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Mapping dissent: The responsibility to protect and its state critics

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Mapping Dissent: The Responsibility to Protect and Its State Critics*

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Abstract

Addressing dissent, also known as 'rejectionism', will broaden and deepen the global consensus on the Responsibility to Protect (R2P) principle. However, how should scholars understand the objections raised by state critics? To answer this question, I analyse R2P opposition as presented in official UN transcripts, voting records, and resolutions. The article reveals that six related themes of dissent exist with varying degrees of emphasis amongst opponents. Conventional depictions of R2P opposition, such as the absolute sovereignty or North vs. South explanations, are therefore inadequate representations of the diverse range of arguments employed by dissenters. Ultimately, I conclude that in order to build consensus at the expense of dissent, the principle should be further developed around four key notions: 1) non-coercive prevention and domestic capacity building, 2) enhanced prudential criteria for intervention, 3) global norm entrepreneurship from the Global South, and 4) veto restraint in R2P scenarios.

Keywords

Responsibility to protect; R2P dissent; R2P rejectionism; sovereignty; global governance; United Nations

Introduction

Despite all the scholarly discussion of the Responsibility to Protect (R2P) as 'an idea whose time has come', what remains disturbingly clear in 2013 is that a truly global consensus on foreign intervention intended to halt mass atrocities has yet to be reached. To see the international debate on R2P in action, scholars need not look further than the on-going Security Council deadlock on the Syrian crisis, where heated disagreement in place of

unified diplomacy is generating catastrophic results. Citing concerns of resolution abuse, violation of territorial integrity, and regime change, Chinese and Russian delegations have thrice justified vetoes that enable an oppressive regime to deliberately ignore its responsibility to protect its own civilians. Whereas the decision to intervene in Libya was met with only quiet opposition, Syria has made the problem of R2P dissent more visible than ever.

Although Susan Rice may refer to these objections as 'paranoid' and 'disingenuous', they nonetheless reflect a legitimate challenge to the normative development of R2P.[1] If the international community is unable to control dissent, then the principle will struggle to push through its norm cascade and fail to satisfy the technical definition of an international norm, much to the detriment of its own perceived legitimacy. Moreover, dissenter states will continue to employ rhetorical coercion intended to spoil otherwise acceptable R2P resolutions. With many commentators already describing R2P in post-mortem terms, it seems that a critical analysis of dissent is urgently needed.[2]

Yet the available literature on R2P scepticism at the UN level is lacking. While pioneering works on the drivers of dissent have recently appeared by scholars such as Jonas Claes and Monica Serrano, a cataloguing of the common state arguments against R2P is far from complete.[3] Significantly, the academic community has yet to answer the following questions: what are the broader themes of dissent raised by opponents at the UN? How might these elements be interrelated, share common origins, and reflect changing geopolitical power structures? Finally, how might supporters attempt to address thematic dissent and what impact, if any, might this have on the actual implementation of R2P on the ground?

The purpose of this article is to fill these gaps. At the outset, it identifies and categorizes the R2P dissenter states as of June 2013. Next, it analyses

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[1] United States Mission to the United Nations, 'Explanation of Vote by Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations', 19 July 2012, http://usun.state.gov/briefing/statements/195246.htm, accessed 5 September 2012.

[2] See for example David Reiff, 'R2P, RIP', 7 November 2011, http://www.nytimes.com/2011/11/08/opinion/r2p-rip.html?pagewanted=all, accessed 5 September 2012. See also Stewart Patrick, 'R2P on Life Support: Humanitarian Norms vs. Practical Realities in Syria', 12 June 2013, http://blogs.cfr.org/patrick/2013/06/12/r2p-on-life-support-humanitarian-norms-vs-practical-realities-in-syria/, accessed 26 June 2013.

[3] See Jonas Claes, 'Protecting Civilians from Mass Atrocities: Meeting the Challenge of R2P Rejectionism', *Global Responsibility to Protect*, 4/1: 67-97 (2012), and Mónica Serrano, 'The Responsibility to Protect and its Critics: Explaining the Consensus', *Global Responsibility to Protect*, 3/4: 425-437 (2011).

the official objections of these critics over time and makes explicit the interrelated nature of their arguments, including observations on the characteristic commonalities of the dissenter states themselves. This section of the article reveals that six recurring themes of dissent exist with varying degrees of emphasis from R2P opponents. Conventional depictions of R2P opposition, such as the absolute sovereignty or North vs. South explanations, are therefore inadequate representations of the diverse range of arguments employed by dissenters. Next it assesses the importance of addressing dissent and the possibility that while dissent will likely never be fully eradicated, only a minority of dissenter states boast the influence necessary to completely halt R2P's normative development. Ultimately, I conclude that in order to build consensus at the expense of dissent, the principle should be further developed around four key notions: 1) non-coercive prevention and domestic capacity building, 2) enhanced prudential criteria for intervention, 3) global norm entrepreneurship from the Global South, and 4) veto restraint in R2P scenarios.

This study is the result of a comprehensive review of UN transcripts, informal interactive dialogues, voting records on R2P-related resolutions, as well as official statements at panels and conferences. Notably, it intends to focus on the conceptual, institutional, ideological, and technical objections to R2P as stressed by the dissenters themselves. It deliberately attempts to move beyond speculation on momentary political and strategic considerations in order to maintain a consistent, evidence-based approach of measuring R2P dissent from 2005 to June 2013.

Who Are the R2P Dissenters?

In order to understand the common themes of R2P opposition, it is first necessary to identify the minority of UN members that fit the definition of an R2P dissenter state. In this article, R2P dissenters refer to states that rhetorically condemn the norm in whole or in part throughout both formal and informal debates. They typically abstain from or oppose resolutions that invoke R2P language. By obstructing international consensus, all R2P dissenters inhibit the normative development of R2P by rhetorical means.

