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Responsibility to Protect and Russian Foreign Policy: the Dichotomy

1. Introduction

Following the Russian invasion of the Crimean peninsula in 2014, the media has consistently reported that US-Russian relations are at their lowest point since the Cold War. But this relationship has been deteriorating since 2011, when a stalemate in the United Nations Security Council (UNSC) during the tumultuous and revolutionary period of the Arab Spring revealed irreconcilable policy divides between the US and Russia on the topic of legality of international intervention due to seemingly contrasting values of state sovereignty and humanitarian rights. The root of the divide lies with a vaguely interpreted international legal precedent for the authorization of cases of international military intervention and the power struggle that results from advancing a subjective definition of norms regarding humanitarian rights in order to justify acts of military intervention into a sovereign territory.

The idea of sovereignty has been debated and defined over time by political thinkers from Kant and Rousseau to De Tocqueville.¹ In the modern era of international cooperation, the definition of state sovereignty can be condensed down to two main points: the relation of the state to individuals or associations on its territory and the relation of a state to other states. In terms of the former, the state, as an organization whose purpose is social control, determines what ends it will follow and how it will accomplish them, and then carries these plans out. In terms of the latter, state sovereignty in this case signifies independence or self-sufficiency of a political society against all other political societies, as in international autonomy or independence.²

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¹ Thomson, 218.
² Ibid., 226.
Beginning with the war in Kosovo in 1999, there was a growing concern in the international community about the traditional principles of non-intervention in regards to respecting state sovereignty. Inextricably tied to this was the recognition that emphasis on state sovereignty often acted as a defense for internal mass atrocities. UN Secretary General Ban Ki-moon wrote in 2009 that:

...the brutal legacy of the twentieth century speaks bitterly and graphically of the profound failure of individual states to live up to their most basic and compelling responsibilities, as well as the collective inadequacies of international institutions. Those tragic events led [us] to ask whether the United Nations and other international institutions should be exclusively focused on the security of states without regard to the safety of the people within them. Could sovereignty, the essential building block of the nation-state era and of the United Nations itself...be misused as a shield behind which mass violence could be inflicted on populations with impunity?³

Ban-ki Moon’s question focused attention on the debate surrounding the issue of sovereignty. In 2001, the international community began to develop the idea that state sovereignty could not act as a shield from military intervention when mass atrocities were taking place⁴, with the 1999 NATO intervention in Kosovo acting as a catalyst. This would come to be known as an international ‘responsibility to protect,’ or R2P. However, this norm of protecting humanitarian rights is constantly in flux due to the fact that a legal framework for its use does not exist.

In the context of foreign policy, five key events involving Russia as a major participant took place from 1999 to the present in which cases of international intervention on the grounds of protecting humanitarian ideals on the basis of R2P took center stage in international debate. In analyzing these cases, this paper is only concerned with Russia and its responses to its opponents.

³ Ki-moon, 5.
⁴ Reeves, 206.
Any discussion of other countries will only be considered in the context of how they relate to Russia’s actions. These five cases can be separated into two categories: those in which Russia rejected the notion that R2P could be used to legitimize intervention, and those in which they argued that it could. Under the first heading are the wars in Kosovo, Libya, and Syria. In these situations, Russia argued against international intervention in these territories to protect humanitarian rights on the grounds that such intervention was an unlawful usurpation of state sovereignty. Under the second heading are the conflicts in Georgia and Ukraine, in which Russia appears to contradict this stated policy. In these situations, Russia was the country that unlawfully intervened in other nations’ domestic affairs, rousing the condemnation of the international community.

Gabriel Gorodetsky notes that, “The great challenge for Moscow [is] to resolve the intrinsic tension between Russia’s continued search for a dominant position in world affairs and a recognition of the power of globalization—which seems to eat away at state sovereignty.”  

