore and Sikkink suggest that this can often be done through the institutionalization of the norm, whether it is through international law, rules, or organizations. They argue that this process can help to formalize the rules and obligations of the norm.

The tipping point between norm emergence and a norm cascade occurs when a “critical mass” of states have adopted the norm. Though it is hard to judge when a critical mass has brought a norm to a tipping point, Finnemore and Sikkink suggest that this can be measured either numerically when a third of the states have accepted the norm, or when critical states have accepted it.<sup>25</sup> Critical states are those that are necessary for the success of the norm. These can either be states that will be directly impacted by the norm, or states that hold some sort of moral standing within the international community making them models of just behavior. In the campaign for nuclear non-proliferation critical states are those that have nuclear capabilities. One example the authors cited of the role of states with moral standing on norm acceptance is the influence of Nelson Mandela’s support for the land mine treaty, both in Africa and internationally.<sup>26</sup>

### *Norm Acceptance*

In the second stage after the tipping point has been reached, norm leaders attempt to gain further adherence through what Kenneth Waltz termed ‘international socialization’.<sup>27</sup> Since at this stage a critical mass of states have already accepted the norm, it is possible to socialize other states at the international rather than domestic level. This is achieved through a process of praising states that conform to the norm and

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<sup>23</sup> Idem, p. 899.

<sup>24</sup> Idem, p. 900.

<sup>25</sup> Finnemore & Sikkink, 1998, p. 901.

<sup>26</sup> Idem.

<sup>27</sup> Idem, p. 902.

criticizing or punishing those that do not. Enforcement mechanisms can include monitoring and judicial bodies; for example, the UN Treaty bodies, the International Court of Justice, International Criminal Court, and regional monitoring and judicial bodies all work to ensure the conformance of states to human rights norms. However, it is still up to states whether they will become party to such mechanisms and accept their scrutiny.

The authors argue that norm conformance can also occur at this stage due to social pressure.<sup>28</sup> This is because the identity a state has within the international community greatly influences its behavior. Therefore, when a norm emerges that conforms to a state's sense of identity it will often internalize it for reasons of legitimation, conformity, or self-esteem.<sup>29</sup> Many would question why states would willingly submit themselves to the scrutiny of international human rights treaties, but when faced with domestic and international pressure from human rights norm leaders they will often accede to avoid damaging their reputation and credibility.

#### *Norm Internalization*

Once a norm's rules have become institutionalized and it has gained widespread acceptance it may be possible to pass to the third stage, norm internalization. At this stage a norm becomes so widely accepted that it is taken for granted and dictates the behavior of states towards a certain issue. The norm can then be seen to be self-enforcing as its rules and obligations will often be in force at the international and domestic level and going against the norm will be going against commonly accepted behavior. The abolition of slavery is a norm that has reached this third stage. By changing the attitudes of the international community towards slavery, today it is considered unacceptable worldwide. Though it is still practiced in some areas it has been outlawed in international law and even in the domestic law of the few states where it continues to be practiced.

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<sup>28</sup> *Idem*, p. 903.

<sup>29</sup> Finnemore & Sikkink, 1998, p. 903

The constructivist school has provided a more insightful way to study the theoretical aspects of norm internalization not available in rationalist theories. However, this school has been criticized, even by the authors themselves, for not being able to transition completely from theoretical to practical application. Though the norm ‘life cycle’ model is useful in systematizing the steps for norm internalization, in the case of R2P we can see that it fails to completely explain why a norm may fail to reach complete internalization, or if it does reach this stage, it fails to assess whether or not the norm has become internalized in the intended spirit of its creators. As mentioned, one of the examples Finnemore and Sikkink used to explain this process was women’s suffrage. Though women’s suffrage has become a widely accepted norm, at the time of writing in 1998 there were still several countries on the Arabian Peninsula which had not internalized the norm including, Bahrain, Kuwait, Oman, Qatar<sup>30</sup>, Saudi Arabia and the United Arab Emirates. The Middle East represents a large portion of the world’s population and as such, if women’s suffrage had not become internalized there, it could be argued that it had not reached full norm status. While today all of these countries have implemented women’s suffrage into their national systems (except for Saudi Arabia which announced women will be given the right to vote in 2015), one must also assess how it has been internalized. In Lebanon, though women were given the right to vote in 1952, unlike men they must prove their academic qualification to vote; also, under national law men are obligated to vote while it remains an option for women. Though it is included in the list of countries which have contributed to universal female suffrage, this is surely not what the original suffragists envisioned. Finally, while constructivists have pointed out the importance of studying how norms and identity condition the behavior of states, the material and security interests of a state should still be taken into consideration to understand why in some cases a state will act contrary to the identity it has constructed for itself.

Following these criteria some could argue that R2P has become an international norm. In 2001 the Canadian government responded to Kofi Annan’s call by setting up the International Commission for Intervention and State Sovereignty (ICISS) to look in-to

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<sup>30</sup> Qatar had given women the right to vote only the year before in 1997.

possible solutions. Their report entitled ‘The Responsibility to Protect’ sought to answer this question by offering a reconceptualization of the concept of sovereignty based on liberal contract theory. In this way sovereignty became an attribute contingent on the responsibility of the state to protect the rights of its citizens, and imposed a further responsibility on the international community to step in when a state has failed to fulfill its responsibility. This concept was subsequently developed in a 2004 report by the UN High Level Panel on Threats, Challenges and Change and then endorsed in Kofi Annan’s famous 2005 report “In Larger Freedom”, both of which referred to R2P as an emerging norm.<sup>31</sup> As Kofi Annan can be seen as one of R2P’s main norm entrepreneurs, the UN can be seen as its organizational platform. The step in which policymakers attempted to institutionalize the R2P concept was through its inclusion in the 2005 World Summit Outcome Document. This version of R2P is seen as the most authoritative in terms of legal value as it was agreed upon by the attendant world leaders.<sup>32</sup>

However, with the Syrian crisis having divided the Security Council it is clear that R2P has not become internalized. Both the ICISS and High Level Panel reports agreed on the obligation imposed by the R2P norm: the responsibility of states and the international community to protect civilians in the face of human rights violations.

They disagreed on the rules for when, by whom and how R2P can be invoked, and often worded the most contentious issues ambiguously to avoid confrontation. Policymakers’ attempts to gain international acceptance are even more evident in the text of the World Summit Outcome Document that resulted in what some critics have called R2P lite.<sup>33</sup> By failing to address the inconsistencies in the reports the norm entrepreneurs have not been able to set clear rules and guidelines for its use. This has led to its misuse, damaging the international credibility of the norm. Finally, while UN policymakers have been the initial norm entrepreneurs, R2P has not attained the backing of critical states with the international legitimacy to encourage norm diffusion. These factors,

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<sup>31</sup> see A/59/565, para. 203 and A/59/2005, para. 135

<sup>32</sup> Stahn, 2007, p. 101.

<sup>33</sup> Bellamy, 2008, p. 616.



which will be discussed further, have made it impossible to achieve true international acceptance much less internalization.

### *1.2 The Ambiguities of the R2P Concept*

As Finnemore and Sikkink mentioned in their analysis, the UN as an organizational platform presents some structural difficulties that need to be overcome to promote R2P, mainly its state-centric nature. Because UN Members and decision-makers are states, norm entrepreneurs face difficulties in convincing states to condone a norm which will limit their actions domestically. They also must work within the confines of the UN Charter. This means that policymakers are faced with the difficulty of tackling the conflict within the UN Charter between sovereignty and security, namely rules under Chapter I Article 2:

“The Organization is based on the principle of the sovereign equality of all its Members.”... “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”<sup>34</sup>

Provisions under Chapter VII allow the Security Council to authorize peaceful or military action to “maintain or restore international peace and security.”<sup>35</sup> Promoting a norm such as R2P that allows for the potential to intervene in a Member state’s domestic affairs faces the problem of securing endorsement and keeping within the legal framework of the UN.

#### *The ICISS Report*

The ICISS report attempted to face this challenge by framing the UN as a guarantor of state sovereignty explaining that it both confirms a state’s sovereignty through membership, and guarantees the security of its sovereignty in exchange for its

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<sup>34</sup> Charter of the United Nations, Chapter I, Article 2 (1)(7).

<sup>35</sup> *Idem*, Chapter VII, Article 42.

adherence to the objectives of the organization.<sup>36</sup> As the primary responsibility for protection lies with the state, the report first highlighted the need for early warning and prevention methods. It is only when a state is “unable or unwilling” to provide protection that the international community should resort to interventionary methods.<sup>37</sup> In carrying out the responsibility to protect, the report stressed that the international community should always consider non-military action first. It outlined some possible actions that could be taken including sanctions, embargos, and political restrictions.

The ICISS report also attempted to address the most controversial component of R2P: military intervention. Though the authors asserted that peaceful means of coercion should first be considered they also admitted that in some extreme cases military action could be warranted. The authors established six criteria that could be used to ensure that when necessary, military action is used appropriately, including: right authority, just cause, right intention, last resort, proportional means, and reasonable prospects.<sup>38</sup> The report cited the Security Council as the main body with the authority to invoke a military response under R2P, but it did not exclude action by other bodies and even suggested the possibility of intervention by regional bodies or coalitions of states in the case of a Security Council deadlock.<sup>39</sup> In terms of establishing what circumstances qualified as just cause for military intervention, the Commission outlined the following situations:

“large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or large scale “ethnic cleansing,” actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape”.<sup>40</sup>

While genocide and the acts cited under ethnic cleansing are already crimes under international law, the conditions for a ‘large-scale’ loss of life are difficult to assess. The authors themselves cite this difficulty but express that they do not attempt to quantify

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<sup>36</sup> Stoll, 2007, p.11.

<sup>37</sup> ICISS, p. 29, para. 4.1.

<sup>38</sup> ICISS, p. 32, para. 4.16.

<sup>39</sup> Idem, p. 53, para. 6.31.

<sup>40</sup> Idem, p. 32, para 4.19.

this condition. Still, they go so far as to suggest that military intervention can be used even if it is to prevent a large-scale loss of life from occurring.<sup>41</sup>

### *The High Level Panel Report*

Written after the unilateral decision by the US to invade Iraq, the High Level Panel Report sought to place application of R2P exclusively under the authority of the UN Security Council. The US decision to go ahead with this intervention in spite of being denied UN approval was a hard blow to the legitimacy of the organization. Furthermore, the fact that the US did not face any consequences for its actions put into question the effectiveness of the UN in creating a global order based on equality. In this regard the Panel warned against unilateral action, stating that it could upset the

“global order and the norm of non-intervention on which it continues to be based.”<sup>42</sup>

Unlike the ICISS report, the High Level Panel also suggested that even regional military intervention should be authorized by the Security Council.<sup>43</sup> The report also offered its own five criteria for the legitimate use of military action: seriousness of threat, proper purpose, last resort, proportional means, and balance of consequences.<sup>44</sup> Much like the ICISS report, the high level panel also cited cases in which the Security Council was authorized to use military force:

“in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.”<sup>45</sup>

### *The World Summit Outcome Document*

Under the World Summit Outcome Document the participating leaders reaffirmed their responsibility to protect their citizens from serious violations of human rights. Unlike in the previous documents it further specified the obligations under this responsibility by limiting it to protection from genocide, war crimes, ethnic cleansing and crimes against

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<sup>41</sup> Idem, p. 33, para. 4.21.

<sup>42</sup> A/59/565, 1 December 2004, p. 55.

<sup>43</sup> Idem, p.71.

<sup>44</sup> Idem, pp. 57-8, para. 207.

<sup>45</sup> Idem, p. 57, para. 203.

humanity.<sup>46</sup> They affirmed that the international community also has the responsibility to use diplomatic, humanitarian, and other peaceful means in response to these crimes through the UN. Finally, the world leaders committed themselves to join in collective military action orchestrated by the Security Council, “on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations,” from these crimes.<sup>47</sup>

Though the heads of state confirmed their collective responsibility to protect through the UN, there is no mention of the use of military action by other bodies. Unlike the ICISS and High Level Panel Reports, the World Summit Outcome Document does not specify criteria that should be met to justify the use of military force. Dropping the responsibility to protect populations from large-scale loss of life from its list of obligations served to avoid the difficulties that could occur in quantifying ‘large-scale’; however it is clear from the recent conflicts in the MENA region that populations at risk from the suppression of political activism can therefore not be protected unless one of the crimes specified is violated. In Syria this has now led to a race for states such as the US, UK, and France to prove that the government has been using chemical weapons resulting in war crimes. All in all, the short three-paragraph section dedicated to the responsibility to protect did not express clear rules and obligations necessary for the institutionalization of the R2P norm, thereby failing to reconcile differences with the two previous reports. While the term R2P has become more widely used within the international community, this ambiguity has led to misuse and conflict over its application.

### *1.3 A Norm Leader for R2P?*

Already faced with the difficulty of clarifying its provisions, R2P also lacks the support of a critical state or group of states that can lead its development, diffusion, and socialization. As previously discussed, though R2P’s primary norm entrepreneurs are UN policymakers, the state-centric nature of the UN means that for a norm to spread

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<sup>46</sup> A/RES/60/1, 24 October 2005, para. 138.

<sup>47</sup> A/RES/60/1, 24 October 2005, para 139.

within the organization it needs states that will behave according to its principles. This state or groups of states can therefore serve as models of behavior for other supporters to emulate, and as forces of condemnation for norm violators.

The obvious first place to start is amongst the permanent Members of the UN Security Council, the collection of states most widely recognized as having the legal authority to authorize both peaceful and military action. As the long-term hegemon the US has typically played the role of a norm entrepreneur within the international community. The identity it has constructed as a liberal democratic state has played an important role in influencing the kinds of norms it promotes. Joseph Nye's seminal work on the importance of soft power provides interesting insights into the reasons for its promotion of liberal and democratic norms outside of its boundaries. He posits that in the modern age of globalization, and with the proliferation of international institutions, new ways of projecting power have emerged. Though the need for military power has not completely died out, today a state must develop its soft power to successfully attain influence within the international community.<sup>48</sup> Soft power is defined as, "the ability to get what you want through attraction rather than coercion or payments."<sup>49</sup> States attain soft power by making their culture attractive to others through its promotion and diffusion. Nye argues that soft power is the most difficult type of power to attain but it results in deeper longer-lasting effects than military power as other states are unconsciously internalizing the influence of the first state. In this regard the promotion of norms that diffuse liberal and democratic ideals is beneficial in building up the US's soft power. Along with human rights and civil liberties, R2P is a norm that the US should support.