Jennifer Welsh has cleverly referred to this opposition as 'buyer's remorse'.[4] It is true that all dissenter states have at least once officially

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[4] Jennifer Welsh, 'What a Difference a Year Makes', 5 February 2012, http://www.opencanada.org/features/syria-un/, accessed 5 September 2012.

endorsed R2P, seeing as paragraphs 138 and 139 in the 2005 World Summit Outcome Document hold that all governments accept the clear and unambiguous international responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.[5] This commitment has been reaffirmed multiple times since the World Summit, including by the Security Council in Resolutions 1674 and 1894 on the Protection of Civilians in Armed Conflict, as well as the General Assembly in Resolution 308.[6]

Yet despite formal adoption of the principle, debate has continued unabated. Since 2005, the UN has witnessed R2P dissent in all four of the General Assembly's informal interactive dialogues on R2P in addition to discussions of the norm during Security Council Open Debates on the Protection of Civilians and the UN Human Rights Council. Voting records and statements during resolution writing on Darfur, Myanmar, Libya, Cote d'Ivoire and most recently, Syria, also show evidence of R2P dissent.[7]

As Jonas Claes notes, branding R2P dissenters in such cases is inevitably a subjective analysis. Interpreting the language of UN statements often generalizes what can be 'nuanced and evolving positions' that may change over time due to internal and external shocks such as state leadership transitions or lobbying efforts conducted by both state and non-state actors.[8] For instance, Libya has become relatively more supportive of R2P since its revolution and recent UN statements signal that it has experienced a transition from R2P dissenter to supporter. For this reason, the list of dissenters in Box 1 is based on the most recent official comments and voting records available to the general public.

Claes' work is one of few that have attempted to understand the politics behind R2P opposition and has labelled the dissenter states 'R2P rejectionists'. Although a seminal work on an overlooked subject, it is worth delving further to clarify that some rejectionists do not overtly reject the principle. Instead, various states boast partial or conditional support that highlight ambiguities or concerns not adequately addressed in the World Summit

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[5] '2005 World Summit Outcome', UNGA Res. 60/1, 16 September 2005.

[6] On 12 February 2013, the Security Council also released a statement reaffirming its commitment to R2P. See 'Statement by the President of the Security Council', S/PRST/2013/2, 12 February 2013.

[7] See for example 'President of Russia's Official Statement at a Meeting with Security Council Members on Syria', 7 October 2011, http://eng.kremlin.ru/news/2906, accessed 26 June 2013.

[8] Jonas Claes, 'Protecting Civilians from Mass Atrocities: Meeting the Challenge of R2P Rejectionism', *Global Responsibility to Protect*, 4/1: 67-97 (2012), p. 70.

Box 1. R2P Dissenter States (as of June 2013).

Cautious Supporters	Rejectionists
· Brazil	· Algeria
· China	· Belarus
· Egypt	· Bolivia
· India	· Cuba
· Indonesia	· Ecuador
· Laos	· Iran
· Malaysia	· Nicaragua
· Mauritania	· North Korea
· Myanmar	· Pakistan
· Qatar	· Sudan
· Russia	· Syria
· Solomon Islands	· Venezuela
· South Africa	· Zimbabwe
· Sri Lanka	
· Tunisia	
· Vietnam	

Outcome Document. This study thus builds on the mapping of the state opponents to R2P by dividing dissenters into two subcategories: 'cautious supporters' and rejectionists. This classification allows for inclusion of significant dissenters such as India and Brazil, which have been inappropriately ignored in past analyses. It also embraces the reality that R2P dissenters boast varying degrees of opposition and avoids depicting critics as equals in their extent of protest against the norm.

In this study, states were labelled as cautious supporters if their official statements expressed support for R2P in part but not totality. Cautious supporters agreed with the concept in principle, but will remain sceptical of its implementation in practice until it is modified to some extent.[9] In some cases this includes narrowing the scope of R2P to include only its first and second pillar, while in others it means adding limitations to its implementation, especially regarding how military force can be used. Overall, the language used by cautious supporters was relatively less severe than the rejectionist states and seemed to suggest the possibility for constructive cooperation on the norm's normative development

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[9] See for example China's comments in S/PV.5898, 27 May 2008.

Rejectionists were classified as such if they offered no indication of support for R2P. As opposed to being a concept that may be viewed as desirable after enacting institutional tweaks or safety mechanisms, R2P was disregarded by rejectionists as fundamentally flawed. In this analysis, states were flagged as rejectionist if they explicitly stated that they do not support R2P or suggested that the international community pursue a renegotiation of paragraphs 138 and 139 in the World Summit Outcome Document.[10] The most extreme example of a rejectionist state was Venezuela, which in reference to R2P has said, 'it is clear that no such fundamental right exists; it has no basis in the Charter of the United Nations or international law'.[11]

What Are the Thematic Objections Raised Against R2P?

The official objections raised by R2P dissenters are conceptual, ideological, institutional, and technical. Rather than forming a disjointed chorus of opposition, however, R2P objections routinely broach on similar subject matter and can be distilled into six broad themes. These recurring strains of resistance are interrelated in nature and provide a comprehensive vision of R2P's problems and risks as perceived by cautious supporters and rejectionists. Each theme is comprised of a number of sub-arguments that can be linked to a particular issue area. All themes of dissent are interrelated and as this paper reveals, some appear in official statements more frequently than others. The six themes of dissent facing R2P today are:

· Politicization, Misuse, and Abuse;
· Traditional Sovereignty and Non-Interference;
· Aversion of the Use of Force;
· Postcolonial Ideology;
· Security Council Illegitimacy;
· Early Warning Deficiencies.

Politicization, Misuse and Abuse

The most commonly invoked theme of dissent is the allegation that the principle is inherently vulnerable to politicization by Great Powers. All dissenter states examined in this study made an indication that they believe R2P suffers from selectivity, misuse and abuse when it is politically

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[10] See for example S/PV.5319, 9 December 2005.
[11] S/PV.5225, 12 July 2005.

Box 2. Thematic Objections to R2P Organized by Dissenter State.

