

Norm consolidation and resistance: The responsibility to protect

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Abstract

The creation and acceptance of new norms in international relations has received considerable attention from scholars. However, not all new norms are successfully consolidated. Much less attention has been given to the ways in which attempts to consolidate new norms are resisted or defeated. This paper reviews the theoretical literature on international norm formation and offers several hypotheses concerning strategies of norm resistance. The paper then examines an ongoing effort at norm consolidation, the “responsibility to protect” or R2P. This norm was seemingly accepted at the 2005 World Summit at the United Nations, but has encountered significant resistance in the subsequent six years. The paper will examine the support for the hypotheses concerning norm resistance using the R2P case, and will conclude with a discussion of the theoretical and policy implications of norm resistance.

Keywords: *responsibility to protect, international norms, United Nations*

1. Introduction

In 2005, the member states of the United Nations (U.N.) affirmed a “clear and unambiguous acceptance by all governments of the collective international responsibility to protect” civilian populations from massive violence such as genocide or ethnic cleansing (United Nations, 2005). U.N. Secretary-General Kofi Annan hailed this as a turning point in the international community’s responsibility for preventing atrocities such as those that had occurred in Rwanda and Bosnia. Shortly thereafter, one leading advocate of the responsibility to protect (or R2P), Gareth Evans, hailed R2P “as a broadly accepted international norm” (Evans, 2006).

However, a more recent analysis by advocates of the responsibility to protect pointed out the irony that “the 2005 World Summit marked the zenith of international normative consensus, but a “nadir in actual humanitarian intervention” (Weiss, Forsythe, Coate & Pease, 2010, p. 105). In the Democratic Republic of Congo, in Sudan, and in Somalia, massive violence against civilians was met with disinterest by most members of the U.N. Even the seemingly successful use of R2P as the justification for the 2011 intervention in Libya raises many questions about the future of the norm.

What explains this enormous disparity between the triumphant proclamation of the new norm and the weak record of implementation? The responsibility to protect was accepted by the U.N. with virtually no public debate, even though it

constituted a frontal assault on one of the longest-standing international norms, that of state sovereignty. Many states apparently accepted the new norm publicly, yet also worked to render it moot or ineffective in practice. Exploring how this divergence between rhetoric and reality emerged is important if we wish to understand the likely impact of R2P on state behavior and on the role of the U.N. in responding to massive violence against civilians.

The case of the responsibility to protect also illuminates a gap in the study of international norms. Considerable attention has been devoted to analyzing the process by which norms emerge and are adopted, but there has been relatively little systematic examination of the reasons why norms fail to be consolidated. The case of R2P may be especially interesting from a theoretical perspective, in that it seemed to fit the expectations of existing theory concerning the conditions under which a new norm would be successfully consolidated. The study of this case can be used in a heuristic fashion to generate hypotheses concerning resistance to norm consolidation that can then be tested against a variety of other examples of norm emergence and consolidation (see George, 1979, for a discussion of case studies and theory development).

It is important to note that because the responsibility to protect is a new norm that is still evolving as it is implemented, my conclusions will necessarily be a “first cut” at norm consolidation and resistance regarding this case. Future studies will be

able to examine additional empirical evidence and test further the theoretical argument developed here.

To develop this analysis, I will first review some of the research on the development, acceptance and consolidation of international norms. I then hypothesize several distinct strategies of norm resistance based on the existing literature. After briefly discussing the adoption of R2P by the United Nations, I will analyze which of the hypotheses concerning norm resistance are supported by the R2P case. The paper will conclude with a discussion of the theoretical lessons of this case and of the future of the responsibility to protect as an international norm.

2. Hypotheses and analyses

2.1 International norms: Emergence, consolidation and resistance

Scholars of international relations have devoted significant attention over the past two decades to examining how new international norms emerge. Finnemore and Sikkink (1998) identified a three-stage process of *norm emergence*, *broad norm acceptance*, and *internalization*. *Norm emergence* depends heavily on the efforts of “norm entrepreneurs,” sponsors of the emerging norm who persuade, induce or coerce others to consider the proposed change (Finnemore & Sikkink, 1998, pp. 896-99); such actors are especially important when the new norm may require that states abandon or significantly modify an accepted norm (see Hurd, 1999, pp. 393-399).