To the detriment of its soft power, the US has become accustomed to undertaking unilateral action to further its security interests. During the Cold War this action was either tolerated or received less criticism;<sup>50</sup> with the institutionalization of the new global order the US has failed to correspondingly adjust its foreign policy. While it has supported international human rights norms it has refused to commit itself to the monitoring and regulating mechanisms designed to ensure their adherence. Some

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<sup>48</sup> see Joseph S. Nye Jr., *Soft Power: The Means to Success in World Politics*.

<sup>49</sup> Nye (a), 2004, p. x.

<sup>50</sup> To be discussed further in Chapter 2.

examples include its refusal to become party to the International Criminal Court, the international landmine treaty, the Kyoto Protocol, certain UN treaties, and its continued use of the death penalty.<sup>51</sup> Rather than becoming a model for norm socialization, through its actions it has made itself an exception to the norms it attempts to promote. This behavior has led to skepticism by other states of the US's motives and a weakening of the institutionalization of human rights.

The 2003 invasion of Iraq was one of the key moments in which the US lost its legitimacy as an R2P norm entrepreneur. The decision to proceed without Security Council authorization undermined the authority of the UN system and led to a decline in the US's reputation, trust and credibility. A 2004 Gallup poll found that US policies had a negative effect on its image amongst majorities in 29 countries.<sup>52</sup> Since then the accounts of torture and illegal detention at Guantanamo, unsanctioned use of drones, counts of extrajudicial rendition, and even the recent leak of domestic phone tapping have all contributed to this decline in its international image. In many of these actions the US has actually gone against the R2P norm losing its legitimacy in the eyes of the international community, and creating double standards. Rather than socializing other states to adopt R2P as a norm, this behavior has caused skeptics to label R2P as a "Trojan horse" for unilateral intervention.<sup>53</sup> These actions have furthermore raised concerns that military action undertaken by the US under R2P could be carried out with the intention of regime change, an issue which has been voiced throughout the recent Libyan and current Syrian conflict. The obvious difficulties also serve to highlight the crippling effect of the gaps created by the failure to address the issue of authorization for actions taken outside the UN and the need for proportionality of military action.

Russia and China are the least likely candidates to become R2P norm leaders. Both are persistent advocates of Westphalian sovereignty and like the US have refused to submit themselves to international mechanisms that scrutinize their domestic human rights practices such as the International Criminal Court and UN treaty monitoring bodies. Though both have argued rightly that the provisions of R2P still need to be debated

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<sup>51</sup> Shah, 2002, <http://www.globalissues.org/>.

<sup>52</sup> Nye (b), 2004, <http://www.foreignaffairs.com/>.

<sup>53</sup> Bellamy, 2008, p. 617.

further,<sup>54</sup> rather than being proactive they have been the source of deadlock within the Security Council in the face of large-scale loss of life in Syria.<sup>55</sup> Both the ICISS report and the High Level Panel report called on the Security Council to refrain from using their veto powers on situations in which grave human rights violations are being committed, however, the World Summit Outcome Document made no mention of this. Furthermore, Russia, like the US, has contributed to the view of R2P as a ‘Trojan Horse’ for great power intervention. Though it had been one of the eight countries that had expressed reservations about including R2P into the World Summit Outcome Document,<sup>56</sup> this did not stop Foreign Minister Sergei Lavrov from justifying Russia’s unilateral intervention in Georgia in 2008 by using R2P.<sup>57</sup>

To become a full-fledged international norm R2P needs norm leaders that can operate multilaterally through international institutions. These leaders must possess the legitimacy in the eyes of the international community that will allow them to become models for international emulation. The continuation of the international discussion on R2P needs to be encouraged and led by constructive debates centered on protecting civilians. Even when well-intentioned, when world powers undermine the international system through unilateral action, or deny its ability to act through the use of veto powers, it weakens the global order and creates resentment. Today with the onset of the Syrian conflict the need for the development of a responsibility to protect is clear. The proxy war that has occurred with Russia arming the Syrian government, and the US recently announcing it will arm the rebels, has merely politicized the crisis and further endangered the lives of the Syrian people trapped between warring factions. Without clear rules for R2P, sovereignty will continue to equate to what Stephen Krasner terms “Organized Hypocrisy”.<sup>58</sup>

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<sup>54</sup> S/PV.5391, 21 March 2006, p. 19 and 30.

<sup>55</sup> see SC/10714, SC/10536 and SC/10403.

<sup>56</sup> Stahn, 2008, p. 108.

<sup>57</sup> Evans (a), 2009.

<sup>58</sup> see Stephen D. Krasner *Sovereignty: Organized Hypocrisy*.

## Chapter II: IBSA as a Norm Leader

Since the 2005 World Summit Outcome Document, R2P has achieved some important successes but also setbacks in its development at the UN level. One of the most important successes was the adoption of Security Council Resolution 1674 on the protection of civilians in armed conflict in 2006 as the first report in which the Security Council officially acknowledged the Responsibility to Protect.<sup>59</sup> Another was Security Council Resolution 1706 on the situation in Darfur. This resolution authorized the deployment of UN troops, citing paragraphs 138 and 139 of the World Summit Outcome Document.<sup>60</sup> Finally, UN Secretary General Ban Ki-moon was responsible for two further advancements: the appointment of a Special advisor on R2P to work in coordination with the Special advisor on the prevention of Genocide; and a 2009 report on the implementation of R2P. His report was the first UN report exclusively devoted to R2P and the first to divide the concept into 3 pillars of responsibility. Furthermore the report highlighted the need to develop early warning indicators and for states to assist other states in capacity building so that they can meet their responsibilities.

Despite these successes, disagreements on implementation within the Security Council and resistance within the General Assembly continued to obstruct progress. One conflict that arose within the Security Council was over the situation in Burma/Myanmar. A 2007 draft resolution presented by the UK and the US sought to condemn military attacks on ethnic minorities and called on the government to allow humanitarian organizations to operate freely within the area and begin a process of political reconciliation.<sup>61</sup> Disagreement over R2P led to a double veto of the draft by Russia and China who argued that the domestic situation of the country did not affect peace and security in the region and therefore did not fall under the competence of the Security Council but should be taken up by the Human Rights Council.

In the General Assembly the appointment of a Special Advisor on R2P was strongly opposed by R2P skeptics who held a strong base at the time. During his presidency of

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<sup>59</sup> International Coalition for the Responsibility to Protect, <http://responsibilitytoprotect.org/>.

<sup>60</sup> *Idem*.

<sup>61</sup> The Resolution also called on the government to begin a political dialogue and release political prisoners SC/8939.



the General Assembly, Nicaraguan diplomat Father Miguel d'Escoto Brockmann led the opposition against R2P arguing that a more appropriate term for it would be R2I, "Right to Intervene".<sup>62</sup> Along with delegates that had experienced intervention from the West, including Algeria, Cuba, Venezuela and Egypt, he argued against the appointment of the Special Advisor during the Advisory Committee on Administrative and Budgetary Questions meeting. Ultimately, Edward Luck was appointed to the position with a nominal salary of \$1 a year.<sup>63</sup> While designation of a Special Advisor on R2P was a step forward, this incident demonstrates the continued resistance of states to trust the norm.

Having previously discussed the steps for norm internalization it is clear that the support of critical states is essential to promoting R2P. The divide amongst the Security Council members has clouded any possibility of progress. Within the General Assembly R2P skeptics have attempted to block efforts to develop the concept further. Rather than resistance, R2P needs a force of influential states that can work to negotiate differences and serve as models for its socialization. These states must be intermediaries within the international community that have the potential to unite through example.

Since the end of the Cold War a new global order has been emerging based on international institutions and cooperation. This has been due in part to the perceived end of war between major powers and the effects of globalization. As discussed in the previous chapter this shift has had great implications on the way in which power and influence are diffused. The increased importance of international institutions as forums for decision-making and regulation has signaled a need for neo-liberal policies of cooperation and negotiation rather than coercion. In an age of emerging global governance institutions, multilateralism and soft power are the most effective tools. Robert Cox foresaw a shift in the international order in 1981 when he wrote:

"A third and more remotely possible outcome would be the development of a counter hegemony based on a Third World coalition against core country dominance and aiming toward the autonomous development of peripheral countries and the termination of

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<sup>62</sup> The Economist (a), 'Responsibility to Protect and ide whose time has come and gone', 2009, <http://www.economist.com/>.

<sup>63</sup> Global Centre for the Responsibility to Protect, 2011, <http://responsibilitytoprotect.org/>.

core-periphery relationship. A counter hegemony would consist of a coherent view of an alternative world order backed by a concentration of power sufficient to maintain a challenge to core countries ... The prospects of counter hegemony lie very largely in the future developments of state structures in the Third World.’<sup>64</sup>

International organizations have attempted to create a more level playing field in which great military powers and weaker agricultural based states have a more equal voice on global issues such as trade, security, and the environment. While powerful states still continue to have a definite advantage, coalitions of developing, and in particular, emerging countries have formed to heighten the voices of these underrepresented states within the international community. Many, such as the G22, BRICS and IBSA, have formed in the spirit of third world coalitions from the 1970s, such as the Non-Aligned Movement and the group of 77, to counter the dominance of powerful states in global decision-making. Previous alliances of the global south, in particular the Non-Aligned Movement, were formed out of the desire to stay out of the rivalry between the US and Russia during the Cold War and to strengthen the struggle against colonialism. However, the formation of these coalitions also fostered mistrust of international institutions which they viewed as a guise for constraints imposed by major powers. This made members of the Non-Aligned Movement strong defenders of sovereignty to fight against interference from world powers. Since then a new rise in coalitions from the global south has occurred based on growing economic power. Rather than mistrusting international institutions, these new groups have found them to be useful mechanisms through which power can be leveraged to change the international system.

The IBSA Trilateral Dialogue Forum made up of India, Brazil and South Africa is one such alliance. The group was formed on the premise of reforming the international order to better reflect the global composition and combat the exclusion of the developing south. In this regard it has been one of the main leaders in the campaign for the reform of the UN Security Council, calling for one that better represents the composition of the international community. As regional hegemon, they are the most likely candidates in the event of a future Security Council enlargement and have been seeking support for

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<sup>64</sup> Alden & Vieira, 2005, pp. 1090-1091.

their inclusion as permanent members. This goal has led the three to strengthen their roles as international actors through cooperation on global issues.

As the world shifts towards a more multipolar global order, whether or not they are included as permanent Security Council members, India, Brazil, and South Africa are becoming increasingly influential international policymakers and as such will have a significant impact on the shaping of international human rights norms. In light of these changes it is necessary for the academic community to give more attention to their contributions at the international level in order to foresee the future of human rights.

This chapter will establish the IBSA bloc's potential as R2P norm leaders based on a political analysis of its actions in the context of the theoretical framework developed in chapter I. This will be done by first assessing the IBSA Trilateral Dialogue Forum's potential as an organizational platform for norm socialization. India, Brazil and South Africa's cooperative engagement on economic, social and political issues through IBSA will then be assessed to gain a perspective on the group's international image. The second section will then analyze the factors that have influenced each country's foreign policies since their ascent as emerging powers.

### *2.1 The Formation of the IBSA Trilateral Dialogue Forum*

Emerging, rising or middle powers, the growing dynamism of the IBSA bloc in global affairs has been described in different ways. What can be certain is that all three represent a changing global order that has been driven forward by the recent economic crisis. It is predicted that Brazil, India and China will surpass the aggregate production of Canada, France, Germany, Italy, the UK and the US by 2020, while South Africa remains the dominant economic power in Africa.<sup>65</sup> Their inclusion in the BRICS has further facilitated this growth through cooperation on economic issues in the wake of the financial crisis, and most recently the announcement of a BRICS development bank.<sup>66</sup> Offering an alternative to trade and development aid with the West, IBSA's inclusion in the BRICS has furthered its image as a leader in the new global order. As

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<sup>65</sup> The Hindu Business Line, 2013, <http://www.thehindubusinessline.com/>.

<sup>66</sup> Alden & Vieira, 2005, p. 1088.

three democratic emerging powers they have received the support of Western countries intent on supporting the democratic model in the face of growing Chinese power. However because they are not on a par with the economic prowess of China, and do not have the historical superpower status of Russia, the UK, France, and the US, IBSA follow very different foreign policy considerations than the other members of the UN Security Council. As middle powers, they have sought to harness the potential power of international institutions employing the tools of multilateralism and soft power to further their agenda.

The trilateral alliance was formed on the sidelines of the 2003 G8 meeting in France, which they attended as observers.<sup>67</sup> Then Brazilian President Luiz Inácio Lula da Silva expressed the resentment of the three at not being allowed to participate fully when he stated, “What is the use of being invited for dessert at the banquet of the powerful? ... We do not want to participate only to eat the dessert; we want to eat the main course, dessert and then coffee.”<sup>68</sup> The Brasilia Declaration of June 2003 officially launched IBSA’s formation. It is composed of a trilateral commission made up of three foreign ministers and staff. The heads of state meet at an annual summit to discuss the group’s cooperation on issues and form common positions. Some academics have argued that the institutionalization of the IBSA Dialogue Forum within the respective country’s foreign ministries is a strength of the alliance as it makes its continuance through successive governments more likely.<sup>69</sup> A formal announcement of the creation of the Dialogue Forum by the heads of state at the UN General Assembly in September 2003 foreshadowed its ambition as a global driver for reform.

As an organizational platform, the IBSA Dialogue Forum seeks to achieve its goal of reestablishing the international order by providing a three-level approach. First it has become an important forum for the three countries to coordinate on global issues at the international level. Second, it has created sixteen working groups to facilitate intra-IBSA cooperation on particular interest areas. Third, it has enhanced its image as a leader for south-south cooperation through the creation of the IBSA Trust Fund in 2004.

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<sup>67</sup> Kurtz-Phelan, 2013, <http://www.ft.com/>.

<sup>68</sup> Kurtz-Phelan, 2013, <http://www.ft.com/>.