	Politicization, Misuse, and Abuse	Traditional Sovereignty and Non-Interference	Postcolonial Ideology	Aversion of the Use of Force	Security Council Illegitimacy	Early Warning Deficiencies	
Algeria	Yes	Yes	No	Yes	Yes	No	(Rejectionist)
Belarus	Yes	Yes	No	Yes	No	No	(Rejectionist)
Bolivia	Yes	No	Yes	Yes	Yes	No	(Rejectionist)
Brazil	Yes	No	No	Yes	Yes	No	(Cautious Supporter)
China	Yes	Yes	No	Yes	No	No	(Cautious Supporter)
Cuba	Yes	Yes	Yes	Yes	No	No	(Rejectionist)
Ecuador	Yes	Yes	No	Yes	Yes	Yes	(Rejectionist)
Egypt	Yes	No	No	Yes	Yes	Yes	(Cautious Supporter)
India	Yes	Yes	No	Yes	Yes	No	(Cautious Supporter)
Indonesia	Yes	No	No	Yes	No	Yes	(Cautious Supporter)
Iran	Yes	Yes	No	Yes	No	Yes	(Rejectionist)
Laos	Yes	No	No	No	No	No	(Cautious Supporter)
Malaysia	Yes	No	No	No	Yes	No	(Cautious Supporter)
Mauritania	Yes	No	No	No	No	No	(Cautious Supporter)
Myanmar	Yes	Yes	No	No	Yes	No	(Cautious Supporter)
Nicaragua	Yes	Yes	Yes	Yes	No	No	(Rejectionist)
North Korea	Yes	Yes	No	Yes	No	No	(Rejectionist)
Pakistan	Yes	Yes	Yes	Yes	Yes	Yes	(Rejectionist)
Qatar	Yes	No	Yes	Yes	No	No	(Cautious Supporter)
Russia	Yes	Yes	No	Yes	No	Yes	(Cautious Supporter)
Solomon Islands	Yes	No	No	Yes	No	Yes	(Cautious Supporter)
South Atrica	Yes	No	No	Yes	No	No	(Cautious Supporter)
Sri Lanka	Yes	Yes	No	No	No	No	(Cautious Supporter)
Sudan	Yes	Yes	No	No	No	No	(Rejectionist)
Syria	Yes	Yes	Yes	Yes	No	No	(Rejectionist)
Tunisia	Yes	Yes	No	No	No	No	(Cautious Supporter)
Venezuela	Yes	Yes	Yes	Yes	Yes	No	(Rejectionist)
Vietnam	Yes	Yes	No	Yes	No	No	(Cautious Supporter)
Zimbabwe	Yes	Yes	No	Yes	No	No	(Rejectionist)

Note: States were assigned a "Yes" status if they made official statements relating to the respective theme in an R2P context.

expedient for powerful states (see Box 2). The major observation driving this theme is that although R2P implies an objective and indiscriminate commitment to the prevention of mass atrocities, it has been only implemented in some textbook scenarios, such as Libya. Other mass atrocities scenarios such as Sudan have been largely ignored. In this sense, critics have named and shamed R2P supporters for their 'great hypocrisy' and associated the principle with double standards and unfair discrimination.[12]

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[12] S/PV.6216 (Resumption 1), 11 November 2009, p. 42.

Under this thematic umbrella also falls the common 'Trojan horse' critique of R2P, whereby R2P is seen as a tool to be invoked not in pursuit of mass atrocity prevention, but ulterior motives. To a majority of dissenters examined in this study, there remained a fear that states might brandish R2P language, which suffers from continued uncertainty over meaning, in order to justify politically opportune interventions under the false guise of mass atrocity prevention.[13] In 2009, India marked itself as a leading proponent of this viewpoint by declaring, 'We are all aware that even after 2005 there have been attempts to disingenuously use responsibility to protect, including at the highest levels in the international community.'[14] Similarly, Pakistan has remained sceptical of the intentions behind R2P: 'Pillar three was introduced 10 or 15 years ago under another name – the right of intervention…I must say that Gareth Evans has done some great work in putting the concept together over many years'.[15]

In terms of R2P's potential for abuse, dissenters have increasingly condemned regime change policies since late 2010. This sentiment derives from a belief, most recently propagated by China and Russia during debate on the Syrian crisis, that R2P is to be inherently neutral or even impartial to all parties in conflict.[16] From this perspective, therefore, regime change in third pillar interventions goes beyond the mandate of R2P by taking a partisan approach to the domestic politics of other states. In an implicit nod to this argument, Russia stated last year that, 'the noble goal of protecting civilians should not be compromised by attempts to resolve in parallel any unrelated issues'.[17]

Ironically, however, dissenter statements themselves seemed to suffer from politicization. Notably, two recurring allegations of selectivity in official dissenter statements were the cases of Palestine and Afghanistan.[18]

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[13] Six states have alleged that the Iraq War is an example of such political opportunism under a false guise of human rights. These states include Russia, Cuba, North Korea, Qatar, Zimbabwe and Venezuela.

[14] A/63/PV.99, 24 July 2009, p. 26.

[15] A/63/PV.98, 24 July 2009, p. 4.

[16] Scholars and practitioners alike have hotly debated whether such a stance is compatible with R2P. See for example ICRtoP, 'Pakistan's Intervention during the General Assembly's Interactive Dialogue on the Role of Regional and Sub-Regional Arrangements in Implementing the Responsibility to Protect', 12 July 2011, http://responsibilitytoprotect.org/statement%20DPRK.pdf, accessed 5 September 2012.

[17] S/PV.6531, 10 May 2011, p. 9.

[18] Dissenters that specifically employ R2P in the context of Afghanistan include Cuba, North Korea, Qatar and Russia. Palestine is mentioned by Algeria, Egypt, Iran, Nicaragua, North Korea, Qatar, Syria, Tunisia and Venezuela. See for example A/63/PV.100, 28 July 2009, p. 18.

Critics argued that if R2P is to meaningfully contribute to the protection of civilians, then it must apply to the documented killings of innocent civilians in these regions without exception. Yet, in the context of R2P's discriminatory implementation, dissenters made no direct mention of on-going mass atrocities in Sudan, Myanmar, or the Democratic Republic of the Congo despite multiple UN reports having acknowledged the widespread violence against civilians occurring in these states.[19]

The critical reaction at the UN to the 2011 Libyan intervention is undoubtedly one factor that drives recent allegations of misuse and abuse. It has been explicitly cited by more than 12 dissenter states.[20] On Libya, dissenters argue that regime change was never mandated by Resolution 1973 and yet was pursued even when mass atrocities could have been halted by a cease-fire. Zimbabwe has made this argument most bluntly by claiming that regime change was more political than humanitarian due to the West's 'disgraceful scramble' for Libyan oil contracts after the fall of Qaddafi.[21] If it is true that Libya has set any precedent for R2P, it is a precedent that has empowered this particular theme of R2P dissent and effectively weakened the international consensus on the legitimacy of foreign intervention.