However, as Ann Florini has noted, “norm entrepreneurship is usually necessary, but it is never sufficient” (Florini, 1996, p. 375). The likelihood of a new norm successfully displacing an existing norm will also depend on the degree of “coherence” between the emerging rule and existing norms in international politics: “emerging norms *must make the case* that they are logical extensions” of existing norms, or that they are necessary changes “when the previous way of doing things becomes virtually impossible” (Florini, 1996, pp. 376-377, emphasis added; also see Patrick 2001, especially pp. 158-162).

Norm acceptance occurs when a “tipping point” is reached after a “critical mass of states” has adopted the new norm, leading to a “norm cascade” or rapid spread of the norm among states. A process of socialization among states, involving diplomatic and public pressure as well as material incentives or disincentives, is crucial to the norm acceptance

process (Finnemore & Sikkink 1998, pp. 901-904). At this stage, socialization may also promote common understanding of the meaning of the norm and consensus about its applicability.

The final stage of the process of norm development identified by Finnemore and Sikkink (1998) is *norm internalization*, where norms are “so widely accepted that they are internalized by actors” in a way “that makes conformance with the norm almost automatic” (p. 904). An internalized norm will become the basis for state policy and for judging the legitimacy of one’s own and others’ actions. However, Hurd points out that “not all potential norms are internalized” (Hurd, 1999, p. 401). The likelihood that a norm will be internalized is based both on the perceived legitimacy of the norm as well as the “intrinsic characteristics of the norm” (Finnemore & Sikkink, 1998, p. 906). The extent to which a norm is internalized will also depend on the degree to which individual states perceive the norm to be consistent with their interests, however the leaders of the state define them.

However, initial acceptance of a norm does not guarantee its staying power. The norm must be consolidated (institutionalized and made the basis of behavior), and must prove its ability to remain robust in the face of challenges. The possibility of *norm resistance* (trying to prevent the acceptance of a new norm) or *norm failure* (where a norm initially accepted fails to be institutionalized adequately or effects no significant change of behaviors) must also be considered, and these concepts have received relatively little attention in the literature on norms. A norm may fail to be consolidated for several distinct reasons. Some may be internal to the norm – contradictory or vague requirements, for example. Others may be external – the incomplete displacement of a competing norm, or varying interpretations by different actors concerning when and how the norm applies to actual cases. Since new norms are “contested responses to current dilemmas and questions” (Patrick, 2001, p. 151), we should expect a variety of resistance strategies to be employed by states whose interests or values may be undermined by the acceptance of a new norm. Recent work by Kite and Wimelius (2007) discusses how states may resist the spread of a new norm, which include disputing the norm’s legitimacy, attempting to prevent clear definition of the norm, or ignoring the norm when formulating policy. Van Kersbergen and Verbeek (2007, pp. 218-222) also point out that the acceptance of a new norm is

actually the beginning of “a new battle over meaning,” since many international norms are imprecisely phrased during the emergence and acceptance processes in an attempt to build the largest possible coalition of supporters and forestall the emergence of organized resistance. This post-acceptance maneuvering over interpretation and application has the potential to redefine the norm or even drain it of any practical consequence.

2.2 Varieties of norm resistance

Therefore, an important contribution to the study of international norms would be a more precise identification of the forms that norm resistance takes. This would fill a gap in a norms literature that emphasizes the emergence and acceptance of norms, but gives short shrift to the manner in which resistance is manifested. Based on the literature on norm creation and consolidation, it is possible to hypothesize five specific types of norm resistance strategies as well as the places in the norm adoption process where we might expect to see those strategies employed. It is worth noting that many types of norm resistance are not discrete actions undertaken after the norm has been accepted, but are embedded in the stages of norm emergence and acceptance themselves. These norm resistance strategies are:

1. Weaken the definition of the norm:

States endeavor to remove specific criteria for the norm’s definition and application, such as the conditions under which the norm applies and how the norm would be implemented. This form of norm resistance is most likely to be employed during the emergence and acceptance stages, so that the norm is already “hollowed out” when it is accepted.

2. Condition support for the norm:

While not openly opposing the norm, states provide very weak rhetorical support for the norm, and try to set unilaterally-determined conditions under which they consider the norm to apply. We might expect this form of resistance to be used in the acceptance and consolidation stages of norm development.