Further, he posits that notions of space and geopolitics—the theory of state sovereignty—‘seem to remain’ the modus operandi for Russian foreign policy when applied to conflicts concerning overlapping international interests or regional ethnic issues, or when the notion of state sovereignty is manipulated through balance-of-power politics—that is, when state sovereignty becomes a bargaining chip in the struggle to obtain power on the international stage. In each of the case studies where Russia defends state sovereignty against R2P, it is on the basis that international forces should not be allowed to encroach upon a sovereign territory in military maneuvers because this oversteps the bounds of political sovereignty and induces a type of regime change. However, when

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5 Gorodetsky, xvi.
6 Ibid., xxii.
Russia is the one bringing its military might abroad, it legitimizes its encroachment based on the right of humanitarian intervention through R2P, particularly regarding its own citizens in areas of strategic importance for Moscow. For Russia, it is acceptable to undermine state sovereignty for humanitarian rights if fighting for that humanitarian cause leads to a geopolitical benefit for Russia. Due to the flexible and vague construction of the R2P norm, Russia’s use of the norm for its own benefit endangers the international community’s ability to truly protect humanitarian rights.

2. Responsibility to Protect (R2P)

As defined in 2001, the ‘responsibility to protect’ is “the idea that sovereign states have a responsibility to protect their own citizens from avoidable catastrophe—from mass murder and rape, from starvation—but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states.”7 Under the concept of R2P, matters affecting citizens of a state are no longer only under jurisdiction of the domestic ruler but are viewed as issues of concern to the broader international community, including third party states, multilateral institutions, and non-state actors. The concept entered into popular discussion as international law developed over time into a framework focused on protecting human interests.8

The first document that characterized R2P was “The Responsibility to Protect,” written in 2001 by the International Commission on Intervention and State Sovereignty. Military intervention, according to this document, was justified in two broad circumstances: in the case of large scale loss of life which is the product of deliberate state action or state neglect; or in the case of large scale ethnic cleansing. The second relevant text was published in 2004 by the UN’s High

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7 International Commission, VIII.
8 Stahn, 103–07.
Level Panel on Threats, Challenges, and Change. Titled “A More Secure World: Our Shared Responsibility,” it augmented the first report by clarifying that the international R2P was only exercisable by the Security Council and only if military intervention was at stake. Two more relevant texts were produced in 2005, the first of which was the UN Secretary General’s “In Larger Freedom: Towards Development, Security and Human Rights for All.” This report placed stronger emphasis on R2P through peaceful means—diplomacy, humanitarian aid, and other methods. It reiterated that any armed intervention, if taken, should be carried out by the Security Council. It did not actually rule out unilateral action by one country or organization in the face of a veto in the Security Council, therefore removing the possibility of official consequence for illegal intervention. The final relevant document from 2005 is the Outcome Document of the General Assembly from the 2005 World Summit. This document revealed the differing conceptions of R2P in the international community, a result of the fact that, from 2001 on, it had only been a concept with no formal law. The Russian Federation had reservations about including R2P in the document, arguing that the concept was too vague, too easy to abuse, and that it stretched beyond the mandates of the UN Charter.

The final text of the Outcome Document is somewhat of a compromise. Following the trend of emphasizing peaceful negotiation, it states “the international community, through the United Nations . . . has the responsibility to use appropriate diplomatic, humanitarian, and other peaceful means . . . to help protect populations from crimes against humanity.” However, the collective action of the international community is only vaguely mentioned. The document

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10 Annan.
11 United Nations General Assembly.
12 Stahn, 117.
requires that states interact on a case-by-case basis with the Council, thus implying that when there is no case currently being debated in front of the Council, there is no collective responsibility and no legal obligation to R2P. ‘Case by case’ also meant that unilateral action was not formally banned and the question of unauthorized intervention again remained unanswered. This final 2005 definition of responsibility to protect was accepted by UNSC Resolution 1674, but it was recognized without creating any actual legal justification for military intervention.\(^\text{14}\)

In 2009, UN Secretary General Ban Ki-moon wrote a report titled “Implementing the Responsibility to Protect.” Despite its ambitious title, the document does not lay out a concrete strategy for this implementation or propose any law. In fact, the document expressly states that any policy suggestions or thoughts that it lays out are merely to be considered during the continuing dialogue\(^\text{15}\) among UN member states regarding the efforts to seek a “doctrinal, policy, and institutional life to the responsibility to protect.”\(^\text{16}\)

As a recently developed concept still in conceptual flux, R2P is flawed. On an ideal level, it makes sense as an international commitment to uphold and defend humanity. But R2P, as of yet, is not an international law. It is not clearly defined, at any step of the process, aside from the fact that it ensures crimes against humanity are not ignored. The questions left unanswered are:

--How to authorize intervention?