Traditional Sovereignty and Non-Interference

Despite a growing acceptance that modern sovereignty is to be conditionally conferred in order to safeguard the concept from becoming a 'license to kill', there remain non-conformist states to this new orthodoxy. These non-conformists lead the charge for R2P's second most common thematic objection, which might be called a commitment to "traditional sovereignty" and a hard-lined approach to non-interference. Dissenters associated with this theme can be imagined as belonging to one of two categories. In this first group falls a minority of dissenters that hold sovereignty as an unconditional right and thus claim that R2P is at odds with the UN Charter. This stance is typical of R2P rejectionists. The second group is comprised of states that agree that all sovereigns have a responsibility to protect their civilians

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[19] See for example S/RES/1706, 2 May 2012, and S/RES/2050, 27 June 2012.

[20] These states include Brazil, China, Cuba, India, Iran, Nicaragua, North Korea, Russia, South Africa, Syria, Venezuela and Zimbabwe.

[21] Permanent Mission of Zimbabwe to the United Nations, 'Statement by His Excellency the President of the Republic of Zimbabwe, Comrade Robert Gabriel Mugabe, on the Occasion of the General Debate of the 66th Session of the United Nations General Assembly', 22 September 2011, http://gadebate.un.org/sites/default/files/gastatements/66/ZW_en.pdf, accessed 5 September 2012.

from mass atrocities, yet remain vague on the role of international assistance and intervention when states fail to uphold their responsibilities.

Dissenters in the first group refute R2P's assertion that legitimate sovereignty entails a commitment to the protection of civilians.[22] Instead, they defend a vision of sovereignty as inviolability, in effect implying that political rule comes with no conditional strings attached.[23] Inviolable sovereignty is seen as a 'shield' from external interference and thus outlaws the international community from intervening in state affairs without consent of its political authority. Based on this definition, dissenters claim that R2P's third pillar contradicts the UN Charter by disregarding the sovereignty of states, their political independence, and their territorial integrity.[24] As a contravention of the Charter, therefore, R2P is 'not compatible with international law'.[25]

In contrast, nine other dissenters accept that modern sovereignty entails a responsibility to protect citizens from mass atrocities and openly employ R2P vocabulary in this context.[26] Yet while willing to concede that the 'primary responsibility to protect' rests with individual states, they are disapproving or uncertain of the international community's role in R2P.[27] Syria, for instance, stated in 2011 that the responsibility of protecting civilians must be 'exclusive' to the state concerned.[28] Similarly, China announced that in 2007, 'even when outside support is necessary, the will of the country concerned must be fully respected and forcible intervention avoided'.[29] Though such comments may align with R2P's first and possibly second pillar, they run contradictory to the logic of its third. Thus, it is not yet clear if any states associated with this theme of dissent fully respect Ban

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[22] States categorized in this first group include Algeria, Belarus, Cuba, Nicaragua, North Korea, Sudan, Venezuela, and Zimbabwe.

[23] For more discussion on sovereignty "as a shield" see Kai Kenkel, 'Brazil and R2P: Does Taking Responsibility Mean Using Force?', *Global Responsibility to Protect*, 4/1: 5-32 (2012), p. 6.

[24] See for example A/63/PV.99, 24 July 2009.

[25] GCR2P, 'Algeria Statement at Informal Discussion at the GA in Advance of the World Summit', 15 August 2005, http://globalr2p.org/media/pdf/Algeria_Statement_at_informal_discussions_in_advance_of_the_World_Summit_(excerpt).pdf, accessed 5 September 2012.

[26] States categorized in this second group include Ecuador, India, Myanmar, Pakistan, Russia, Sri Lanka, Syria, Tunisia and Vietnam.

[27] See for example ICRtoP, 'Pakistan's Intervention during the General Assembly's Interactive Dialogue on the Role of Regional and Sub-Regional Arrangements in Implementing the Responsibility to Protect'.

[28] S/PV.6650 (Resumption 1), 9 November 2011, p. 27.

[29] S/PV.5781, 20 November 2007, p. 10.

Ki-Moon's depiction of R2P as an 'ally of sovereignty' in his 2009 report on the implementation of the principle.[30]

Aversion of the Use of Force

The principle's third thematic challenge may be generally summarized as a fear that any use of force undertaken by the international community to prevent mass atrocities will cause more harm to civilians than it is authorized to prevent. In this way, a majority of dissenters have expressed hesitation towards R2P's third pillar, specifically its provisions for collective action through Chapter VII of the UN Charter. The major arguments repeated by the dissenter states are threefold: that military force only be used as a last resort, that its response be proportional to the threat at hand, and that distinction of combatants always be a primary assumption of the intervention operation. Notably, these ideas were discussed in the 2001 ICISS report but were never explicitly articulated in the World Summit Outcome Document.

If military intervention is necessary for timely and decisive response, dissenters demand that R2P interventions be limited to missions of a protective and defensive nature that must in no way aggravate tensions on the ground. For this reason, six dissenters have also linked its aversion to economic sanctions that inadvertently harm civilians.[31] The key point is that interventionists allegedly ignore the principle of military necessity, a sentiment that reflects an international frustration with past interventions that have failed to fully abide by international humanitarian law. Hence, Qatar has stressed that R2P military interventions must never become a 'one-size-fits-all solution to the protection of civilians in armed conflict' else they risk increasing rather than decreasing the amount of civilian deaths in armed conflict.[32]

Historical experience with controversial interventions reinforces this theme of dissent, and in this way the 2011 Libyan intervention again appears to be a relevant factor. According to North Korea, for example, the wars in Iraq and Afghanistan are testimony to the fact that military interventions have 'always entailed even more serious human rights violations

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[30] Ban Ki-Moon, *Implementing the Responsibility to Protect*, A/63/677, 12 January 2009, p. 7.

[31] States that have explicitly opposed R2P-inspired sanctions on the grounds of their potential harm to civilians include Brazil, China, Russia, Sudan, Zimbabwe and Syria.

