The Power of the Veto

It is here that we argue for the importance of taking the veto power seriously as a form of constitutive power on the international scene, rather than as simply the negative ‘block’ it is usually understood as being in media representations of the operation of the Security Council. The basic functions and powers of the UNSC are posited by Articles 24–26 of the UN Charter. However, as Dag Hammarskjöld himself observed in a lecture to mark the opening of the Chicago University Law School in 1960, the UN system is an ongoing ‘experiment’: an act of international constitutionalism in the making. When one examines histories of the veto power in other contexts (as with the history of the US presidential veto, for example) it becomes clear that what begins as a power of rejection can soon become a constitutive power, as its threat shapes the way that actors frame and present policies for consideration.

This captures something of how the Security Council veto has developed as well. It began very much in the ‘negative’ mould: it being a necessary brake to the major powers at the end of the Second World War to convince them to take their place in the UN system alongside the rest of the world’s nations. But it has, as Hammarskjöld himself was alluding to already in the 1960s, become an increasingly constitutive form of power. The veto moves, in the words of McCarty, from an instrument of ‘quality control’ to one of ‘issue definition.’ When it comes to the question of protection and intervention, the veto power, through the intense offstage bargaining and negotiation, its threat gives rise to, has a very strong influence as to not only whether interventions take place or not, but how actors on the ground operate (in light of their expectations of what the Security Council may do). This impact may be likened to how a trump alters the dynamics of a card game.

This is a matter of some considerable importance to debates over the operation and legitimacy of the Security Council and to proposals for its reform more generally. The Security Council has been both more and less central to the UN during its 70-year-history, and international norms, like ‘protection’ or ‘security’, play a role in its ability to present itself as relevant and legitimate both to the UN and the wider international community of (other) nations. PoC and R2P have been important to it because they have enhanced the power of the SC, collectively, and the P5 severally. This means that for all that the issue of protection of civilians appears to have divided the Security Council, we see that on a more fundamental level protection in fact unites the P5 in their role as hegemonic actors. The dual history of events in Libya and Syria continues to unfold, but it is already certain that it will come to be a defining point in the future of the Security Council itself as a political institution.

Notes


About PRIO

The Peace Research Institute Oslo (PRIO) is a non-profit peace research institute established in 1959 whose overarching purpose is to conduct research on the conditions for peaceful relations between states, groups and people. The institute is independent, international and interdisciplinary, and explores issues related to all facets of peace and conflict.

The Protection of Civilians (PoC) expands the responsibility of the UN Security Council (UNSC) for international peace and security to the internal affairs of conflict-ridden countries. As such, it bolsters the authority of the five permanent members (the P5) in world politics and presents them with a flexible tool for exercising this authority. In addition to shaping their responses to situations like Syria and Libya, the principle of PoC shapes the very dynamics of the Council itself, and ultimately the decisions of conflict actors anticipating international responses.

Why the Veto Powers All Support Protection of Civilians (And Why They Often Fail to Agree on It)

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From Libya to Syria – the Rise and Fall of PoC?

The difference in the international response to the twin crises that erupted in Libya in 2011 (to which the UNSC responded with a firm resolution) and Syria in 2012 (where a state of civil war continues in the absence of any Security Council protection) offers a useful entry point into the question of ‘protection’ as it is understood and acted upon in the UNSC. Protests in both countries flared up within the wider context of the Arab Spring upheavals across the Middle East/ North Africa region from late 2010. In both cases the Libyan and Syrian authorities responded with force, leading to a sharp escalation of the violence. The subsequent responses of the international community however, could scarcely have been more different.

In the case of Libya, the international community responded with commendation and, between February and March 2011, with two clear Security Council Resolutions (SCRs). The first (SCR-1970) condemned the violence and noted the responsibility to protect its population. The council passed this resolution on October 20, 2011.

In the case of Libya the Security Council passed resolutions (the establishment of Islamist ‘terrorist havens’ in war-torn countries – a concern they share with Russia. In general, the veto powers are united by an interest in preserving the international political and economic order that their privileged positions rely on. The notion of protection lends itself to such system maintenance, justifying preventive efforts to avoid political disorder as well as concerted reactions when prevention fails.

All of the P5 can thus say that they are committed to PoC but primarily as a flexible and qualified principle of state governance, peacemaking, humanitarian assistance, refugee management, conflict prevention and resolution, and for the purposes of extending international humanitarian and human rights law. These spheres of protection (associated with Pillars I and II of R2P) leave room for political interpretation, however – something which to date has been insufficiently addressed. Having the power to define the meaning and implications of PoC is a useful way for the veto powers to justify previously controversial forms of foreign policy, like the imposition of economic and political institutions (in the name of prevention) or military collaboration with undemocratic regimes (as sources of security) – while opening up new approaches to older forms of intervention, like the ‘sharpening’ of peacemaking operations (i.e. in Mali and the DR Congo). As Richard Gowan suggests in an interview with the authors, commenting on the sudden commitment of Saudi Arabia to PoC: ‘If you wanna play in the existing world order, you have to play by the institutions and norms that are there’.