3. Reassert the primacy of competing norms:

States revisit the attempt to supplant or modify the previous or competing norm, asserting the continuing validity and legitimacy of that norm. This also might be expected during the acceptance and consolidation stages.

4. Interpret the new norm in a selective fashion:

States may choose to support some aspects of the norm while ignoring others, allowing them to

claim that they are adhering to the new norm’s requirements. This would be expected after the norm has been accepted but not yet consolidated.

5. Undermine implementation actions:

States or other actors with resources or capabilities necessary to implement the norm withhold or restrict the use of those capabilities, effectively rendering the norm unenforceable. This would be likely in the final consolidation stage, after the norm has achieved a measure of acceptance.

2.3 Adopting the responsibility to protect: Birth of a new norm?

The emergence of the “responsibility to protect” as an international norm has been discussed by a number of participants and analysts (Evans 2008; Wheeler & Egerton, 2009; Thakur & Weiss, 2009). Contemplating the horrors of Somalia, Rwanda and Bosnia, some scholars argued that “humanitarian intervention” was needed to halt cases of genocidal violence (for some important examples, see: Farer, 1993; Smith, 1994; and Hoffmann, 1995-96). At the United Nations, Secretary-General Kofi Annan, deeply influenced by what he saw as his own failures as assistant secretary general for peacekeeping at the time of Rwanda and Bosnia, played a leading role in putting the issue on the agenda of the world body (for other discussions of Annan’s role as a “norm entrepreneur,” see Johnstone, 2007, pp. 131-137; and Thakur & Weiss, 2009, pp. 33-35). In a series of speeches in 1998 and 1999, Annan championed a reconsideration of sovereign rights, suggesting that state sovereignty “was never meant as a license for governments to trample on human rights and human dignity. “Sovereignty implies responsibility, not just power” (Annan, 1999, p. 6). Annan also argued for the establishment of “an international norm against the violent repression of minorities that will and must take precedence over concerns of State sovereignty” (Annan, 1999, p. 6). At Annan’s direction, the Secretariat made public two reports that were scathing in their criticism of the international community’s response to the genocide in Rwanda and the way that the U.N. in particular bore responsibility for the massacre in the Bosnian town of Srebrenica. These reports drove home the failure of the existing approach by arguing that the disasters were not aberrations, but were to be expected given the traditional norms regarding sovereignty and the consequent limitations on the adequacy of humanitarian intervention under those rules. The

reports also served as the pretext for Annan to commission, in March 2000, another study to recommend the changes that ought to be made in the United Nations' approach to humanitarian crises. The "Report of the Panel on United Nations Peace Operations" (commonly called the Brahimi Panel, after its chairperson, former Algerian foreign minister Lakhdar Brahimi) was delivered several months later in August, and provided analysis and recommendations concerning the entire gamut of peacekeeping and humanitarian intervention operations. Its arrival coincided with the final preparations for the Millennium Summit in September 2000, where Annan again challenged the U.N. to address these problems.

In response to Annan's challenge, the International Commission on Intervention and State Sovereignty (ICISS) was created with strong support from the government of Canada. By late 2001, a report from the ICISS introduced the concept of the international community's "responsibility to protect" civilians from massive violence when their own governments would not, or could not, do so (ICISS 2001; for an overview of the commission's process, see ICISS 2001, pp. 81-85; and Evans, 2008, pp. 4-6 and 38-43). The commission insisted that their proposals were consistent with state sovereignty, but state sovereignty defined in terms of duties and responsibilities rather than just in terms of control (ICISS, 2001, p. 13).