[32] S/PV.5476, 28 June 2006, p. 14.

and have thus further devastated the situation'.[33] In discussing the major risks of the inevitable civilian toll of R2P interventions, dissenters commonly discussed the NATO intervention in Libya for allegedly killing thousands of civilians on the pretext of protecting civilians.[34]

Finally, it is worth discussing this fourth theme of dissent in relation to the danger of neomilitarism under the banner of the protection of civilians. On-going Security Council debates on the Protection of Civilians reveal that civilian protection is usually imagined in times of war, as in *jus in bello*. Paradoxically, however, R2P as a concept seems to challenge this understanding of civilian protection by converting it into a justification for war, as in *jus ad bellum*. Thus, dissenters fear that any imagining of 'war as protection' may open the door to a sort of neomilitarism whereby states intervene more frequently and carelessly than ever before.[35]

Postcolonial Ideology

In addition to conceptual challenges, R2P also suffers from an ideological strain of dissent invoked by eight states.[36] Such critiques, related to the sphere of postcolonial critical theory, depict R2P as a new model of imperialist aggression in a world where the strong systematically exploit the weak. Two key points can be inferred from the rhetoric. First, while the politicization theme of dissent suggests that governments themselves choose to abuse and selectively invoke the R2P principle, the postcolonial worldview views this behaviour as a structural obligation of the free market system. Second, R2P is sometimes interpreted as a form of neocolonialism.

Indeed, memories of colonialism continue to stir emotion in the capitals of select dissenter states and undoubtedly play a role in the global debate on intervention. This analysis found multiple references to the ages of colonialism and slavery in order to discredit the R2P principle.[37] Just as Western intellectuals once justified racial segregation by vowing to 'civilize' purportedly barbaric nations, dissenters argue that intervention on humanitarian terms will only enable the Great Powers to take advantage of

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[33] A/63/PV.100, 28 July 2009, p. 18.

[34] See for example Syria's statements in S/PV.6650 (Resumption 1), 9 November 2011, p. 27.

[35] See Louise Arbour, 'Address to the Stanley Foundation Conference on the Responsibility to Protect', 18 January 2012. Available at http://www.stanleyfoundation.org/ r2p.cfm, accessed 30 July 2013.

[36] These states include Algeria, Bolivia, Cuba, Nicaragua, Pakistan, Qatar, Syria, and Venezuela.

[37] See for example A/63/PV.99, 24 July 2009.

the developing states of the 21st century. As Pakistan astutely observed in 2011, these colonialist legacies form a 'trust deficit' between R2P supporters and opponents.[38]

Further complicating this trust deficit is the theoretical assumption, applicable to the foreign policies of at least two dissenter states, that neo-colonialism is an inevitable consequence of the Western political system.[39] In line with the common argument made by critical theorists, dissenters argue that it is necessary for the West to militarily intervene in the affairs of other states in order to stimulate its domestic market, even if against the latters' will. For instance, Cuba embraces this theoretical approach by referring to developing states as the 'Euro-Atlantic periphery', a set of underprivileged states that are fated to feed the Western core of capitalist markets.[40] As a tool to this core, R2P is simply the vehicle through which the powerful can confiscate reserves of oil, water and other resources in a time of global economic challenge.[41] Similarly, Venezuela has made the charge that growing consensus on R2P has only been achievable by means of the 'media totalitarianism' of the West whereby capitalist states used international broadcasting and lobbying to win supporters for the emerging norm.[42]

Security Council Illegitimacy

The 2005 World Summit document endowed the Security Council with the exclusive duty of implementing R2P in pillar three scenarios, in accordance with Chapter VII of the UN Charter. Thus, it is not surprising that as the nucleus of military intervention under the R2P flag, the Security Council has become a recurring subject of dissent. The main message in this theme is that the R2P norm is only as legitimate as its institutional authority and that the Council, as such an authority in pillar three scenarios, suffers from tarnished credibility due to shortcomings in its structure and working methods. This study found that in official statements regarding the implementation of R2P, nine dissenters commented on Security Council

[38] ICRtoP, 'Pakistan's Intervention during the General Assembly's Interactive Dialogue on the Role of Regional and Sub-Regional Arrangements in Implementing the Responsibility to Protect'.

[39] This approach is clearly reflected in the comments made by Cuba and Venezuela.

[40] Permanent Mission of Cuba to the United Nations, 'Speech Delivered by H.E. Mr. Bruno Rodriguez Parrilla, Minister for Foreign Affairs of the Republic of Cuba, at the General Debate of the Sixty-Sixth Session of the United Nations General Assembly', 26 September 2011, http://gadebate.un.org/sites/default/files/gastatements/66/CU_en.pdf/, accessed 5 September 2012.

[41] Ibid.

[42] A/63/PV.99, 24 July 2009, p. 6.

reform specifically in relation to dated composition of membership and unaccountable veto regulations.

Those states that highlighted the Security Council's illegitimacy as a barrier to R2P implementation have been advocating membership reform for decades. The basic argument is that permanent membership on the Council no longer reflects a modern distribution of global power and instead remains frozen in a post-World War Two context. Despite emerging powers having grown in wealth, military might, and political influence, permanent seats on the Council have not been extended to the regional leaders of the Global South. Thus, as Pakistan has stated, the invoking of R2P on such an outdated council results in 'legitimizing and reinforcing the pervasive inequality – in terms of security, power and wealth – that characterizes our times'.[43]

Secondly, there is the issue of veto powers. As it stands today, no institutional mechanism exists to prevent the P5 from applying their veto powers to obstruct the passage of resolutions for the purpose of mass atrocity prevention, even if there is majority support on the Council. Although the ICISS report recommended a custom of veto restraint for R2P-related resolutions, such a provision was never included in the World Summit adoption of R2P. This concern, which might be called a "tyranny of the P5 minority" problem, means that the Council accommodates an avenue by which the political interests of any single veto-wielding state can trump the humanitarian concerns of the Council as a whole.

However, in prescribing solutions to this problem, dissenters remain divided. India, for example, has called for the redistribution of veto powers to emerging powers so as to even the playing field.[44] Meanwhile Malaysia, recalling the argument made in the original ICISS report, has simply called for veto restraint in R2P scenarios.[45] Other states like Venezuela and Bolivia contended that only by fully abolishing veto powers all together can the Security Council implement R2P in a non-discriminatory or politicized fashion.[46]

Early Warning Deficiencies

The final thematic challenge to R2P is unique in the sense that while technically a form of dissent, it illustrates a constructive willingness to engage with the R2P idea. Although only six dissenter states officially comment on

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[43] A/59/PV.86, 6 April 2005, p. 5.
[44] A/63/PV.99, 24 July 2009.
[45] A/63/PV.101, 28 July 2009.
[46] See for example A/63/PV.99, 24 July 2009.

this barrier, its recurring appearance in official statements made by dissenters makes it nonetheless useful to discuss.[47] Statements of this nature suggest that the building of an effective early warning system is first necessary before dissenters can embrace R2P.