<sup>69</sup> Alden & Vieira, 2005, p. 1089

For IBSA's development as a norm leader, the first and third parts are of particular significance. The IBSA annual summits and meetings between its foreign ministers have provided an organizational platform through which India, Brazil, and South Africa can form common positions that they can advance multilaterally through international institutions such as the WTO and UN. The Trust Fund has given them a means to turn words into action and improve their credibility as leaders for change.

One of their primary goals has been to reform the international economic system in favor of developing countries. One of their first actions as a group was to organize developing countries to block agricultural protectionism at the WTO Cancun meeting in 2003. Brazil and India in particular have been at the forefront of agricultural disputes at the WTO, arguing for conditions that favor developing economies. Through these efforts they have won the support and trust of the developing world, as prominent members of the Non Aligned Movement and the Group of 77. Though they originally focused on trade issues they now cooperate on global matters ranging from poverty alleviation to the environment to science & technology research. The announcement of the formation of IBSA by its heads of state at the UN General Assembly in September 2003 also signaled its intention as a political platform through which the group would form common positions on international issues at the UN. So far they have issued joint statements on issues including UN Security Council reform and the situations in Palestine and Iraq.

The IBSA Trust fund is meant to set up small-scale projects in participating countries to alleviate poverty and can be replicated in other developing countries. The purpose is to facilitate the sharing of best practices within the global south as an alternative to Western aid assistance. Though compared to Western aid the Fund is a modest joint collection of \$1million a year; its success lies in the small-scale of its projects combined with the individual experiences of the contributing countries. A recent report by the UN Peacebuilding Support Office aimed at identifying new sources for resource mobilization identified south-south cooperation as a previously untapped resource with great potential. Its specifically mentioned the IBSA Trust Fund as a potential donor that

has provided funding for projects as well as technical, development, and peacebuilding assistance.<sup>70</sup>

IBSA's chance to prove their competence as international powers came in 2011 when for the first time all three members were elected to the UN Security Council.<sup>71</sup> Though Brazil and India are the two countries that were elected to the Security Council most frequently between 1945 and 1996,<sup>72</sup> it was only South Africa's 2<sup>nd</sup> time to be elected as it had been blocked during the apartheid regime.<sup>73</sup> Though India holds the second highest number of appointments, prior to 2011 it had not been elected for 19 years despite its international significance.<sup>74</sup> Both Brazil and India have been lobbying for support for their inclusion as permanent members on the UN Security Council. In the midst of the Arab Spring, when the most important debate taking place during their term was on R2P, their uncertain stance within the international community made this an important opportunity to demonstrate their competence in handling global issues.

Traditionally R2P skeptics, the IBSA countries were originally critical of its potential for misuse by powerful countries. As the IBSA countries have grown to become regional hegemony they have become more involved in security and conflict resolution efforts. Today India is the 3<sup>rd</sup> highest peacekeeper contributing country.<sup>75</sup> Brazil has taken the lead in UN missions to Haiti in 2004, and has been leading the UN Peacebuilding Commission's work in Guinea Bissau since 2007. Since the end of the apartheid regime South Africa has become a major player in the African Union's conflict resolution missions. This section seeks to address what factors have influenced these countries change in foreign policies and what implications it has on IBSA's stance towards R2P.

## *2.2 From Sovereignty Defenders to Human Rights Leaders*

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<sup>70</sup> United Nations Peacebuilding Support Office, 2012, p. 24-25.

<sup>71</sup> United Nations Security Council, 'Countries Elected Members of the Security Council', <http://www.un.org/>.

<sup>72</sup> Soares de Lima & Hirst, 2006, p. 28.

<sup>73</sup> United Nations Security Council, 'Countries Elected Members of the Security Council', <http://www.un.org/>.

<sup>74</sup> *Idem*.

<sup>75</sup> United Nations, 'Ranking of Military and Peace Contributions to UN Operations', 2011, <http://www.un.org/>.

As the majority of the internal conflicts we have seen since the 1990's have occurred in the developing world, R2P is a norm that will have a great impact on the global south and as such becoming involved in its development could help IBSA to further its goals. The IBSA countries are still far from being the perfect models for human rights. Recently, news of the killing of miners in Marikana, South Africa, the rape of a young woman on a public bus in New Delhi, and the current riots against corruption within the Brazilian government are all a testament to this. However, the fact that news of these incidents has become so widespread is also a testament to the increasingly transparent democratic nature of the IBSA countries and the growing strength of their civil societies. However, one might ask why states, especially those with continuing human rights problems, may decide to support norms which place human rights above state sovereignty.

A number of studies have been conducted to better understand why countries commit to international human rights regimes and under what conditions these commitments have been effective. According to Andrew Moravcsik's study of the negotiations concerning the creation of the European Court of Human Rights, it is not great powers or long established liberal democracies that are more likely to support binding international human rights commitments, but the governments of newly established democracies. He argued that based on the republican liberal perspective, new democracies see more benefit in "locking in" democratic principles to ensure their continuity and stability through successive governments.<sup>76</sup> This can explain why Germany and Italy were the biggest proponents of binding agreements during the negotiations for the European Court of Human Rights, and why today the US has been reluctant to join the International Criminal Court or accept binding commitments under the Inter-American and UN systems.

In the quantitative analyses of Oona Hathaway and Eric Neumayer which studied why states commit to international human rights treaties and whether or not they have an impact, both authors found that the effect of human rights treaties was stronger depending on how democratic a country is. Neumayer additionally concluded that this

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<sup>76</sup> Moravcsik, 2000, p. 220.

effect is even greater in countries with strong civil societies.<sup>77</sup> Furthermore, Hathaway found that the higher the rate of regional treaty ratification, the more likely a country would be to ratify a treaty.<sup>78</sup> This was attributed to the fact that,

“If a country lies in a region in which human rights norms are highly valued, it will seek to demonstrate its commitment to these shared norms and thereby smooth relations with other countries within the region—countries that because of their proximity, are more likely to engage with them in trade and security alliances (or if things go poorly, military battles).”

Based on the evidence collected in these reports a number of conclusions can be drawn on the importance of the IBSA bloc for the socialization of new norms. As three democratic countries emerging (especially in the cases of Brazil and South Africa) from regimes with a history of human rights violations and non-compliance, these countries have an interest in reestablishing their positions at the regional and international level by diverting from their previous foreign policies and locking in new democratic principles. This makes them more likely to join international commitments that bind all parties to new norms associated with the protection of human rights. This pressure not only comes from governments’ desires to reestablish their international image, but also from the increased influence of civil society groups on democratic institutions.

In the case that major powers are less likely to commit when the new norm constrains their ability to act, as with the US and the International Criminal Court, or if it goes against their principles, as with China’s resistance to limitations on its domestic sovereignty, the task of legitimizing a new norm falls on emerging powers. Based on the evidence found in Hathaway’s study that high regional acceptance of a human rights treaty can have spillover effects, it can be inferred that adherence to a new norm by a regional power can have a great impact on its adherence by neighboring countries. The

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<sup>77</sup> Neumayer, 2005, p. 941.

<sup>78</sup> Hathaway, 2007, p. 611.



accuracy of these conclusions can be tested by analyzing the foreign policies of the IBSA members and how they have evolved over time.

The case of Brazil will be discussed first and more in depth as it has demonstrated one of the most dramatic shifts from R2P skeptic to active participant with its proposal for R2P reform, said reform to be discussed in the following chapter. It has clearly been the leader within the IBSA bloc on this front and as such the positions of South Africa and India will be assessed on the basis of their willingness to support a reformed R2P norm.

### *2.3 Brazil*

The most critical initial reaction to R2P out of Brazil came from President Luis Inácio Lula da Silva's influential Foreign Minister Celso Amorim. He labeled R2P as merely the "droit d'ingérence... in new clothes."<sup>79</sup> Brazil has traditionally been a strong supporter of sovereignty. One journalist has criticized this stance and argued that current President Dilma Rousseff's imprisonment and torture under Brazil's 1964-1985 military dictatorship should make her government more supportive of freedom movements.<sup>80</sup> To better understand the current Brazilian position towards R2P it is necessary to analyze the reasons for its initial hesitation and the factors that have changed its policy.

Though Brazil, like many countries in Latin America, suffered the denial of fundamental human rights under a military dictatorship, the international environment at the time and the transition processes Latin American countries went through make them very different from the conflicts currently breaking out in the Middle East. In the context of the Cold War, these governments were supported politically, and in some cases, even militarily by the US government in its attempt to keep communism out of the region. This fear of communism meant that in many cases military dictators enjoyed a large domestic support base even up until democratic transitions took place. In Chile, for example, the 1988 referendum that ended General Augusto Pinochet's rule was only won by a vote of 56 percent. Due to continued support by a large part of the population,

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<sup>79</sup> Benner, 2013, p. 3.

<sup>80</sup> Spektor, 2011, <http://latitude.blogs.nytimes.com/>.

in most cases democratic transitions came about through internal negotiation rather than political overthrows. While in many cases these negotiations resulted in impunity with blanket amnesty laws being granted, they also resulted in peaceful transitions. These regional factors led Brazilian foreign policy to have a strong emphasis on sovereignty and non-intervention.

After the transition to democracy, two new foreign policy goals emerged, shaping Brazil's stance on R2P today. The first was the successive governments' attempts to distance themselves from the military regime by transforming Brazil's image into a leader for democracy, human rights and development. The second was its attempt to assert itself as a regional and international power. Under the government of President Fernando Henrique Cardoso (1995-2002), new social reforms unprecedented under military rule were implemented domestically to address the inequality seen in the country. Projects were designed to combat poverty and improve access to education and healthcare. Under President Lula (2003-2011), a new foreign policy agenda known as "diplomacy of generosity" was founded by exporting successful programs developed in Brazil to other countries in the global south. The creation of the IBSA Dialogue Forum in 2003 in particular became an important platform for furthering Brazil's new international image.

Brazil's new 1988 Constitution sought to limit the power of the state over the people and provided wide-ranging rights. One of its most important reforms was the inclusion of access to healthcare as a human right.<sup>81</sup> One project that realized this ambition was the Brazilian National AIDs Programme that guaranteed free access to antiretroviral drugs to Brazilian citizens. When in 1998 Brazil's Health Minister proposed that access to medicines should be recognized as a universal human right, Brazil led a battle against pharmaceutical companies at the WTO to make this a reality. In 2005, Brazil and collaborating states managed to reach an agreement with pharmaceutical companies to lower the cost of antiretroviral drugs in Latin America, which in turn led to further agreements in Africa and other regions. Brazil's work in promoting the human right to

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<sup>81</sup> The Economist (b), 'Speak softly and Carry a Blank Cheque', 2009, <http://www.economist.com/>.

health was applauded by activists internationally, and in 2001, its National AIDS Programme won UNESCO's Human Rights and Culture of Peace Award.<sup>82</sup>

In another example, the Bolsa Familia initiative modeled after Mexico's *Oportunidades* has been a cornerstone of President Lula's social policy reform. This project provides money to mothers who send their children to school and ensure that they get necessary vaccinations. Though opinions on the level of impact the project has achieved differ, most agree that it has contributed to the large drop in poverty Brazil has experienced. Today Brazil has exported the Bolsa Familia project to other countries including Haiti where it has become one of the most successful projects implemented after the debilitating earthquake in 2010.<sup>83</sup> These actions signaled the new Brazilian government's commitment to human rights and multilateralism while significantly increasing its soft power. Beyond the primary goal of improving Brazil's image, these programs demonstrated that as a developing country itself, Brazil is in the best position to share the knowledge it has acquired through best practices with the global south, thus increasing its importance as a global player.

Regionally, policymakers sought to go further in projecting Brazil's stance as an emerging power, causing it to face contradictions with its traditional policies of sovereignty and non-intervention. To become a world power, regional powers such as Brazil must have a stable region within which they can grow. As Mercosur and Unasur are two of Brazil's most important economic alliances, trouble in one of its members can mean trouble for its economy. This has led Brazil to become more involved in conflict resolution between its neighbors. For example, it became a lead mediator during a border war that occurred between Ecuador and Peru in 1995, leading to a peace agreement signed in Brasilia.<sup>84</sup> It has also acted in the face of democratic crises. In Paraguay, following two government-led coups in 1996 and 2012, Brazil acted in coordination with Argentina and Mercosur to threaten or restrict access to trade until democratic elections were held.

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<sup>82</sup> Lee & Gomez, 2013, <http://www.europeanbusinessreview.com/>

<sup>83</sup> The Economist (b), 'Speak softly and Carry a Blank Cheque', 2009, <http://www.economist.com/>.

<sup>84</sup> Alden & Vieira, 2005, p. 1084.

Though as Paraguay's biggest trade partner Brazil could have worked unilaterally, it is telling of Brazil's regional policy that it decided to work through regional mechanisms. While signs such as its record number of elections to the UN Security Council since its transition have signaled international acceptance of its regional power, it has had to tread more cautiously in its assertion of power at the regional level. To avoid being labeled as a neo-colonial power it has used diplomacy, mediation, and multilateral tactics to avert crises. Argentina and Colombia in particular have been suspicious of Brazil's actions, causing it to have to operate hesitantly to avoid damage to its regional image.

Internationally, Brazil has become a committed multilateralist. During the dictatorship Brazil joined the Non-aligned Movement in opposition to major power dominance on the international system; rather than working to change it, the regime along with other autocratic governments at the time merely used this as an excuse to refuse joining international commitments and monitoring bodies. They were reluctant to give up sovereignty to what they saw as superpower-dominated regimes. New policymakers therefore decided that joining international regimes and engaging with the international community to promote reform would be the best way to transform its image.

Brazil has been a leader in the call for the democratization of international institutions, focusing on the WTO and UN. Brazil is the fourth most common complainant overall in the WTO Dispute Settlement Mechanism and the most active among developing countries.<sup>85</sup> At the UN level this led to the ratification of key human rights treaties including the ICCPR and ICESCR in 1992. Regarding cooperation on nuclear power, while under military rule Brazil had refused to cooperate with what it saw as the 'freezing of world power'.<sup>86</sup> Demonstrating the complete break policymakers wanted to make with the former regime, Brazil ratified the Treaty on the Non-Proliferation of Nuclear Weapons in 1998 and has since become a leading voice calling for nuclear powers to follow through with their commitments at disarmament. Brazil's example has disproven the previous misconception that nuclear weapons equal international power.