How the Game Is Played

As with the difference between Security Council resolutions over Libya and Syria, the divergence between general resolutions advancing PoC in the Council and the resolutions in response to particular situations like Syria could also be taken as an indication of hypocrisy. This divergence is nonetheless rather symptomatic of the differences between the more practical country resolutions and the more general thematic resolutions of the Security Council, the former being subject to a combination of political interpretation and consequentist reasoning, in opposition to the apolitical and principled (ideologically) language of the thematic resolutions.

The details of policy formation matter here. In each case, the personnel and institutions involved in forming these resolutions are different. The thematic resolutions are generally formulated by the assigned experts on PoC in the delegations of the veto powers (and the P3 in particular) in advance of OCHA, and partly by DPR and interest groups working specifically on PoC, like the Swiss-led Group of Friends on PoC in Armed Conflict.

The country resolutions, on the other hand, are negotiated by the political and military ‘weights’ of the delegations, as informed by their embassies and their ministries ‘at home’. These people and institutions may not be very formal, or, preoccupied, with PoC as a principle of foreign affairs of relevance to the country resolutions in the Council. It is the role of the P5 experts to influence them and make sure that the PoC principle is maintained in their resolutions. Currently, the informal procedure tends to be that the P3 agree on a draft resolution, take it to Russia and China for negotiation, strike a deal, and then present it to the elected ten SC members. This makes it possible for the P5 to strike strategic deals across resolutions without subjecting the resolutions to too much open debate on underlying principles.

But, as we set out at the beginning, those institutions and norms should not themselves be taken as fixed and immutable. Rather, when the UNSC is debating protection in these ways, it is also always simultaneously reaching for new ways to determine international authority, and developing a new vocabulary on which to base its own legitimacy as a core component of the international system. Two examples illustrate this. First, via the discourse of protection, the UNSC accrues to itself a greater capacity to present itself as the ‘right authority’ to authorize military force. This was highlighted in the ICISCL report as a specific consequence of the recognition of R2P and it was taken up in Resolution 1973.

This same trend is no less apparent, second, in the ‘Responsibility while Protecting’ discourse most directly supported by Brazil. The intention here is yet another to ensure that ownership of the force is enacted (for which the ICISCL report in fact leaves considerable scope) and it lays greater emphasis on prevention over intervention. But this also has another side to it, as the resolution points out, not only revives but also restricts the ‘just authority’ criterion by closing all loopholes and asserting that explicit UNSC authorization under Chapter VII is the only acceptable legal basis for the use of force.

The effect, of course, is to further lock international authority into the Security Council.
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In the case of Libya, the international community responded with condemnation and, between February and March 2011, with two clear Security Council Resolutions (SCRs). The first (SCR-1970) condemned the violence and called on the ‘government of Libya to meet its responsibilities to protect its population’. The subsequent responses of the international community, however, could scarcely have been more different.

For instance, where many of the most severe civil wars take place, China has considerable investments to protect, alongside the US, UK and France – while the latter also are concerned with the establishment of Islamist ‘terrorist havens’ in war-torn countries – a concern they share with Russia. In general, the veto powers are united by an interest in preserving the international political and economic order that their privileged positions rely on. The notion of protection lends itself to such system maintenance, justifying preventive efforts to avoid political disorder as well as concerted reactions when prevention fails.

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Why the Veto Powers All Support Protection of Civilians (And Why They Often Fail to Agree on It)

Brief Points

• The Protection of Civilians in Armed Conflict (PoC) was adopted at the agenda of the UN Security Council in February 1999, expanding the attention of the Council from the security of states to the security of individuals.

• The principle has been integrated into most Security Council resolutions regarding war-torn countries and peace operations since the early 2000s.

• The ability of the Security Council to pass a resolution authorising the use of military force for the protection of civilians in Libya, a decision in which Russia and China abstained instead of vetoing, was seen as a major breakthrough for the PoC agenda.

• The eventual failure of the Council to protect civilians in Syria since 2011 indicates that the resolution on Libya did not represent an absolute commitment of the P5 to the principle.

What’s in It for Them?

The Protection of Civilians PoC agenda is a non-profit peace research institute (established in 1959) whose overarching purpose is to conduct research on the conditions for peaceful relations between states, groups and people. The institute is independent, international and interdisciplinary, and explores issues related to all facets of peace and conflict.