These dissenters reflect that in the past, international intervention has often proved to be 'too little, too late'. An early warning system would alert the international community of atrocities before they escalate out of control by evaluating warning signs to genocide and other mass atrocity crimes. As Pakistan put it in 2009, 'if pillar three is to be adopted by this assembly, this early warning system should also be strongly substantiated so we do not have anything go wrong'.[48] By assessing the need for military deployment, an early warning system would also reduce the possibility of R2P misuse or abuse.

Notably, Ban Ki-Moon has elaborated on what such early warning system might look like in his second, third and forth reports on the R2P. His second report, published in 2010, highlighted the role of civil society organizations in delivering grass-roots early warning.[49] In 2011 he identified the value of sharing resources and experts between regional and sub-regional organizations in developing early response capacity.[50] His most recent report emphasized the role of new technologies in providing live information to inform individuals of an impending threat of mass atrocities, which in turn can prompt states and international organizations to act.[51] In a move bound to be lauded by dissenters, he has also connected the theme of early warning capacity to politicization, misuse and abuse by explicitly demanding, 'early warning and assessment be conducted fairly, prudently and professionally, without political interference or double standards.'[52]

Lessons from Dissent

Several lessons can be inferred from R2P's six themes of dissent. First, it should be noted that R2P dissent does not attempt to challenge *why* the

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[47] This includes Ecuador, Indonesia, Iran, Pakistan, Russia, and Solomon Islands.

[48] A/63/PV.98, 24 July 2009, p. 4.

[49] Ban Ki-Moon, *Early Warning, Assessment, and the Responsibility to Protect*, A/64/864, 14 July 2010, p. 5.

[50] Ban Ki-Moon, *The Role of Regional and Sub-Regional Organizations in Implementing the Responsibility to Protect*, A/65/877, 27 June 2011, p. 5.

[51] Ban Ki-Moon, *Responsibility to Protect: Timely and Decisive Response*, A/66/874, 25 July 2012, p. 12.

[52] Ban, *Responsibility to Protect: Timely and Decisive Response*, p. 14.

international community should halt genocide, ethnic cleansing, war crimes, or crimes against humanity, but rather *how*. Dissenters do not publicly object to the notion of saving citizens from mass atrocities. This is hardly surprising considering the extent to which human rights norms surrounding the protection of civilians, including genocide, have become entrenched in global governance structures. Instead, the official statements examined in this study suggest that it is the means through which mass atrocity prevention is pursued that deserve scrutiny. While R2P's first and second pillars are viewed relatively favourably, all themes of dissent either directly or indirectly critique the third pillar.

It is here, on the third pillar, where the crux of disagreement lies. To R2P supporters, armed muscular intervention may be a necessary last resort to halt violent human rights violations. To R2P dissenters, however, the use of force is viewed as a hazard that may worsen conflict on the ground or be used as a guise to achieve selfish political interests, including violations of sovereignty that may threaten international peace and security in the long run. At the heart of dissent, therefore, is a belief that an R2P military intervention in practice contradicts its own declared goal in theory, namely the indiscriminate goal of protecting civilians from the mass violence of war. It seems that in making their arguments, both sides of the R2P debate strive to present themselves through official rhetoric as defenders of innocent civilians in armed conflict.

Second, the six themes of dissent convey an interrelated nature that should be explicitly highlighted. Indeed, many arguments raised by dissenters are dynamically linked; if the conditions upholding one theme were to change, they would also likely affect another theme in some capacity. For instance, R2P's politicization and the legitimacy of the Security Council are explicitly related, as they both are linked to the ability of the West to abuse R2P through current decision-making structures. If an institutionalization of objectivity in R2P decision-making were to somehow be realized, the relevance of misused vetoes in the norm, for example, would diminish. At the same time, a restraint on the use of vetoes could be interpreted as a step away from both allegations of Security Council illegitimacy and R2P's politicization. Similarly, there would be less of a need to imagine sovereignty as an inviolable 'shield' if formal mechanisms could ensure that powerful states would not invade others solely in pursuit of self-interest.

However, understanding the puzzle of dissent is not only about the conceptual objections to R2P as reflected in the themes of dissent, but also the identities of the dissenters themselves. One common characteristic of R2P's state opponents stands out: a shared experience of military or economic

weakness relative to the West.[53] This observation provides an explanation for the mistrust of intervening powers inherent in all six arguments identified in this study. The aversion to force, traditional notions of sovereignty, postcolonial ideology, and fears of R2P's politicization, all derive from common roots in the experience of states that, accurately or inaccurately, feel threatened by the dominance of larger powers. By imposing such checks and balances on intervention, dissenters attempt to diminish inequalities of capabilities that threaten dissenters' own autonomy in the international system. The risk of R2P abuse can further be mitigated by a rules-based approach to international relations and a preference for multilateralism through the United Nations as a legitimate forum for collective action. For this reason, the legitimacy of the Security Council in terms of working methods and composition is critical for the eventual acceptance of R2P.

In this way, the phenomenon of R2P dissent may even shed light on changing power structures in the international system. It has become commonplace to suggest that as the pre-eminence of the United States declines in the future, the world order will become increasingly multipolar.[54] Accordingly, R2P dissent provides a case study of how dominant international institutions might be challenged by emerging powers whose relative influence has yet to be formally accommodated in decision-making structures such as the Security Council. Rather than simply integrating into the dominant world order, dissenter states appear increasingly willing to reject existing norms or, in the case of the cautious supporters, reshape them in new ways.[55]

Confronting R2P Dissent

Now that we have mapped official rhetorical opposition to R2P at the international level, it is worth explaining how and why R2P supporters should

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[53] In the case of China, this may be a rapidly fading experience, but it is nonetheless a relevant viewpoint. This is not to say, however, that all relatively "weak" states oppose R2P. There are numerous clear examples of R2P supporters that are relatively less rich or militarily advanced than the West.

[54] See for example, G. John Ikenberry, 'The Future of the Liberal World Order', May 2011, http://www.foreignaffairs.com/articles/67730/g-john-ikenberry/the-future-of-the-liberal-world-order, accessed 26 June 2013.