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<sup>85</sup> World Trade Organization, 'Brazil Member Information', <http://www.wto.org/>.

<sup>86</sup> Soares de Lima & Hirst, 2006, p. 28

With increasing economic growth in the 2000s President Lula's administration began setting its sights towards solidifying its global significance with a permanent seat on the UN Security Council. However, this aspiration has made it even more difficult to balance its old and new policies. As discussed, Brazil has rejected unilateral strength in favor of multilateral methods of achieving peace and security. If Brazil wants to prove its competence as an international power and potential new member to the Security Council it will need to prove its ability to contribute to peace and security multilaterally. Since the 1990's Brazil has contributed peacekeeping troops to UN missions including the UN Observer Mission in El Salvador (ONUSAL), the UN Observer Mission in Mozambique (ONUMOZ) and the UN Mission in Angola (UNAVEM).<sup>87</sup> Though it became involved in these missions, foreign officials voiced clear reservations to certain policies and mechanisms used in UN negotiations.

Ambassador Amorim was at the forefront of UN debates during the 1990s on peace and conflict measures. One concern pushed forward by the Brazilian delegate was the need to better clarify the differences between peacekeeping and peace-enforcement. He argued that in the post-Cold War climate it was necessary to make a clear distinction between the mandates of both types of missions. Having a clear definition of tasks performed in each type of operation was seen as necessary to reestablish what had been seen as the blurring of lines between Chapter VI mandated operations, which oversee the "Peaceful Settlement of Disputes", and those which fall under Chapter VII, which allows for the use of force and does not require the consent of the state. Interestingly, he asserted that his delegation's intention was not to omit the use of Chapter VII but to insure that the appropriate tool would be used under each situation.<sup>88</sup> This statement demonstrates the gradual softening of Brazil's stance on sovereignty that occurred during this period. In its capacity as a leader for development and poverty alleviation Brazil also expressed concerns about the use of sanctions as a means of peaceful conflict prevention. They argued that the use of sanctions against a government can often have a harsher impact on the population, particularly in those already facing development problems. In this regard Brazilian delegates at the UN led the coordination

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<sup>87</sup> Idem.

<sup>88</sup> Amorim, 1997, <http://www.un.int/>.

for a set of guidelines on the use of sanctions which was adopted by the General Assembly in 1997.<sup>89</sup> Furthermore Brazil has expressed the need for better international cooperation on development as a means of preventing conflict. These early actions showed Brazil's more accommodating approach towards international conflict resolution and its interest in improving UN efforts.

A drastic policy change occurred when Brazil decided to take over the UN Stabilization Mission in Haiti (MINUSTAH) in 2004. The decision was extremely controversial as it entailed overseeing the transition of power to an interim government after Haitian President Jean-Bertrand Aristide was ousted in a coup. Under President Cardoso Brazil had only become involved in missions under Chapter VI, however, under the Lula administration Brazil undertook its first Chapter VII mandate. Becoming involved in this mission was seen by many to go against Brazil's traditional policies of sovereignty and non-intervention, particularly in light of suspicions over US, French and Canadian involvement in the coup. Since then Brazilian Ambassador Maria Luiza Ribeiro Viotti has also become chair of the Guinea-Bissau Configuration of the UN Peacebuilding Commission.

Some critics have attributed Brazil's increased involvement merely to its Security Council aspirations rather than altruistic motives. Whatever the reasons for Brazil's involvement, the mission has made some important strides forward particularly in the area of post-conflict reconstruction. Brazil has since opened the Centro de Instrução de Operações de Paz (CIOPPAZ), a training school for Peacekeepers. Through the program UN peacekeepers conduct joint exercises with Brazilian police in Rio's favelas. This provides valuable experience for both peacekeepers in training and the Brazilian forces helping to, "the democratization of the military mindset."<sup>90</sup> One of their instructors includes the director of VivaRio, an NGO that has been working in the favelas to foster a culture of peace and social inclusion and also provides training in human security for police units.<sup>91</sup> The NGO was also invited by the UN to Haiti in 2004 to use its expertise in involving the local community in its peacebuilding efforts. Brazil has also

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<sup>89</sup> Soares de Lima & Hirst, 2006, p. 28 and see A/RES/51/30.

<sup>90</sup> The economist (c), 'Policy not altruism', <http://www.economist.com/>.

<sup>91</sup> Idem.

emphasized the fact that peacekeeping and development should go hand in hand. One successful example is the waste management and community violence reduction program it carried out in Haiti. This project, financed through the IBSA Trust Fund, reduced gang violence and improved the environment by providing jobs in waste collection and recycling.

According to Monica Herz of the Catholic University of Rio de Janeiro, “Brazil wants to make, as well as follow, international norms... Brazil's elite thinks peacekeeping is part of the price you have to pay to be among the nations who make the rules.”<sup>92</sup> It is clear that if Brazil wants to become a global power it will have to confront the paradox in its foreign policy between sovereignty and human rights. What remains to be seen is how current President Dilma Rousseff has faced this challenge. This will be dealt with in the following chapter.

#### *2.4 South Africa*

The idea for a responsibility to protect was actually first developed in the context of conflict resolution in Africa. South Sudanese diplomat and current UN Special Advisor on the Prevention of Genocide Francis Deng along with collaborators from the Brookings Institute proposed this idea in 1996 in a publication entitled *Sovereignty as Responsibility: Conflict Management in Africa*. It was then later developed and given its name in the ICISS report. As pointed out by academic Oliver Stuenkel, in the debate over R2P many tend to forget that it is a concept that originated from the global south.<sup>93</sup> This has contributed to suspicions such as Brazilian Ambassador Amorim’s that R2P is a tool for the west. If R2P is to be reinvigorated through new norm leadership what could be better than its reinvention through Africa?

In fact the African Union is the only regional organization that has institutionalized provisions for its Member states to intervene in the face of human rights violations under Article 4(h) of its Constitutive Act.<sup>94</sup> Its inclusion was largely endorsed as a result of the failure of the previous Organization of African Unity to act during the 1994

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<sup>92</sup> Idem.

<sup>93</sup> Stuenkel, 2012, <http://www.postwesternworld.com/>.

<sup>94</sup> Heyns, Christof & Killander, Magnus, 2009, p. 856.

Rwandan genocide. Speaking at a meeting of the Organization of African Unity in Burkina Faso in 1998 Nelson Mandela stated, “We must all accept that we cannot abuse the concept of national sovereignty to deny the rest of the Continent the right and duty to intervene when, behind those sovereign boundaries, people are being slaughtered to protect tyranny.” This article was enshrined with the creation of the new African Union in 2000, four years before the UN World Summit. However, there are several contradictions in the Constitutive Act that have made it difficult to utilize this mechanism. Furthermore, problems ranging from the reluctance of African leaders to condemn fellow members, to more practical issues such as funding have been difficult to resolve. According to the previous analyses, the most likely candidate to be able to bring the states of the African Union together to solve this impasse is its regional power, South Africa.

When assessing the policies of South Africa, the only IBSA member to vote in favor of a no-fly zone over Libya, one has to take into account not only its historical and cultural experiences, but also its roles as a superpower in Africa and the newest member of the BRICS group. South Africa also has experience in peacekeeping missions within the framework of the African Union; however, when analyzing these experiences in depth it becomes apparent that South Africa is first and foremost cautious and diplomatic in its foreign policy due to the uncertainty of its position in the regional and international context.

Under the apartheid regime state sovereignty was fiercely defended making it a “pariah state” within the international system.<sup>95</sup> Unlike other political uprisings the apartheid regime in South Africa was disbanded through dialogue and negotiation. This led to a call by Desmond Tutu for reconciliation rather than prosecution of former government members. Its use of truth commissions worked to reunite the country and provide a peaceful transition. Like Brazil, after its transition South Africa sought to distance itself from the previous government. Indeed, following the breakdown of the apartheid

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<sup>95</sup> Bohler-Muller & Herz, 2011, p. 5.



regime both domestic and international human rights were made equally applicable under domestic law in Act 108 of the 1996 South African Constitution.<sup>96</sup>

In terms of its foreign relations, it was necessary for South Africa to gain acceptance as a regional power. Previously, its economic prominence had been opposed due to its flagrant history of human rights abuses. The post-apartheid governments therefore sought to reinvent South Africa's identity as an important partner within Africa and the global south. It began its reintroduction into international affairs through its membership in the Non-aligned Movement. Its position as the most stable and economically advanced country in Africa has quickly elevated its unofficial status as a regional power representing Africa at the international level. Not at the same level of development as its emerging counterparts, it remains in a state of flux between its regional policies and international aspirations.

Though many economists cite the growing power of Nigeria, South Africa remains the main superpower on the continent not only in terms of economic growth and political stability, but also given its acceptance as a leader in Africa by the international community. This is reflected in the fact that since its reemergence onto the international scene it has already been elected to the UN Security Council twice from 2007-2008, and again from 2011-2012. However, despite its predominant position in Africa, its inclusion in the BRICS group is highly disputed. Jim O'Neill himself, the creator of the BRICS phenomenon, stated that South Africa, "did not belong in BRICS, it is wrong and it will drag BRICS down."<sup>97</sup> Indeed some economists suggest that based on growth rates, Mexico, South Korea, Turkey, or Indonesia would be a better fit. According to this, one must infer that the decision by the leaders of the BRICS countries to include South Africa in its alliance in 2011 was based more on geo-political considerations.

One of the most important contributions South Africa has made to conflict resolution in Africa has been its development of the concept of Developmental Peace Missions within the framework of the New Economic Partnership for Africa's Development. It was first developed and presented to the South African Parliament by then Deputy

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<sup>96</sup> Idem.

<sup>97</sup> Pelz, Daniel, 2013, <http://allafrica.com/>.

Minister of Defence Nosizwe Madlala-Routledge in 2004.<sup>98</sup> This concept is based on UN studies that have found that human security and human development are essential to achieving a permanent resolution to a conflict. The concept of Developmental Peace Missions attempts to address what is seen as a time lapse between peacekeeping and peace building activities by stressing the need to provide, “critical humanitarian assistance and reconstruction capabilities immediately after military operations so that security can dynamically reinforce and influence the effectiveness of development.”<sup>99</sup> It stressed the need to mainstream development activities within peacekeeping operations dispelling the traditional tendency to distinguish between military responsibilities and civilian post-conflict activities. Activities such as rebuilding of roads, restoration of public utilities and removal of land mines should be undertaken simultaneously with typical peacekeeping activities.

Both the ICISS report and the High Level Panel Report refer to the need for the international community to assist states in fulfilling their responsibility to protect and, in the case of international intervention, the need for post-conflict reconstruction. In Ban Ki Moon’s 2009 report on the implementation of R2P the second pillar stipulates that, “The international community has a responsibility to assist States in fulfilling this responsibility.”<sup>100</sup> However, in the World Summit Outcome Document agreed to by international leaders it merely states,

“We also intend to commit ourselves, as necessary and appropriate, to helping states build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.”<sup>101</sup>

In highlighting the important link between security and development South Africa has attempted to bring back this important aspect of conflict resolution. Most of the debate surrounding R2P has been focused on military intervention, but policymakers have not given as much attention to the need for development assistance

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<sup>98</sup> Olivier & Neethling & Mokoena, 2009, p. 2

<sup>99</sup> *Idem*, p. 3.

<sup>100</sup> Ki-moon, 2009,

<sup>101</sup> A/RES/60/1, 24 October 2005, para. 138.

as a prevention method, and to prevent the resumption of conflict after in the fragile post-war state.

In terms of post-conflict issues South Africa has been instrumental in providing assistance in transitional justice. This has mainly been in providing training to members of post-conflict governments on how to utilize truth commissions and reconciliation processes to rebuild a national identity and restore peace. Officials from a number of countries including Burundi and South Sudan have benefited from the experience South Africa has gained through its own process. Furthermore it has provided technical assistance in mediation and electoral monitoring in Burundi, and police training and capacity building in Rwanda. These efforts have been coordinated through a special department created for south-south cooperation.

However, when already confronted with human rights abuses and conflict South Africa has tended to shy away from voicing criticism or taking more assertive actions. While under the presidency of Nelson Mandela a new era of human rights guiding the foreign relations of South Africa was professed, under his successor President Thabo Mbeki, a policy of 'quiet diplomacy' was pursued and continued through to the current government. A number of factors can be attributed to this behavior. One is its commitment to regionalism. In its attempts to reconcile its position in Africa, South Africa has tended to follow the positions of the African Union as its guide. While this can be seen in a positive light as a display of its commitment to multilateralism, it has at times caused it to take contradictory positions or limited its ability to act. Another factor is its history of combating apartheid through negotiation and its sensitivity to being viewed as a neocolonial power in Africa causing it to depend on diplomacy for conflict resolution.

During its first term as a non-permanent member of the UN Security Council (2007-2008) South Africa controversially voted against two resolutions condemning human rights abuses in Zimbabwe and Myanmar/Burma. In the case of Zimbabwe the reason it gave for voting against the resolution was that the African Union and the regional South African Development Community were currently undergoing negotiations with the

government of Zimbabwe and that these bodies had requested that no further action, such as the suggested targeted sanctions, be taken to undermine negotiations. In fact the representative stated, “as a member of both SADC and the African Union, is obliged to follow the decision of those regional bodies. For that reason, my delegation will vote against the draft resolution before us.”<sup>102</sup> While it is an understandable part of South Africa’s foreign policy that it is attempting to solve regional problems through African regional mechanisms, as human rights abuses continue to this day there have still been no strong criticisms or further actions taken. Furthermore, if it wants to become an international power it must show the willingness to act after negotiations have broken down and the ability to formulate and implement its own foreign policies.