The ICISS also outlined three components of a "responsibility to protect": the *responsibility to prevent* massive violence, involving assistance to states to prevent violence and the development of an early-warning capability for situations where massive violence against civilians is likely; a *responsibility to react* by the international community to stop massive violence once it begins, which could involve the use of military force without consent from the state where the intervention would occur; and a *responsibility to rebuild* a post-conflict society, both to repair the damage done and to heal wounds that could lead to renewed conflict (ICISS, 2001, pp. 19-45). The responsibility to react was easily the most controversial component of the commission's analysis, so much so that most discussion of R2P focuses only on this component of the norm. The ICISS identified a number of "threshold criteria" (especially actual or imminent mass violence against civilians) and "precautionary principles" (such as the use of force is a last resort, and the level of force used should be the "minimum

necessary" to achieve the humanitarian goals) that should define and limit an R2P intervention. While preferring that the U.N. Security Council authorize such interventions, the ICISS suggested that regional organizations or "coalitions of the willing" could legitimately act when the Security Council could not or would not. The ICISS also encouraged the five permanent members of the Security Council to agree to a "code of conduct" in which they would pledge not to use their veto power to block intervention in a humanitarian crisis (at least when their "vital national interests" were not involved) (ICISS, 2001, p. 51).

The terrorist attacks of 11 September 2001 and their aftermath temporarily sidelined discussion of the ICISS recommendations, but by early 2005 Annan had again brought the issue to the forefront of the U.N. agenda. At the World Summit held at the U.N. in September 2005, the official outcome document included three paragraphs endorsing the new norm. Proponents of R2P proclaimed that "norm displacement has taken place from the entrenched norm of non-intervention to the new norm of the responsibility to protect" (Thakur & Weiss, 2009, pp. 39, 42).

After the World Summit, therefore, it appeared as though the responsibility to protect had met most of the theoretical expectations for the establishment of a new norm. Norm emergence had been promoted by a group of norm entrepreneurs (in the academic and activist communities, among "middle powers" such as Canada, and especially in the office of the U.N. Secretary-General) who had taken care to demonstrate the inadequacy of existing arrangements for responding to humanitarian emergencies and to fit the new norm into the existing framework of sovereignty (while redefining how that concept should be understood). The 2005 World Summit could be characterized as the "tipping point" when a "norm cascade" occurred, as evidenced by the unanimous acceptance of the responsibility to protect language by the assembled leaders. The stage seemed set for the final step of norm internalization, where the norm becomes the basis for state policy and norm consolidation can be said to have been achieved.

2.4 Varieties of norm resistance in the R2P case

However, a careful examination of the evidence shows that state acceptance of the R2P norm is incomplete at best. While the recent case of Libya indicates that some states are willing to use the R2P doctrine to justify military intervention in a civil

conflict, there is little evidence that the norm has been internalized by most states, especially many of the powerful states whose acceptance will be required to operationalize the norm. The World Summit Outcome document may have represented an instance of a false “norm cascade,” given the way in which the issue was brought to the assembled leaders for their approval. A variety of forms of norm resistance and reinterpretation are also apparent.

1. *Weaken the definition of the norm:* Accounts of the negotiations leading up to the 2005 World Summit provide evidence of this type of resistance in the case of R2P. As the summit approached, many states raised serious objections to the draft Outcome document, including the provisions on the responsibility to protect. Observers spoke of a “looming embarrassment for the United Nations” if a consensus on the Outcome document could not be achieved (Hoge, 2005). Member states were able to hold the negotiations hostage until provisions to which they objected were removed or replaced with broad statements of principle. Annan’s chief of staff lamented that “now people are crimping it out of shape; they’re emptying it of a lot of content” (Hoge, 2005). Most of the recommendations of the ICISS concerning threshold criteria, precautionary principles and the locus of authorization of an R2P intervention were eliminated from the U.N. document (Thakur & Weiss, 2009, pp. 38-39). Several powerful states (including the U.S., Russia, China, and India) opposed mention of threshold criteria that might trigger an intervention (Wheeler & Egerton, 2009, p. 122). The ICISS had suggested that the permanent members of the U.N. Security Council might voluntarily restrict the use of their veto when the responsibility to protect was invoked (ICISS, 2001, p. 51), but the United States (and, one suspects, other members of the P-5) fought to remove any language referring to this in the Outcome document (Lynch, 2005).

2. *Condition support for the norm:* Some member states stressed that they would reserve the right to interpret for themselves when R2P imposed an obligation to act, rather than conform to some general principle or supranational authority. For example, the U.S. ambassador to the United Nations, John Bolton, argued that the “we do not accept that either the United Nations as a whole, or the Security Council, or individual states, have an obligation to intervene under international law” (cited in Wheeler & Egerton, 2009, p. 122). While the Bush

administration was particularly hostile to giving the U.N. a significant role in determining policy, the Obama administration has also been reluctant to commit the U.S. to respond to humanitarian crises according to pre-determined criteria (Rice, 2009).