[55] For a discussion on this process of norm shaping, see Pu Xiaoyu, 'Socialisation as a Two-Way Process: Emerging Powers and the Diffusion of International Norms', *The Chinese Journal of International Politics*, 4/1: 341-62 (2012). See also Oliver Stuenkel, 'Who Will Make the Rules in Tomorrow's World?', 24 November 2012, http://www.postwesternworld .com/2012/11/24/who-will-makes-the-rules-in-tomorrows-world/, accessed 26 June 2013.

address thematic dissent. The importance and urgency of responding to R2P dissent is really a question contingent on one's fundamental beliefs regarding what actors govern the international stage, how decision-making occurs, and the forces that drive states to act. In other words, opinion is bound to split along the lines of scholars' respective theoretical assumptions about the structure of global governance.

In the sense that the goal of addressing dissent is to build consensus on R2P and facilitate its development as an international norm, this paper borrows from the constructivist school of thought. As opposed to being a given, state interests in the intervention debate are assumed to be open to influence by the ideas, norms, and shared beliefs transferred in the realm of formal international interaction. Still, neither side of the debate speaks completely in isolation from their geopolitical obligations. Arguably, this challenges the notion of advancing R2P's normative development because even if rhetorical objections to R2P are neutralized through institutional tweaks or changes, dissenters still may have a geostrategic interest to maintain opposition to the norm.

Notwithstanding this reality, R2P advocates may be able to win over some dissenters through the process of rhetorical coercion.[56] By addressing dissent with logically sound or politically salient ideas, R2P supporters may be able to skilfully frame the debate so as to leave their opponents without access to a socially sustainable rebuttal in front of fellow partners or rivals. Effective rhetorical coercion could directly respond to the themes of dissent identified in this study and encourage taking a more constructive approach to the topic of foreign intervention to halt mass atrocity crimes. Talked into a corner, so to speak, dissenters may be more likely to endorse R2P in order to maintain their international legitimacy on human rights and multilateral issues, even if national interests are at stake.

Of course, it seems crucial to note that while some themes of dissent can be engaged effectively, others will be more difficult. After all, the traditional sovereignty theme is fundamentally inconsistent with R2P in its third pillar form. This point is the most cogent because *any* intervention without the consent of the state involved could be considered an infringement of absolute sovereignty. This theme therefore offers dissenters a fail-safe for opposing R2P: even if intervention is objective and responsible, with legitimate authority and working in cooperation with an early warning system, the traditional sovereignty critique still provides a logical rebuttal to R2P.

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[56] Ronald Krebs and Patrick Jackson, 'Twisting Tongues and Twisting Arms: The Power of Political Rhetoric', *European Journal of International Relations*, 13/1: 35-66 (2007), p. 57-58. This argument finds itself in the emerging school of 'coercive constructivism'.

Similarly, it would be incorrect to argue that R2P supporters could refute or disprove the postcolonial ideology critique, seeing as it qualifies as a uniquely theoretical barrier to the norm's acceptance. Therefore, as long as some R2P opponents continue to stand by these two themes of dissent, it is unlikely that dissent will ever be fully eradicated.

Yet depending on the identity of the states continuing to oppose R2P, this may not be fatal to the norm's development. Seeing as the capacity to invoke an international intervention belongs exclusively to the Security Council, the most important dissenter states are those that have the capacity to block the decision-making process through veto powers or yield extraordinary political influence. While extreme sceptics Venezuela and Cuba may never support R2P, the degree of danger they present to the norm is far less relevant than regional powers such as Brazil, Russia, India, China, and South Africa. Fortunately, these BRICS members do not fit into the rejectionist definition and have shown a constructive willingness to entertain discussion of the norm and, over time, flexibility in its adoption.

Moving Forward on the Problem of R2P Dissent

Hence, how should the international community attempt to expand and deepen global support for R2P, especially amongst high priority dissenter states such as Brazil, India, or South Africa? This analysis suggests that the best avenue for building consensus is the creation or modification of complementary institutions to R2P to address thematic dissent, a notion to which the successful adoption of any new proposals will be fundamentally linked. In order to mute dissent and encourage successful implementation of R2P at the Security Council, the international community should aim to develop the meaning of R2P at the UN level around four key notions: 1) non-coercive prevention and domestic capacity building, 2) enhanced prudential criteria for intervention, 3) global norm entrepreneurship from the Global South, and 4) veto restraint in R2P scenarios.

Despite being the most widely supported aspect of R2P amongst dissenter states, prevention also remains the most underdeveloped. Thus, elaboration on R2P's provisions for non-coercive prevention through domestic capacity building is the most pressing project for R2P supporters. This includes identifying the specific triggers for the four mass atrocity crimes specified in the 2005 World Summit Outcome Document as well as the institutionalization of objective and impartial early warning mechanisms in crisis zones, which could be tied to domestic governments, regional organizations, and the UN.

If followed, this directive would address central arguments employed by dissenters in relation to at least two themes of dissent: the need for early warning capacity and the aversion of the use of force. In the first case, demands for an early warning system would clearly be met if risk assessment mechanisms were developed for crisis zones along with attempts to catalogue risk factors. In response to states averse to the use of force, a focus on prevention would serve to demonstrate that R2P is not simply the right of humanitarian intervention, but rather takes a holistic approach to the prevention of mass atrocities with an extensive toolbox. Also relevant to this theme is the fact that an effective early warning system, if properly implemented, would theoretically lower the number of military operations necessary for the Security Council to approve.

Likewise, fears related to the use of coercive force can be addressed through enhanced prudential criteria for R2P military interventions. This second recommendation would entail a formal statement or resolution articulating the principles that guide right conduct within R2P interventions. In this sense, then, further development of Brazil's Responsibility While Protecting (RwP) proposal as a complementary norm may prove useful for the international community. Since RwP has already offered a set of prudential criteria for military intervention as well as a call for the creation of a monitoring-and-review mechanism to ensure the fair implementation of Security Council mandates, it presents a useful starting point for future discussions.[57] Specifically, the UN would benefit from a new policy paper clarifying the meaning and limits of RwP while also elaborating on how the use of force should be used judiciously, proportionately, and in strict conformity with international humanitarian law.

Enacting a new set of criteria for intervention would undoubtedly recall some of the main tenets of classical just war theory, in particular its second set of criteria, *jus in bello*. Although the "response" section of the ICISS report was guided by ideas essentially synonymous with just war theory, these concepts did not make their way into the World Summit's more limited definition of R2P.[58] Thus, formally applying *jus in bello* to R2P as it stands today in the UN has yet to be championed and should be done with haste.