In the case of Myanmar/Burma, South Africa provided three reasons for its decision: that the resolution could harm the Under Secretary-General’s ability for dialogue with the government; if taken up by the Security Council, the Human Rights Council would not be able to address the situation; finally it was not considered by Association of South East Asian Nations (ASEAN) to be a threat to international peace and security therefore not falling under the Security Council’s competence.<sup>103</sup> Though an important consideration was made in the inability of the Human Rights Council to simultaneously work on an issue with the Security Council, its comment on the issue not being considered a threat to international peace and security presents an unwillingness to identify grave human rights violations. Furthermore, its reference to ASEAN clearly is meant to reiterate its view that regional states should deal with regional matters. However, ASEAN has been widely criticized for its unwillingness to act on human rights abuses. In addition, possibly due to the widespread criticism the government received for its decision, a page on South Africa’s website for International Relations and Cooperation sets out its considerations in a question and answer form. While it states that South Africa’s history of struggle enjoins it in solidarity with others struggling, including the peoples of Myanmar, it also states that struggle against apartheid was different as it was declared a crime against humanity by the UN General

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<sup>102</sup> S/PV.5933, 11 July 2008, p. 4-5.

<sup>103</sup> S/PV.5619, 12 January 2007, p. 3-4.

Assembly.<sup>104</sup> The resolution calling for the government, “to cease military attacks against civilians in ethnic minority regions and in particular to put an end to the associated human rights and humanitarian law violations against persons belonging to ethnic nationalities, including widespread rape and other forms of sexual violence carried out by members of the armed forces,” are all actions which can be considered war crimes, crimes against humanity and ethnic cleansing, three of the four crimes agreed to under the 2005 World Summit Outcome Document.<sup>105</sup> One might also consider whether this decision was based on Russia and China’s decision to veto the resolution.

One further issue on which South Africa has demonstrated this behavior has been on the use of the International Criminal Court. After the Court issued an arrest warrant for President of Sudan Omar Al Bashir in 2009, then South African President Jacob Zuma aligned with African leaders in condemning the actions of the ICC in Africa. This move was seen to undermine the negotiations the African Union was conducting, led by former President Mbeki. This action resulted in the criticisms voiced today by some that the International Criminal Court is putting Africa on trial. However, as will be discussed in the following chapter, South Africa joined Nigeria and Gabon in voting for resolution 1973 allowing for the use of sanctions, a referral to the International Criminal Court, and a no-fly zone in Libya.

These actions demonstrate an inconsistency in South Africa’s foreign policy and a tendency to follow rather than lead. Though as a regional power South Africa has the resources and ability to take further actions under the Constitutive Act, the country has preferred to rely on negotiation and diplomatic methods rather than military action. This is an important aspect of IBSA’s R2P policy; however, if military intervention is only to be used in cases of last resort, peaceful intervention methods such as the use of condemnations by the UN, sanctions and the International Criminal Court should be developed as more coercive tools to be used when negotiations fail. South Africa has provided some important strides forward in its contributions to peacekeeping and

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<sup>104</sup> International Relations and Cooperation Department Republic of South Africa, ‘South Africa’s vote on Myanmar: Frequently asked questions and answers’, [://www.dfa.gov.za/](http://www.dfa.gov.za/).

<sup>105</sup> A/RES/60/1, 24 October 2005, para. 138.

peacebuilding efforts based on its own experiences, but if it is to become a norm leader along with its fellow IBSA members it will need to develop a position on how to use or improve these tools.

### *2.5 India*

India like the other two also went through a period of peaceful transition after its history of colonialism. This history greatly shaped India's foreign policy for many decades as a strong defender of sovereignty against intervention by powerful countries. India's first Prime Minister Jawaharlal Nehru was one of the first to promote south-south cooperation as a leader in the creation of the Non-Aligned Movement whose desire it was to stay out of the rivalry between the US and Russia during the Cold War.

Despite its similarities with the other IBSA countries, India's foreign policy may be most unlike that of Brazil and South Africa due to its hostile geopolitical situation. Its conflict with neighboring Pakistan has caused what one author has called, "a localized version of the Cold War in the sense that rivalry has informed decision makers' interpretations about other regional issues and affected the actions of smaller states."<sup>106</sup>

Unlike Brazil, within the south Asian region India is a clear hegemonic power given its size, population, economic growth and military power. However, within the Asian continent as a whole it faces competition from its neighbor and leading new superpower China. Relations between these two countries have been tense due to the Dalai Lama's asylum in northern India, China's relations with Pakistan, and an unresolved border dispute that erupted in armed conflict in 1962. Though it seems its relations are improving through their cooperation as emerging economies and a recent commitment to border negotiations, China's economic and military dominance mean that India faces a more formidable competitor than either Brazil or South Africa. These factors have caused India to follow two contradictory lines in its foreign policy: the improvement of external relations and the build up of military power.

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<sup>106</sup> Alden & Vieira, 2005, pp. 1090-1091.

The hostility of India's surrounding area has caused it to seek better ties outside its region and exert its influence at the international level. It has done this by trying to enhance its image as a democratic emerging economy and as a supporter of south-south cooperation. As a founder of the Non-aligned Movement and a partner with Brazil in securing the economic interests of developing countries at the WTO, India has proven its ability to effect change multilaterally, but when it comes to security concerns it has been more conservative in its approach. India is the only IBSA member that has not signed the Nuclear non-Proliferation Treaty and continues to maintain nuclear capabilities. It is also the only member that has not accepted the jurisdiction of the International Criminal Court. It has also increasingly built up its military and is expected to be the fourth largest military power by 2020.

These factors have had contrasting impacts on its relationship with R2P. As mentioned, India is the third highest peacekeeper contributing country. If Brazilian academic Monica Herz's assessment is correct that peacekeeping adds to a states' position as an international decision-maker, India should have significant influence. In President Obama's endorsement of India's bid for a permanent Security Council seat, he mentioned, "India's long history as a leading contributor to United Nations peacekeeping missions."<sup>107</sup> However, despite its qualifications India still has not been given a permanent seat on the Security Council. In fact, its most recent election in 2011-2012 came after 19 years of absence from the post. This has caused frustration amongst Indian policymakers.

Furthermore, a dispute between the major troop-contributing countries India, Bangladesh, Pakistan, Nigeria and Uruguay and the top fund contributors has broken out. These countries argue that the funding they are being provided is not enough for the far-reaching mandates they are given. As many of the top fund contributors are permanent members of the Security Council it has created a hierarchy in which those with the resources are in charge of issuing the mandates, while those actually carrying out the missions are not involved in the decision-making process. The UN Security Council witnessed the power these countries have over the effectiveness of UN

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<sup>107</sup> Lynch, 2011, <http://www.washingtonpost.com/>.

operations when India decided to withdraw some of its forces from Congo in 2011. Indian officials argued they needed troops to deal with internal security issues they were having and stated, “India cannot be the only place in the world with attack helicopters... We have capacity restraints.”<sup>108</sup> As the major powers such as the US continue to contribute less troops to UN peacekeeping missions it is clear that countries from the global south will continue to fill this gap and will therefore have a great influence on the future of UN conflict prevention.

However, India’s strength in peacekeeping has also made it sensitive to the use of the International Criminal Court during UN Missions. Brazil and India have actually been locked in a debate over this issue with other countries since 2002.<sup>109</sup> While Brazil takes the position that the Court can be a useful tool in assuring adherence to human rights amongst all parties during a conflict, India has been protective over what it sees as potential misuse against its troops. Traditionally peacekeepers have been given immunity as UN employees and can only be prosecuted in their national courts for crimes committed during their deployment. However, difficulty in attaining evidence and reputation often leads contributing countries to refrain from prosecuting their peacekeepers. India has been defensive regarding allegations of human rights abuses committed by its forces.

Despite its economic and military superiority to the other two countries, IBSA is an important alliance for India. Through IBSA India has been able to further its international image as a democratic emerging power distinguishing itself from other emerging powers in Asia. Through this alliance it has also been able to improve its relations and leverage against China within the BRICS group. Its membership in IBSA has also opened India to further relations with countries in Latin America and Africa. However, India has been shaping its foreign policies by balancing between superpower emphasis on military might and middle power emphasis on multilateralism, at times hindering its ability to form common positions through IBSA. India’s stance on R2P will have a great effect on its ability to become an international norm. If India can

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<sup>108</sup> Lynch, 2011, <http://www.washingtonpost.com/>.

<sup>109</sup> See Coalition for the International Criminal Court, ‘Res. 1422/1487, 2004’, <http://www.iccnw.org/?mod=res1422>



overcome its differences with the other members of IBSA their position will have great strength within the international community.

### *Conclusion*

The power of a regional hegemon is rooted in the strength and security of its regional base, therefore, a conflict cannot only affect IBSA's domestic concerns but also its international power. It is most likely that cases that require international attention will come from the developing south. It is therefore in the group's foreign policy and security interests to promote the development of R2P into a norm that reflects the interests and needs of the developing world.

Though their economies and international influence may be growing, the histories of the IBSA countries and the problems they are continuing to face are clearly similar to developing states. With greater insight and trust from the south IBSA may be in the best position as a group to exert its influence on the developing world. Furthermore, IBSA's work on issues addressing the needs of people such, as its work in development and poverty alleviation, make it one of the best leaders to bring the focus of the R2P debate back from military intervention to the protection of civilians. Can IBSA solve R2P's legitimacy dilemma?

### **Chapter III: IBSA's Effect on the Development of R2P**

This chapter will analyze the positions taken by the IBSA members during their terms as non-permanent members of the Security Council from 2011-2012.<sup>110</sup> The background on the R2P debate established in Chapter I and the analysis of the IBSA countries' behavior and motivations in Chapter II will serve to provide insight into their actions. The first section will analyze the IBSA countries voting and statements during the 2011 Libyan conflict. It will be argued that the actions taken by the UN and other member states had a profound effect on their decision to advocate for R2P reform. The second section will analyze Brazil's actions after the Libyan conflict, including its voting patterns during the Syrian conflict, and its proposal for 'Responsibility while Protecting' (RwP). In particular the document will be assessed in terms of its ability to address the disagreements within the international community over the implementation of R2P. Finally, IBSA's potential as norm leaders for R2P will be assessed based on these conclusions.

#### *3.1 The Effect of the Libyan Crisis on IBSA*

In 2011 the world was shocked by the sudden slew of protests in the MENA region. These protests were characterized by a demand for greater economic, social, and political rights. In some countries such as Egypt, Tunisia and Yemen it led to the ousting of leaders from power, in others it led to the hasty granting of political reforms. One of the most significant for the international community was the conflict that emerged in Libya. The regime of Muammar Gaddafi had changed drastically throughout his rule. Initially an international pariah, Gaddafi went through a period of reconciliation with the international community in the 1990s, led by Nelson Mandela. As Gaddafi had supported the rebels against the apartheid regime, Mandela assured the world that, "talking to one another and searching for peaceful solutions remain the surest way to resolve differences and advance peace and progress in the world."<sup>111</sup> His assurances seemed to take shape as he was able to successfully mediate the handover of the Lockerbie bombing suspects to the Hague, beginning a gradual turn around in

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<sup>110</sup> Brazil ended its term as a non-permanent member of the Security Council in December 2011.

<sup>111</sup> Chothia, 2011, <http://www.bbc.co.uk/>.

Libya's foreign policies. Despite the international community's new perception of Gaddafi's status, the onset of peaceful demonstrations on 15 February 2011 was met with a brutal crackdown by government forces.<sup>112</sup> These were followed by, "allegations of indiscriminate killings, arbitrary arrests, the shooting of peaceful demonstrators... the detention and torture of the opposition... the use of foreign mercenaries... [and] dangerous impediments to medical treatment and access for humanitarian workers."<sup>113</sup> These events led the UN Security Council to respond to the situation in Libya.

The Libyan conflict was a momentous event for both the development of R2P and IBSA's involvement in the debate. For IBSA, it was the first time that all countries were represented as non-permanent members of the UN Security Council. This made it a consequential moment for the IBSA bloc to prove its competence as an international power. For R2P, it represented the first time the concept was officially invoked by the Security Council to intervene in the face of grave human rights violations. The Security Council was uncharacteristically quick in its response to the situation and proceeded without any major objections. This is particularly significant due to the use of normally controversial mechanisms in its responses. As the first time the Security Council has sanctioned UN intervention without the consent of the state this decision has been hailed by some as a victory for R2P.

However, the way in which the NATO-led response was carried out generated a backlash amongst R2P skeptics. In their eyes, the operation confirmed suspicions of its possible use as a tool for regime change. Among the IBSA members, a feeling of betrayal and resentment set in, greatly affecting their response to the subsequent Syrian conflict. To better understand how the UN reaction to the conflict elicited such contrasting viewpoints it is necessary to analyze the two key decisions taken by the UN Security Council in depth, Resolution 1970 and Resolution 1973.

### *Resolution 1970*

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<sup>112</sup> S/PV.6490, 25 February 2011, p. 4, para. 11.

<sup>113</sup> *Idem*, p. 3, para. 1.

In response to widespread and systematic attacks being committed by Libyan government forces, the Security Council unanimously voted in favor of Resolution 1970 on 26 February 2011. On the surface, the unanimity of the Security Council vote is surprising in that it allowed for some normally controversial actions against an acting government and was largely uncontested. The provisions in the Resolution included a referral of the situation to the International Criminal Court, an arms embargo, travel ban and asset freezes of selected members of Gaddafi's family and high-level government officials.<sup>114</sup> When analyzing the factors that led to this unanimity, however, it becomes apparent that for the first time, the Libyan case and the actions approved under Res. 1970 conformed with the spirit of the Responsibility to Protect.

One of the most decisive factors was the denouncement of Muammar Gaddafi by Libya's representatives to the UN. Deputy Ambassador Ibrahim Dabbashi was the first to defect soon after the crackdown, stating, "Gaddafi has no legitimacy... nobody takes him seriously anymore."<sup>115</sup> A long time friend and ally of Gaddafi, Ambassador Mohamed Shalgham was initially reluctant to turn on the regime, but news of atrocities being committed by government forces led him to denounce Gaddafi in a speech to the Security Council the day before the vote. In his speech he likened Gaddafi's conduct to that of Pol Pot and Hitler quoting him as announcing to protestors the previous day, "Either I rule over you or I destroy you."<sup>116</sup> The passionate speech and examples of crimes against humanity given by both him and Secretary General Ban Ki-moon during the 25 February meeting had a profound effect on the voting the following day. Denouncement not only from Gaddafi's own UN representatives, but also from the African Union and the Arab League very clearly put the regime's legitimacy into question and established its failure to meet its responsibility under pillar one of R2P.