3. *Reassert the primacy of competing norms:* Given that the responsibility to protect is based on a fundamental thinking of the meaning of state sovereignty, it is not surprising that some states tried to limit or undermine R2P by reasserting the primacy of a traditional notion of sovereignty. This argument was stressed by the government of China in its discussions of R2P. A Chinese diplomat argued that “the international community can provide assistance but the protection of its citizens ultimately depends on the government of the state. This is in keeping with the principle of state sovereignty. There must not be any wavering of the principles of respecting state sovereignty and non-interference of internal affairs” (Xinhua, 2009). This approach was not limited to China. In the 2009 General Assembly debate on the responsibility to protect, both India and Pakistan voiced similar positions (Williamson, 2009, p. 3). According to Kieran Prendergast, Annan’s undersecretary-general for political affairs, when it comes to R2P “the great majority of states don’t mean it. They attach more weight and importance to maintaining the principle of sovereignty and noninterference...” (Frontline, 2007).

4. *Interpret the new norm in a selective fashion:* The evidence concerning the use of this strategy is less clear thus far. However, it is easy to see how states might be able to engage in this behavior if they so choose. The 2005 statement concerning the responsibility to protect was very brief (three paragraphs in the 170-paragraph Outcome Document) and vague concerning both the conditions when R2P would take effect and the responsibilities to be shouldered by U.N. members when R2P was invoked. Also, the inclusion of prevention and post-conflict peacebuilding as aspects of the responsibility to protect opens the doors for states to emphasize those duties while shirking the more difficult and controversial aspect of intervention.

5. *Undermine implementation actions:* There is relatively little evidence concerning the deliberate use of this strategy. The 2011 intervention in Libya, authorized by a Security Council resolution, was supported by a sufficient number of

states to enable the basic mission of protecting civilians to be implemented. Some states chose not to contribute military forces to the campaign against the Libyan regime, and some such as the United States limited their contributions to specific types of military assets, but there is no evidence that these restrictions were intended to undermine the R2P mission.

3. Conclusion: Norm resistance and the responsibility to protect

After reviewing the literature on the formation and consolidation of international norms, this paper has proposed ways in which scholars can build on existing studies by creating categories for understanding different forms of norm resistance. The case of the responsibility to protect provides an initial test of the plausibility of the proposed categories, with the case providing considerable evidence that at least three of the five hypothesized strategies of norm resistance were used by states with concerns about the content or implementation of R2P.

The apparent success of the R2P-inspired and NATO-led intervention in Libya would seem to signal that the responsibility to protect norm continues to be consolidated, and will become a permanent feature of contemporary international relations. However, the Libyan intervention may have consequences that ironically could make it more difficult for international agreement to be reached in future cases where civilians are at risk from massive violence. The expansion of the mission from “civilian protection” to “regime change,” in the eyes of states such as Russia, China and India, will make them much less willing to allow the U.N. Security Council to be used to authorize such missions. Indeed, in October 2011 Russia and China vetoed a less sweeping resolution offered in response to the violence in Syria, which arguably was more severe than that in Libya. The Chinese and Russian delegates explicitly justified their vetoes by reasserting the importance of the competing norm of non-interference in the internal affairs of states and by stating that the Libyan model of intervention “should be excluded from global practices once and for all” (United Nations, 2011, p. 4). The aftermath of the Libyan intervention may also cool the ardor of states to enforce the responsibility to protect if Libya descends into prolonged civil violence, requires a

substantial international peacemaking deployment, or becomes a haven for terrorist organizations.

The case of responsibility to protect also raises important questions about existing models of international norm development, especially regarding the coexistence of development and resistance at each stage of norm development. This may require rethinking the ways in which the stages of norm development are described, to fully account for the dynamic tension between progress and resistance within each stage. Future research should examine other cases of norm development to test these expectations concerning the nature and timing of norm resistance, to determine other strategies of norm resistance, and to understand the conditions under which certain strategies are likely to be used. Scholars also need to examine more fully the conditions under which norm resistance leads to norm failure and collapse. Such a research program will help to develop further our understanding of how norms emerge and the role they play in international relations.

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