By articulating criteria for right conduct during intervention along with fair implementation of Security Council resolutions, enhanced prudential

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[57] For the original concept paper on RwP, see A/66/551, 11 November 2011.

[58] See International Commission on Intervention and State Sovereignty (ICISS), The Responsibility to Protect (Ottawa: IDRC, 2001), p. 31-39.

criteria would also reassure dissenters that R2P's first priority is the safety of civilians, not the attainment of self-interested political agendas. The politicization critique is by far R2P's most commonly invoked strain of opposition and has been acknowledged by all dissenter states identified in this article. Any negation of this sort of critique is therefore extremely valuable for expanding the global consensus on R2P. Though it may be impossible to guarantee that R2P will not be misused or abused for political reasons, measures can be taken to reduce risk. Adding prudential criteria for intervention reduces risk by calling for the creation of enhanced procedure to prevent the hijacking of R2P missions for objectives beyond the prevention of mass atrocities.

Third, perceptions of origin matter in the sphere of R2P dissent and so it is critical that the members of the Global South take normative leadership on the R2P agenda. Although Brazil began to play this role with its 2011 RwP proposal, the country now seems to be suffering from a lack of follow-through. It has been more than a year since Brazil's introduction of RwP and it appears that the proposal has fallen off Brasília's foreign policy radar. Emerging powers, especially states that have demonstrated an interest in the issue of mass atrocity prevention such as South Africa or India, need to take the lead again on the discussion of the future of R2P. One message that needs to be articulated, either explicitly or implicitly, is that R2P is a universal idea rather than simply a "Western" import.

Although opposition to R2P on the basis of postcolonial ideology cannot be disproved per se, norm leadership from the Global South may encourage postcolonial dissenters to adopt alternative approaches to approaching foreign policy. For example, though postcolonial dissenters may assert that R2P is incompatible with the foreign policies of states historically victimized by colonialism, continued leadership from emerging powers can prove that the Global South can in fact contribute productively to the development of international intervention norms around mass atrocity prevention. Normative leadership from the Global South also supports a vision of global governance in which emerging powers are increasingly capable of acting as norm-shapers at the UN rather than simply norm-takers.

Finally, the R2P community must help revive efforts to reform Security Council working methods in order to institutionalize a "responsibility not to veto". R2P supporters should rally behind the group of "Small Five" states, consisting of Costa Rica, Jordan, Liechtenstein, Singapore, and Switzerland, in order to request for the P5 to consider "refraining from using their vetoes on action aimed at preventing or ending genocide, war crimes and crimes

against humanity".[59] The passing of a non-binding resolution would serve to enhance the accountability and transparency of the Council and in addition deliver moral impact over time.

Even in the short-run, the popularized notion of a "responsibility not to veto" would provide a shock to any R2P opposition based on Security Council illegitimacy. A successful resolution would highlight that humanitarian concerns have regularly been trumped by geopolitical ones and signal a desire amongst Council members to settle mass atrocity scenarios indiscriminately. While this would not solve the other problems associated to this theme such as the Council's outdated membership composition, it would be a step forward towards greater credibility for the organization. By extension, it would also provide another mechanism with the broader theme of politicization, misuse, and abuse.

Conclusion and Future Research Questions

This analysis has by no means attempted to put an end to the on-going evaluation of R2P dissent. On the contrary, it has started a conversation on the meaning and importance of addressing dissent, a concept to which R2P's normative growth is inextricably linked. In light of limited academic literature, it has also identified the dissenters of 2013 and aimed to make sense of often perplexing rhetoric by mapping their arguments into six broad themes: 1) politicization, misuse, and abuse, 2) traditional sovereignty and non-interference, 3) aversion of the use of force, 4) postcolonial ideology, 5) Security Council illegitimacy, and 6) early warning deficiencies. In contrast to conventional depictions of R2P opposition, themes of dissent are multifaceted and interrelated, just like dissenters themselves, and may even provide a case study of how emerging powers are questioning the current liberal world order.

Yet while R2P will need to control its rhetorical opposition in order to push through its norm cycle, it is unlikely that dissent will ever be fully eradicated amongst extreme rejectionists such as Venezuela or Cuba. Fortunately, only a minority of dissenter states boast the political influence necessary to completely halt R2P's normative development. In effect, this means that some dissenter states are more important to conciliate than others. Indeed, veto-wielding states or states with extraordinary regional or

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[59]   A/66/L.42, 28 March 2012, p. 5.

international authority are best viewed as high priority dissenters. Overall, in order to build consensus on foreign intervention at the expense of dissent, the principle should be further developed around four key notions: 1) non-coercive prevention and domestic capacity building, 2) enhanced prudential criteria for intervention, 3) global norm entrepreneurship from the Global South, and 4) veto restraint in R2P scenarios. Taken individually, each of these initial recommendations engage at least one theme of dissent and thus, in addition to assisting in the implementation of R2P more generally, can assist in the repression of R2P dissent.

Now that this study has revealed R2P's current themes of dissent, scholars may benefit from exploring opposition in new dimensions. For one, the historical development of intervention rhetoric itself may provide insight on the opposition puzzle. How have states historically cast their opposition in the language of international law in comparison to the patterns seen today? For instance, how does today's R2P rhetoric compare to the opposition that confronted past humanitarian operations such as the 1999 NATO intervention in Kosovo? Moreover, individual dissenter states should be analysed in a realist framework so as to analyse the momentary political and strategic considerations that this study deliberately ignored. Although an inappropriate approach to a mapping of conceptual commonalities in official rhetoric, the realist lens may prove useful in providing a compelling case for which forms of dissent are genuine and which may only serve as masks for national interest.

For R2P advocates, it can be tempting to succumb to the fiction that R2P has achieved the status of international norm or legal obligation. However, as this study has discussed, R2P has not and will not aspire to a status of such universality if it cannot control its opposition. Ultimately then, understanding and eventually neutralizing the six thematic challenges of R2P dissent is an urgent challenge for members of the mass atrocity prevention community. In striving towards an ideal where large-scale killings are halted without hesitation, scholars, practitioners, civil society, and state actors must work together to forge innovative institutions that spur cooperation in place of divergence.