It is important to note that the draft of Resolution 1970 was proposed to the Security Council by South Africa, Nigeria, Gabon and Lebanon, along with Bosnia and Herzegovina, Colombia, France, Germany, Portugal, the UK, and the US. The fact that the only four members from the African Union and the Arab League were involved in

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<sup>114</sup> S/RES/1970, 26 February 2011.

<sup>115</sup> Charbonneau, 2011, <http://www.reuters.com/>.

<sup>116</sup> S/PV.6490, 25 February 2011, p. 4, para 13.

the drafting of the proposal further added to the authority of its recommendations within the Security Council. In its statement following the vote, South Africa confirmed that the measures complemented the condemnation issued by the African Union's Peace and Security Council.<sup>117</sup> Furthermore, the recommendations were interventionary but did not include military intervention, therefore respecting the territorial integrity of the country. Though aimed at Gaddafi's inner circle, they could be seen as tools for prevention rather than regime change. Finally, the resolution explicitly refers to the responsibility of the state to protect its civilians, basing the decision within the concept of R2P. All of these factors led to a unanimous vote in favor of the resolution.

The UN Representative for Brazil expressed strong support for the resolution as a means to, "halt violence, ensure the protection of the civilian population and promote respect for international law," citing Brasilia's public condemnation of the use of violence and disregard for the freedom of expression in Libya.<sup>118</sup> Though the measures included the use of sanctions which Brazil has traditionally opposed targeting them at six people (Gaddafi and his inner circle) limited the possibility of the measure affecting the population. The Brazilian delegate also mentioned that the resolution was consistent with the responsibilities of the Security Council, possibly alluding to its conformity with R2P.

While both Brazil and India cited the approval of the African Union and the Arab League as part of their reasons for voting in favor, supporting their colleague South Africa, the divergence of the two IBSA members on the use of the International Criminal Court in conflict situations was made clear in their statements. India's UN Representative highlighted his government's hesitation at calling for an International Criminal Court referral citing the fact that it and four other members of the Security Council are not party to the Rome Statute. He further stated "...we would have preferred a calibrated and gradual approach..." but considering the positions of other Arab League, African Union and the Libyan Representative's statement "We have

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<sup>117</sup> S/PV.6491, 26 February 2011, p. 3, para 2.

<sup>118</sup> *Idem*, pp. 6-7, para 2.

therefore gone along with the consensus in the Council.”<sup>119</sup> However, despite India’s acceptance of the Resolution, the Indian representative immediately followed this statement with a reiteration that no national from a state that does not recognize the authority of the International Criminal Court can be prosecuted. Furthermore, he reminded the Council of the possibility to invoke article 16 of the Rome Statute allowing the Security Council to defer a referral to the International Criminal Court for 12 months. The reservations of India and the other non-state parties concerning the possibility of the prosecution of their citizens involved in operations was however assuaged in paragraph 6 of the Resolution:

“Decides that nationals, current or former officials or personnel from a State outside the Libyan Arab Jamahiriya which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations in the Libyan Arab Jamahiriya established or authorized by the Council, unless such exclusive jurisdiction has been expressly waived by the State”

For Brazil the inclusion of a paragraph assuring nationals from non-state parties freedom from prosecution by the Court was disconcerting but accepted due to the urgency of the situation. The Brazilian delegate however, restated the position of Brazil on this issue:

“We reiterate our conviction that initiatives aimed at establishing exemptions of certain categories of individuals from the jurisdiction of the International Criminal Court are not helpful to advancing the cause of justice and accountability and will not contribute to strengthening the role of the Court.”<sup>120</sup>

### *Resolution 1973*

The Security Council’s second action on the situation in Libya was its adoption of Resolution 1973 on 17 March 2011. The decision to take up the case of Libya again so soon after the last action was due to the continued escalation of the conflict, in spite of a

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<sup>119</sup> S/PV.6491, 26 February 2011, p. 2 para. 17

<sup>120</sup> S/PV.6491, 26 February 2011, p. 7, para 2.

request by the regime to withhold 1970 until allegations could be confirmed,<sup>121</sup> in addition to strong criticisms from regional organizations. Specifically, a meeting on March 12<sup>th</sup> of the League of Arab States during which further UN action was called for was particularly influential in this decision. The organization called for the UN to, “assume its responsibilities with regard to the situation in Libya, including taking the necessary measures to impose a no-fly zone; the establishment of safe areas, especially in places that have been struck by aircraft; and measures to ensure the protection of the Libyan people and all foreign citizens”. The Gulf Cooperation Council and the Organization of Islamic Cooperation also echoed the call for a no-fly zone and for the Security Council to assume its “responsibility” to protect civilians.<sup>122</sup>

Though they did not refer explicitly to R2P, some academics contend that the mention of a responsibility of the Security Council to protect civilians can be seen as an acknowledgment of the R2P norm.<sup>123</sup> Indeed, Catherine Powell argues in ‘Libya: A Multilateral Constitutional Moment?’ that this represented a great change in Arab League policy as it was unusual for the organization to condone the use of force in a member state, and to side with the people against an acting government. However, the Arab leaders’ mistrust of Gaddafi is also widely known and was made even more apparent by their immediate suspension of Libya from the League in February.<sup>124</sup> Whether or not their request was motivated by the plight of civilians and a recognition of R2P, their statement set things in motion for the rest of the international community.

France, Lebanon, and the UK set to work on a draft proposal soon there after. Resolution 1973 again reiterated the responsibility of the Libyan government to protect its citizens and the possibility that the widespread attacks occurring could amount to crimes against humanity, establishing the decision’s basis in R2P. The provisions in the Resolution included a demand for the cessation of attacks against civilians and a ceasefire; the imposition of a no-fly zone except for humanitarian assistance and those

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<sup>121</sup> Bellamy & Williams, 2011, p. 840.

<sup>122</sup> Powell, 2012, p. 312.

<sup>123</sup> Idem, p. 313.

<sup>124</sup> Moore, 2011, <http://blogs.lse.ac.uk/>.

acting for the benefit of the Libyan people;<sup>125</sup> an arms embargo; a ban on flights coming from Libya or those destined for Libya with possible arms; a wider asset freeze; and the creation of a Panel of Experts to gather information on the implementation or non-compliance of measures under both Resolutions 1970 and 1973. Also included under the heading “Protection of civilians” was the ambiguously worded paragraph 4 stating:

“Authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory, and requests the Member States concerned to inform the Secretary-General immediately of the measures they take pursuant to the authorization conferred by this paragraph which shall be immediately reported to the Security Council;”<sup>126</sup>

The Resolution was adopted with ten votes in favor including South Africa, Nigeria, Gabon and Lebanon, and five abstentions including Brazil and India. It has since been confirmed that IBSA had coordinated its decision to abstain and then consulted with its BRICS counterparts on their decisions to abstain as well.<sup>127</sup> It was at the last minute that South Africa decided to instead align with its regional counterparts in favor of the Resolution. In their statements after the vote both Brazil and India expressed their reservations about the possible use of force under the Resolution as it was left unclear whom, how and by what means the possible use of force could be carried out under paragraph 4. The fact that they abstained rather than voting against the Resolution is testament to their recognition of the gravity of the situation and also could be in regard to the fact that the Arab League had specifically called for further action of which South Africa, Gabon, and Lebanon were all in favor. The reasons for South Africa’s departure from the common IBSA stance are, however, in need of further analysis.

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<sup>125</sup> In reference to provisions under paragraph 4 reproduced below.

<sup>126</sup> S/RES/1973, 17 March 2011, p. 3, para 4.

<sup>127</sup> Garwood-Gowers, 2013, p. 306.



South Africa found itself in a difficult position when it came time to vote on Res. 1973, and its uncertainty may be illustrative of how its roles as a regional power, and its aspirations as a global power can conflict. While its BRICS counterparts had coordinated their decision to abstain from the resolution, South Africa was torn between regional loyalties and international ambitions. Within the African Union opinion was divided on how to act. With Gaddafi's role as one of the engineers of the African Union and a major financial backer, a decision about the fate of his regime would at the very least be awkward. Though Gaddafi's international image had taken a drastic turn since his status in the 1980s as an "international pariah" to a reformed member of the international community, he was described by many as having eccentric and erratic tendencies. Kenya's Foreign Minister said of the former leader, "He really suppressed Libyan people and vanquished them to the extent that in one of many AU meetings we saw him slap his foreign minister in our presence, which is something unexpected of any dignified and self-respecting head of state."<sup>128</sup> Gaddafi's personality can also explain South Africa's break with its relationship with the leader. Though under Mandela and Mbeki diplomacy was used to deal with leaders like Gaddafi, President Zuma's relationship with him was characterized by dislike and suspicion. After his death, Zuma stated, "Colonel Gaddafi spent a lot of time discussing a unity government for Africa that was impossible to implement now. He was in a hurry for this, possibly because he wanted to head it up himself. I had arguments with him about it several times. The African Union will work better now without his delaying it and with some members no longer feeling as intimidated by him as they did."<sup>129</sup> Alex de Waal, director of the World Peace Foundation and former Senior Advisor to the African Union High Level Implementation Panel for Sudan (2009-2011), in a recent article asserted that,

“While most of the continent wanted Gaddafi gone with minimal disruption, a few leaders were sympathetic to the ‘Brother Leader’. Chad and Niger, fearful of spillover, leaned towards Gaddafi. Algeria took a strict non-interventionist position. Some other

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<sup>128</sup> Chothia, 2011, <http://www.bbc.co.uk/>.

<sup>129</sup> Chothia, 2011, <http://www.bbc.co.uk/>.

African leaders were so antipathetic to Gaddafi that they would have no truck with compromise.”<sup>130</sup>

However, as discussed in the previous chapter, even if many believed Gaddafi would need to step down to end the conflict, the African Union’s provisions for intervention in the affairs of foreign states are aimed more towards unconstitutional overthrows from power as an African Union-led overthrow would be seen as an act of neo-colonialism. Furthermore, as Alex de Waal contends, many African leaders feared the potential repercussions in neighboring countries if an unpredictable rebel government were to take power. In the end, on March 10<sup>th</sup> an African roadmap for action was agreed by the Peace and Security Council, including an ad hoc high-level committee of African leaders to carry out the plan. It included:

“The current situation in Libya calls for an urgent African action for: (i) the immediate cessation of all hostilities, (ii) the cooperation of the competent Libyan authorities to facilitate the timely delivery of humanitarian assistance to the needy populations, (iii) the protection of foreign nationals, including the African migrants living in Libya, and (iv) the adoption and implementation of the political reforms necessary for the elimination of the causes of the current crisis.”<sup>131</sup>

Former South African President, Thabo Mbeki, was to be a lead negotiator within the ad hoc committee attempting to reach a compromise between Gaddafi and the Libyan Transitional National Council.

However, academics and policymakers disagreed on the African Union’s final plan for action. While Alex de Waal and Mbeki have argued that had the African roadmap been given the chance to be implemented it could have led to a more peaceful end to the conflict, others describe the African Union as too slow in its response after the adoption of two UN resolutions on the conflict.<sup>132</sup> Nonetheless, it would be difficult to determine the potential success of the African Union’s plan. On May 19<sup>th</sup>, as the members of the ad hoc committee announced their intention to fly to Tripoli, the no-fly zone came into

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<sup>130</sup> Moore, 2011, <http://blogs.lse.ac.uk/>.

<sup>131</sup> DeWaal, 2011, <http://sites.tufts.edu/>.

<sup>132</sup> Moore, 2011, <http://blogs.lse.ac.uk/>.

effect and, “The Panel members received a curt message from the U.S. and the UN saying that, should they proceed with their visit, their security could not be guaranteed.”<sup>133</sup> African leaders were given the green light by the UN to fly to Tripoli on April 9<sup>th</sup>, but while Gaddafi gave an uncertain agreement to negotiate under the African roadmap, the Transitional National Council would not accept a plan without the assurance of Gaddafi’s immediate departure.<sup>134</sup>

Though academics disagree on the effectiveness of the plan, it is commonly recognized that in its capacity as a regional peace negotiator the African Union lacks funding (being dependent on the EU and other financiers therefore being subject to external positions),<sup>135</sup> forces to oversee ceasefires and no-fly zones (due to sub-regional jurisdiction or willingness to commit troops)<sup>136</sup> and most importantly, the ability to strike a unified position. These factors have made it difficult for the African Union to respond to conflicts without the backing of regional powers, South Africa and Nigeria, in the face of opposition from the international community.

#### *Implementing Resolution 1973*

When assessing the implementation of Resolution 1973, some inconsistencies in the inclusiveness of the actions taken become apparent. There is no doubt amongst NGOs, international monitoring bodies, and civilians on the ground that the government forces were committing grave acts of violence against humanitarian and human rights law, however, it is not the purpose of this thesis to assess whether or not military force was the best path to take in the case of Libya. It may be, as some argue that in taking rapid action mass atrocities were prevented, or as others have argued, it may be that NATO bombing put more civilians at risk. These questions are difficult to assess in hindsight, but what can be assessed is the effect this decision had on the IBSA bloc’s policy towards R2P.

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<sup>133</sup> DeWall, 2011, <http://sites.tufts.edu/>.

<sup>134</sup> Idem.

<sup>135</sup> Moore, 2011, <http://blogs.lse.ac.uk/>.

<sup>136</sup> Idem.

NATO strikes were initiated on March 19<sup>th</sup>, two days after the issuance of Resolution 1973. They were led by the UK and France, among others including Qatar and the United Arab Emirates from the Arab League.<sup>137</sup> According to NATO they were aimed at tanks, vehicles, guns, and command and control centers with the goal of neutralizing the government's ability to continue attacks on civilians; however, some argue, the proportionality of the bombing went beyond this goal. What is curious is that in a briefing given to the Security Council by Ban Ki-moon on 24 March he stated that his Special Envoy to Libya met with the Libyan Foreign Minister on 13 March. He delivered the message to the Minister that, "Attacks on civilians must stop; those responsible for crimes against their people will be held accountable; safe humanitarian access must be guaranteed; and resolutions 1970 (2011) and 1973 (2011) must be implemented in full" and that failure to comply could lead to further actions.<sup>138</sup> This visit took place four days before the vote to approve Resolution 1973.

While many in the west hailed the Libyan intervention as a success for R2P, a feeling of being misled and betrayed generated amongst IBSA. After allowing Resolution 1973 to pass through abstention and one approval these countries were left behind closed doors on the military decisions taken by France, the UK, US and NATO. This led the Indian Ambassador to the UN to express his disappointment in June 2011 stating, "Libya has given R2P a bad name."<sup>139</sup> South Africa in particular regretted the decision to change its position on the Resolution. On May 4<sup>th</sup> in accordance with Resolution 1970, International Criminal Court Prosecutor Luis Moreno Ocampo briefed the Security Council on the activities of his office since the referral of the Libyan case. In the meeting, the UN South African delegate was clear to distance Pretoria from actions taken by suggesting that in spite of provisions under paragraph 6 of Resolution 1970 exempting non-state parties from International Criminal Court prosecution, actions taken beyond the mandate given under 1973 should also be examined.<sup>140</sup> Though the International Criminal Court prosecutor has assured the international community that,

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<sup>137</sup> Powell, 2013, p. 313.

<sup>138</sup> S/PV.6505, 24 March 2011, p. 2.

<sup>139</sup> Garwood-Gowers, 2013, p. 307.

<sup>140</sup> S/PV.6528, 4 May 2011, p. 11, para 7.

"these allegations will be examined impartially and independently,"<sup>141</sup> academics have argued whether the Court can prosecute NATO commanders from non-party states, particularly in light of paragraph 6, and whether they will investigate the organization.<sup>142</sup>

What is clear is that the Libyan conflict had a profound effect on South Africa, sometimes to the detriment of its decision-making on future crises. It also worked to drive the African Union member states further against the use of intervention under R2P. As predicted by many African leaders, the employment of mercenaries by the Libyan government and flow of weapons during the Libyan conflict led to the exacerbation of the conflict between separatists in northern Mali. Alex de Waal contends that, "A combination of NATO pressure and AU diplomacy might have avoided some of the problems that emerged during and after the regime transition in Libya."<sup>143</sup> Though these suggestions can now only be taken in hindsight they may offer important lessons that could be employed in the future. Finally, questions over the implementation of R2P during Libya were sealed by Kofi Annan's acknowledgment in 2012 that, "honestly, the way the 'responsibility to protect' was used in Libya caused a problem for the concept."<sup>144</sup> The betrayal felt after the Libyan conflict pushed IBSA to take up the debate on R2P. In the aftermath of the Libyan crisis what have IBSA done?

### 3.2 IBSA After Libya

Another humanitarian crisis that began in 2011 was the conflict in Syria which is still ongoing today. Smaller protests had begun in January but it was not until March after the arrest and torture of teenagers in Deraa that they turned into a call for the overthrow of President Bashar al-Assad. In a briefing to the Security Council on the situation

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<sup>141</sup> The Huffington Post, 'Libya War: NATO fears International Criminal Court Prosecutions', 11 November 2011, <http://www.huffingtonpost.ca/>.

<sup>142</sup> For an article arguing against Court jurisdiction over non-state parties in the Libya intervention see Bosco, David, 'Russia to ICC: Investigate NATO', *Foreign Policy*, 18 May 2012, available at: [http://bosco.foreignpolicy.com/posts/2012/05/18/russia\\_to\\_icc\\_investigate\\_nato](http://bosco.foreignpolicy.com/posts/2012/05/18/russia_to_icc_investigate_nato) (accessed on 8 July 2013); for an argument for Court jurisdiction see Heller, Kevin Jon, 'Can the ICC Prosecute NATO for Crimes Committed in Libya?', *Opinio Juris*, available at: <http://opiniojuris.org/2012/05/19/can-the-icc-prosecute-nato-for-war-crimes-committed-in-libya/>, (accessed on 8 July 2013).

<sup>143</sup> DeWaal, 2011, <http://sites.tufts.edu/>.

<sup>144</sup> Garwood-Gowers, 2013, p. 308.

Under Secretary General Lynn Pascoe affirmed from UN sources that, “Syrian authorities had reacted with a mix of reform measures and increasingly violent repression.”<sup>145</sup> Assad had promised a national dialogue, new legislations, parliamentary elections and the end of the one-party system, but at the same time sent tanks and military forces to crackdown on protestors which were deemed as saboteurs to reform.<sup>146</sup> In April 2013 the UN Human Rights Commission announced that almost 100,000 casualties had been accounted for since March 2011.<sup>147</sup> It has been widely acknowledged that the ramifications of conflict in Syria could have even farther reaching consequences than the Libyan conflict due to its geopolitical and strategic significance within the Middle East. Regionally and internationally countries have been divided into pro-Assad and pro-opposition lines, leading some to argue the conflict has turned into a proxy war for major powers. The situation has been further complicated by the flow of terrorist groups and mercenaries becoming involved in the conflict.

Some critics have declared that the need for action in Syria has “hit a wall of BRICS.”<sup>148</sup> They have criticized India, Brazil, and South Africa for what they see as reverting to their traditional stance on sovereignty. But is there really a wall? When assessing the IBSA positions on Syria we can see that the IBSA countries did not vote against any resolutions but abstentions were used often, particularly early on in the conflict. The Libyan conflict had a deeply impacting effect on all three of the countries, and especially on South Africa. The question this raises is whether this experience weakened their trust in the ability of the UN to utilize R2P justly, or if it strengthened their resolve to promote reform. This section will analyse IBSA’s positions and actions taken regarding the Syrian conflict from the period of August 2011-August 2012 to assess how the Libyan crisis effected their positions on UN conflict resolution, and whether or not they have been able to reconcile differences in becoming leaders for R2P.

In the first meeting of the Indian presidency of the Security Council on August 3<sup>rd</sup>, the Indian representative to the UN issued a statement from the Security Council

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<sup>145</sup> SC/10235, 27 April 2011, <http://www.un.org/News/>.

<sup>146</sup> Karouny & Bayoumy, 2011, <http://www.reuters.com/>.

<sup>147</sup> Black, Ian, 13 June 2013, <http://www.guardian.co.uk/>.

<sup>148</sup> Lynch, 2011, <http://turtlebay.foreignpolicy.com/>.

condemning the violence in Syria. The representative from Lebanon however dissociated her government from the consensus on the grounds that the conflict in Syria could have wider ramifications on Lebanon. Though IBSA members could have joined Lebanon conforming to their policy of supporting the viewpoints of countries from the region, the bloc clearly saw the escalation of violence and the need for consensus as important to ending the conflict.

On 10 August the IBSA bloc took one of their most decisive actions to promote their position on diplomacy and negotiation. In a determined effort to avoid another Libya, the IBSA bloc sent a joint delegation on a diplomatic mission to Damascus. During meetings with Assad and his foreign minister the representatives were assured that the government was in the process of implementing political reforms to be concluded by February-March of the following year. On the issue of violence by security forces, Assad admitted to mistakes in the early months of the protests but assured the delegation that steps would be taken to avoid harm to civilians in their response to armed groups.<sup>149</sup> The members of the mission urged the government to continue with reforms and issued a balanced statement calling on both government and opposition forces to end all violence. The decision taken by IBSA to send a joint delegation was significant as it involved a situation outside of their regional spheres of interest. It signaled the group's preparedness to act as not only regional, but also international mediators in conflict resolution, and its determination to promote diplomatic means of diffusing conflicts.

Following the mission on 21 September President Rouseff became the first woman to open the new session of the General Assembly. In her speech she reiterated her government's position on the need to address development as a cause of conflict and instability, mentioning projects in Haiti and Guinea-Bissau. Rouseff also stressed the need to use force only as a last resort stating, "The world suffers today from the painful consequences of interventions that aggravated existing conflicts. They allowed terrorism to penetrate into places where it previously did not exist, gave rise to new cycles of violence and multiplied the number of civilian victims," possibly in reference to the

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<sup>149</sup> Dikshit, 2011, <http://www.thehindu.com/>.

situations in Mali and Iraq.<sup>150</sup> In her final sentences on the subject, she expressed the need to restore legitimacy to the Security Council and left the international community with the sentence: “Much is said about the responsibility to protect; yet we hear little about responsibility in protecting.”<sup>151</sup> These ideas would become the basis for a Brazilian initiative to reform R2P.

On 4 October the first draft Security Council Resolution on Syria proposed by France, Germany, Portugal and the UK was proposed and subsequently vetoed by Russia and China. The resolution called for an end to all violence particularly by government forces to allow access to humanitarian and human rights monitors. Brazil, India and South Africa all abstained. The Indian representative acknowledged a states’ responsibility to protect its citizens’ rights, but also warned that this can be complicated with the presence of armed groups. Following so closely after the IBSA mission to Damascus, he stated that it was necessary for the international community to give the government time and space to implement reforms. The representative further expressed his country’s reservations on the lack of a balanced condemnation of both government and opposition forces, and the possibility that the resolution’s provisions might allow for the proposal of sanctions in the future.

While the decision to give Assad time to implement promised reforms may have been a legitimate part of IBSA’s strategy, the claim that the resolution was unbalanced does not seem justifiable given articles 2 and 3 stating: “Demands an immediate end to all violence and urges all sides to reject violence and extremism; Recalls that those responsible for all violence and human rights violations should be held accountable.”<sup>152</sup> In addition, the representative’s mention of complications that may arise with the presence of armed groups could be in reference to its own domestic security concerns rather than the conflict in Syria.

South Africa also cited the need for stability in the Middle East and the need for a peaceful and inclusive national dialogue to end the crisis. The impact of the Libyan

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<sup>150</sup> Rouseff, 2011, <http://www.un.int/brazil/>.

<sup>151</sup> Rouseff, 2011, <http://www.un.int/brazil/>.

<sup>152</sup> S/2011/612, 4 October 2011, para 203.



crisis comes out very clearly in the representative's statement: "We are concerned that this draft resolution not be part of a hidden agenda aimed at once again instituting regime change, which has been an objective clearly stated by some."<sup>153</sup> This concern was unwarranted given the resolutions express reference to the need for a peaceful and Syrian-led resolution to the conflict.

The Brazilian delegate noted Brasilia's calls for the end to violence and the Syrian government's promises of reform in the joint IBSA mission and the recent establishment by the Human Rights Council of a Commission of Inquiry headed by a Brazilian national. She, expressed her country's position that the only way to achieve peace in Syria would be through an inclusive national dialogue and was disappointed that the drafters did not take more time to address the concerns of other countries before presenting a proposal. It is important to note that Lebanon also abstained recalling its position on the 3 August presidential statement and reiterating its fears for "Lebanon's unity and stability."<sup>154</sup>

Though IBSA did not vote against the resolution, human rights groups heavily criticized them for their lack of pressure on Assad's government to end its violence against protestors and grant access to human rights monitors. The deputy Middle East director at Human Rights Watch stated, "The IBSA countries should not be the last to wake up to the severity of the crisis facing the Syrian people... If the IBSA forum is to fulfil its founding goal of providing a credible alternative to the political dominance of the North, it needs to lead on human rights."<sup>155</sup> He further criticized their failure to make a strong statement against the Syrian government's actions in their joint summit declaration on 17 October. Indeed, though in abstaining from the resolution the bloc may have been standing firm on the need to avoid favouring one side in a conflict and to allow their diplomatic mission to take effect, the failure to call for the government to provide access to the UN Commission of Inquiry on Syria and other human rights monitoring groups in their summit declaration was disappointing. Furthermore, in the declaration

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<sup>153</sup> S/PV.6627, 4 October 2011, p. 11, para 6.

<sup>154</sup> *Idem*, p. 9, para 5.

<sup>155</sup> Human Rights Watch, 'IBSA: Push Syria to End Bloodshed', 2011, <http://www.hrw.org/>.

they expressed the possibility that IBSA could undertake another diplomatic mission to Syria to expedite the promised reforms, but this never came to fruition.

### *3.3 Responsibility while Protecting*

Appropriately Brazil chose the Security Council debate on the protection of civilians in armed conflict on 9 November to further develop its views on the need for R2P reform. A concept paper by the Brazilian government entitled ‘Responsibility while protecting: elements for the development and promotion of a concept’ was then submitted to the Secretary General for circulation in the General Assembly. Since its inception, academics have debated the purpose and potential of RWP. The purpose of the proposal is made clear when reading article 10 that notes the “growing perception that the concept of the responsibility to protect might be used for purposes other than protecting civilians, such as regime change. This perception may make it even more difficult to attain the protection objectives pursued by the international community.”<sup>156</sup> This paragraph is a clear reference to the Libyan conflict and the credibility crisis it created for R2P and reveals the intent of Brasilia to reconcile the rift it caused. Some have hailed the proposal as a means to address the uncertainties in R2P application. Others have argued that the proposal undermines R2P and sets back the progress made since 2005. To assess the proposal’s potential of meeting this goal a thorough analysis must be taken.

In the paper a number of solutions are offered to regulate and limit R2P’s misuse or misapplication. The first view is that the three pillars of R2P should follow a strict chronological sequence.<sup>157</sup> Though in making this point the Brazilian government was attempting to promote the use of diplomacy over force, this was one of the most criticized proposals. The German Ambassador stated that in this way RWP, “Limits the scope for timely, decisive and tailor-made solutions to situations of extreme gravity.”<sup>158</sup> Edward Luck argued, “ Let us not raise the political costs of doing the right thing at the

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<sup>156</sup> A/66/551-S/2011/701, 11 November 2011, para 10.

<sup>157</sup> *Idem*, para 6.

<sup>158</sup> Benner, 2013, p. 4

right time. That would be truly irresponsible.”<sup>159</sup> However, Brazilian Ambassador Viotti has since said that the sequencing has to be, “logical, not chronological.”<sup>160</sup>

Another proposal is the need to differentiate between collective responsibility and collective security.<sup>161</sup> The report implied that this distinction could better define which measures were appropriate to use in a given situation, the former being non-coercive measures and the latter allowing for military action. Collective security would imply a situation that could be characterized as a threat to international peace and security thereby necessitating the use of force. The fact that the Brazilian proposal allows for the use of force demonstrates a clear break with its former tendencies towards traditional sovereignty, however, the difficulty in distinguishing between violence against civilians that constitutes a domestic threat and violence that constitutes an international threat to peace and security does not lead to further clarity. For example, as discussed in the Security Council resolution on Myanmar/Burma in 2008, South Africa argued that the attacks on minorities and ethnic cleansing did not constitute a threat to international peace and security but the crime of apartheid did. While it should be internationally accepted that all crimes specified under R2P and the Rome statute equate to threats to international peace and security, differences in opinion will always prevail.

A third suggestion is that as the use of force can lead to further loss in civilian lives, before the decision is made to take military action a judicious analysis of the potential consequences should be taken into account on a case by case basis.<sup>162</sup> Having an external and impartial assessment on the use of force could have a very positive impact on the credibility of a mission. Having to undergo a legal analysis could greatly limit the ability for states to misuse R2P. If the legal standing of the intervention is approved the mission could have the added value of legitimacy within the international community making states more likely to cooperate. However, the time it would take could be a barrier to addressing the immediate needs of civilians at risk and should be further assessed.

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<sup>159</sup> *Idem*.

<sup>160</sup> *Idem*, p. 7.

<sup>161</sup> A/66/551-S/2011/701, 11 November 2011, para 6.

<sup>162</sup> *Idem*, para 7.

Finally, the paper ends by advocating the creation of internationally agreed “fundamental principles, parameters and procedures” on the use of force through which RwP and R2P can evolve.<sup>163</sup> This was followed by nine possible suggestions. Some of the more concrete suggestions were that the use of force should be limited in its scope and legal, operational, and temporal elements. The Security Council, or in some exceptional cases the General Assembly, must authorize the use of force. It called for increased powers for the Security Council to monitor the implementation and interpretation of its resolutions, and finally addressed the need for accountability of those carrying out its enforcement. These suggestions were clearly made in reference to the ambiguous mandate for force given under resolution 1973. While it is debatable whether some of these options are feasible, they go to the root of the problem, namely a lack of clear guidelines on how military action should be mandated by the UN.

Brazil followed up on this proposal by holding an informal discussion on the concept at the UN on 21 February 2012 chaired by Brazil’s Minister of External Relations, its Ambassador to the UN, and UN Special Advisor on R2P Edward Luck. The discussion included representatives from various countries, NGOs, and experts. During the discussion different reactions were expressed by the international community. Some countries such as Costa Rica, Ghana, the US and the EU voiced opposition to certain proposals such as the need for chronological sequencing and the potential of micro-management of operations by the Security Council.<sup>164</sup> The need to exhaust all peaceful means in particular caused discussion as differing opinions could be taken on when peaceful means had been exhausted and that in employing this precaution more casualties could arise. South Africa was amongst the countries which greatly championed the Brazilian initiative, expressing that the government fully associated itself with the concept.<sup>165</sup> The concept reached its height in popularity in July when Ban Ki-moon dedicated a whole section in his report on the Responsibility to Protect to RwP.

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<sup>163</sup> A/66/551-S/2011/701, 11 November 2011, para 11.

<sup>164</sup> Saliba & Belem Lopes & Guimarães Vieira, 2013, p. 701.

<sup>165</sup> See STATEMENT BY AMBASSADOR BASO SANGQU, PERMANENT REPRESENTATIVE OF SOUTH AFRICA available at:

<http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/4002-informal-discussion-on-brazils-concept-of-responsibility-while-protecting>, accessed on 5 June 2013.

This was later followed by a workshop in Rio de Janeiro in August for foreign policy officials and experts.

Brazil's RWP concept has many weaknesses when considered in the light of practical application, and many academics have pointed out that some of its suggestions merely restate previous considerations, but as a proposal by an emerging power from the global south it has reopened the debate at a critical time. At a time when the world is fed up with the self-interested actions of the west, and the refusal to allow action by Russia and China, a proposal which comes from the excluded emerging south could have normative potential.

#### *After RWP*

The next Security Council Resolution on the situation in Syria came on 4 February 2012. Some critics saw India and South Africa's decision to vote in favor of the resolution rather than following their prior preference for abstentions as surprising; however, when analyzing the contents of the resolution it is clear that the sponsors took great care to draft a Resolution that took into account the hesitation generated by the Libyan conflict and the views of different members. For one, unlike the previous Security Council Resolution in its condemnation of the violence perpetrated in Syria, the resolution specifically named both government forces and armed groups. Second, it fully supported the Arab League in its Action Plan and Observer Mission, calling on the Syrian government to help facilitate and cooperate with its efforts. Third, it gave the Security Council's full support for a Syrian-led transition process through political dialogue specifically including government forces and all spectrums of the opposition forces. The fourth, and possibly most decisive factor was the inclusion of the provision, "that nothing in this resolution authorizes measures under Article 42 of the Charter."<sup>166</sup>

Indeed, India's statement cited the support for the Arab League's actions, the support for a Syrian-led process, and the assurance that the Resolution would not be used for military action in its statement after the vote. South Africa similarly cited these inclusions, and added its seal of approval by declaring: "We are also satisfied that the

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<sup>166</sup> S/2012/77, 4 February 2012, p. 1.

final draft resolution (S/2012/77) was not aimed at imposing regime change on Syria, which would be against the purposes and principles of the United Nations Charter.”<sup>167</sup> Furthermore, South Africa also mentioned the slow progress of government reforms indicating that the IBSA countries may have decided that as February had arrived and Assad’s promised reforms had not materialized it was time to apply further pressure on the government. This consideration coupled with the fact that the situation was indeed worsening may have factored into their decisions. Ultimately, the resolution was vetoed by Russia and China.

Following this Resolution a number of successes occurred within the Security Council on the situation in Syria. Kofi Annan was appointed as a UN-Arab League Joint Special Envoy to Syria and proposed a new Six-Point Plan to end the violence. The international status of the former UN Secretary General and his role as an Envoy cooperating between the UN and the regional Arab League generated widespread support and optimism for the plan’s implementation. This led to the unanimous adoption of Resolutions 2042 and 2043 in April, calling for a ceasefire and setting up a UN Observer Mission. However, as the plan broke down with both sides violating proposed ceasefires the initial optimism began to fade. Kofi Annan’s announcement that he would not renew his mandate stating that, "When the Syrian people desperately need action, there continues to be finger-pointing and name-calling in the Security Council.”<sup>168</sup>

This disunity can also be seen in the voting of the IBSA bloc during this period. A third Security Council Resolution on 19 July was again vetoed by Russia and China. The statements of India and South Africa convey the conflict that had prevailed within the Security Council:

India: “In our view, it would have been preferable for the Council members to show flexibility so that a united message could be conveyed to all sides in the Syrian crisis, instead of pursuing domestic interests. It is therefore regrettable that the Council has not been able to adopt a resolution today”

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<sup>167</sup> S/PV.6711, 4 February 2012, p. 11, para 5.

<sup>168</sup> BBCNews, ‘Syria crisis: Kofi Annan quits as UN-Arab League envoy’, 2012, <http://www.bbc.co.uk/>.

South Africa: “Yet the common cause that we affirmed when we adopted resolutions 2042 (2012) and 2043 (2012) three months ago has not seemed to prevail. We should have shown the utmost maturity in strategically executing these crucial tasks, taking into account the realities of the situation on the ground. Instead, we allowed narrow interests to destroy our unity of purpose.”

Despite their dismay at the situation, they had not voted in unison either. While India voted in favor of the Resolution, South Africa abstained stating that the Resolution had not been balanced, allowing for sanctions against the government in case of violation of the Six-point Plan, while opposition groups faced no consequences.

A final disunity in their voting patterns occurred on 3 August when the General Assembly voted on Resolution 66/253 B. While Brazil and South Africa voted in favor of the resolution, India abstained having reservations about the possibility that it could be used to call for Assad to step down.<sup>169</sup> However, Brazil expressed a position more in line with R2P when its representative stated, “The primary responsibility for ending violence, upholding the law — both domestic and international — and respecting human rights lies with the Government of Syria.”<sup>170</sup>

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<sup>169</sup> Garwood-Gowers, 2013, p. 312.

<sup>170</sup> A/66/PV.124, 3 August 2012, p. 15, para 10.

## **Conclusion: Have IBSA Failed As R2P Norm Leaders?**

In a recent paper Andrew Garwood Gowers points out that despite their significance as a group, the inherent differences between BRICS still remain important factors in their policy decisions. On the other hand, having differing national interests, democratic institutions and a desire to attain permanent seats on the Security Council have made IBSA more flexible on R2P. However, as his study indicated this does not mean that they have been able to form common positions on R2P within the UN.<sup>171</sup> Indeed, despite some initial attempts at becoming leaders in reforming and defining R2P's provisions and implementation, the IBSA bloc have not followed through with their efforts.

Though academics and NGOs have called on Brazil to issue a follow up to its initial RwP proposal in light of the feedback it has received during the informal discussion and workshop, the government has failed to do so. So far there have been no new attempts to further develop RwP. Additionally, in its February 2013 report the UN Independent Commission of Inquiry on Syria, created in 2011 and headed by Brazilian Paulo Sergio Pinheiro, called on the international community to refer the case to the International Criminal Court. A letter circulated by the Swiss government and so far signed by 57 countries has urged the Security Council to consider this option. None of the IBSA countries are on the list.

Some may ask whether the position of the IBSA countries is still important now that they are no longer non-permanent members of the Security Council. One example of their continued importance in conflict resolution was the fact that in March 2013 Assad addressed a letter to the BRICS in time for their annual summit meeting in Durban. In the letter he pleaded for the group to "work for an immediate cessation of violence that would guarantee the success of the political solution."<sup>172</sup> With Assad refusing to step down from leadership, the opposition refusing to accept a peace process including the President, Russia and China consistently vetoing UN resolutions, and the US, UK and

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<sup>171</sup> Garwood-Gowers, 2013, p. 312.

<sup>172</sup> Trifunov, 2013, <http://www.globalpost.com/>.



France ready to arm the Syrian opposition, IBSA finds itself in an important intermediary position to which it has a responsibility to respond.

IBSA exhibit the characteristics described in the first chapter for norm leaders: they have the motivation to cause change after the Libyan conflict; they have an organizational platform from which to launch their campaign; and they represent critical states within their regions. However, though they share much in common with each other as emerging powers, each also has its own set of regional and domestic influences it must take into account when making foreign policy decisions. These considerations have at times led them to hold opposing positions at the UN, breaking the strength a united IBSA bloc could have on global affairs. It remains to be seen whether or not the RWP proposal will in the future have a more significant impact on the R2P debate, however, it is unlikely to happen if the IBSA members are not able to reconcile their differences and come together to effectively promote their position within the international community. Finally, if IBSA wants to attain a stronger role within the United Nations in the future it must strengthen its capacity to address conflict situations. After its experiences as non-permanent members of the Security Council what actions can IBSA undertake to re-legitimize R2P in the eyes of the international community?

### **Recommendations**

As has become clear throughout this thesis, the IBSA bloc are great proponents of the use of diplomacy and negotiation. Particularly when facing conflict situations they have promoted the idea that force should only be used as a last resort. However, when their negotiating efforts during the Syrian crisis failed, no further measures were taken. If IBSA are to effectively promote their position within the international community they must reassess their positions on alternative means of applying pressure on governments failing to meet their responsibility to protect. These include methods for conflict prevention, conflict resolution, and post-conflict reconciliation. The following are some points which should be taken into consideration.

The International Criminal Court can be a useful mechanism for conflict prevention, resolution and during post-conflict transition if used appropriately. As the international

legal body charged with prosecuting individuals for violating the crimes specified under R2P the Court could play a complementary role in applying pressure when government's fail to heed the calls of the international community. It could also be used to monitor the implementation of UN Missions when the use of force is authorized. This would solve the criticisms of the RwP report that giving greater powers to the Security Council could lead to micro-managing. Finally, if the Court is able to gain greater credibility and acceptance it may be able to deter conflicts from occurring. However, India's strong opposition and South Africa's mixed relationship with the Court have meant that IBSA has unfortunately not been able to reach a compromise.

Another area where IBSA should consider further cooperation is in peacekeeping efforts. As has been discussed all three play an important role in peacekeeping, not only in troop deployment, but also in their calls for the improvement of peacekeeping practices. South Africa has attempted to reconcile the gap in peacekeeping and peacebuilding by advancing its proposal for developmental peace missions. Brazil has highlighted the need for the pacification of police and peacekeeping forces by promoting training by not only military experts, but also NGOs. India has called for greater inclusion of peacekeeper contributing states in the planning of missions. This could lead to better coordination between donor countries and troop contributing countries, and the creation of more feasible mandates. If IBSA can coordinate its efforts as it has at the WTO level, the group could have a great impact on the evolution of UN peacekeeping missions.

Finally, one of the most important lessons that should be taken out of the Libyan conflict is the need for greater coordination between the UN and regional organizations in conflict resolution. Following the conflict African leaders, and in particular South Africa, were disalusioned by what they saw as an undermining of African Union efforts to facilitate a peaceful resolution. As has been noted throughout the analyses of IBSA votes on UN resolutions, in the eyes of India, Brazil and South Africa the inclusion of regional organizations is essential to the legitimacy of UN actions. Countries within the region will have better knowledge and expertise on the circumstances surrounding a given conflict, and furthermore their cooperation and monitoring of the situation are essential to the effective implementation of conflict resolution efforts. In this light

during South Africa's presidency of the Security Council in January 2011 it organized a meeting on the *Cooperation Between the UN and Regional and Subregional Organizations in Maintaining International Peace and Security*. During the meeting four main points in strengthening the relationship between the UN and the African Union were stressed: The need to avoid duplication or divergence by aligning policies, strategies and mechanisms; the need to develop modalities of cooperation between the two organizations; the recognition of a clear division of labor based on the different competencies and capacities of the organizations; finally the need for the UN to support its efforts in capacity-building and resource allocation.<sup>173</sup> Though a resolution was passed promoting the enhancement of relations between the UN and regional organizations, work will need to be done to make this commitment a reality. As a regional power South Africa can play an important role in re-establishing trust between the member states of the African Union and the UN by leading this process and reforming UN actions to better address conflict resolution in Africa. Avoiding divergence is not enough, it is necessary that Security Council resolutions complement and strengthen regional efforts. In this light all three IBSA countries should enhance their role as intermediaries between regional organizations and the UN.

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