--What constitutes unauthorized intervention?

--What should be done when it occurs?

It is important to understand the current debate over R2P because, overall, it marks a broader debate about advancing humanitarian ideals versus the ideal of state sovereignty. It is precisely

\(^{14}\) Reeves, 208.

\(^{15}\) Ki-moon, 5.

\(^{16}\) Ibid., 4.
this debate that lies at the center of the problem between the US and Russia on the international stage. If humanitarian ideals were truly the driving force behind R2P as a means to authorize international intervention, then no one country would have something to lose from its use, and would have no reason to protest it, as Russia does. Therefore, it must be that the intrinsic flaws in R2P—the lack of legal framework and the easily manipulated definition of what allows intervention—make it an inefficient instrument of international law.

3. When Russia is Against R2P: Kosovo, Libya, and Syria

Russia operates on the idea that if they fight for the right for states to exercise control over their own sovereignty without outside intervention, such as in cases of civil unrest or violence, they believe that the same right will be extended to them. It effectively legitimizes a state acting as it pleases (within reason) within its own borders, with limited fear of outside intervention. This generous definition of state sovereignty, that guards against unwanted international encroachment while at the same time advancing the right of states to care for their citizens, feeds into Russia’s definition of R2P and explains why, in the following cases, it protested its use.

4. Case Study: Kosovo

In 1991, the Federal Republic of Yugoslavia broke apart due to problems resulting from increased ethnic tensions and an unsustainable federal organization. The autonomous province of Kosovo, located in Serbia, continued to protest for status as a completely separate republic, largely motivated by Kosovar Albanians. This caused further tensions between Kosovar Albanians and Kosovar Serbs, resulting in the formation of the Kosovar Albanian resistance group, the Kosovo Liberation Army (KLA). In 1998, following Serbian President Slobodan Milošević’s curtailing of Kosovo autonomy, the KLA began attacking Serbian authorities in Kosovo, prompting a massive incursion of Serb forces, who targeted KLA members and sympathizers in a counterattack.
Attempts to solve the situation diplomatically failed, while the humanitarian crisis increased in severity. The UN condemned the situation, but was unable to galvanize any action.\textsuperscript{17} In March of 1999, NATO began a campaign of airstrikes without UNSC approval that lasted three months, prompting major loss of life and forced expulsion of Kosovar Albanians from the territory by Serbian forces. The conflict ended in June of 1999 and marked the beginning of what would become a prolonged debate over the power of the UNSC and the legitimacy of intervention.\textsuperscript{18}

The war in Kosovo and the surrounding controversy over NATO intervention marked a turning point in the interpretation of international law, namely, in the direction of the development of R2P, which would first appear in formal documents following the end of the conflict in Kosovo. The debate boiled down to the question: was military intervention by NATO justified under the UN Charter and international law?\textsuperscript{19} This further led to a more pressing, universally applicable question: does international law recognize a right of intervention in cases of humanitarian necessity?\textsuperscript{20}

The legal framework surrounding the use of international military force at the time of NATO intervention in Kosovo revolved largely around Article 2(4) of the UN Charter and its accompanying specifics. Article 2(4) states: “All Members [of the United Nations] shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.”\textsuperscript{21} This article is the strongest evidence of international consensus in support of a doctrine

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\textsuperscript{17} Jansen.
\textsuperscript{18} Editors of Encyclopædia Britannica, “Kosovo Conflict.”
\textsuperscript{19} Henkin, 824–28.
\textsuperscript{20} Greenwood, 926–34.
\textsuperscript{21} United Nations, 3.
\end{flushleft}
of state sovereignty and limited intervention. Furthermore, the UN Charter expressly defines situations in which force is permissible. Article 51 preserves the right of individual or collective self-defense against an armed attack against a state.\footnote{Ibid., 10–11.} The Charter also provides for the use of force by the Security Council, or by a regional organization or group of states authorized to use force by the UNSC.

Purely based on these texts, NATO force in Kosovo was illegal. According to Article 51, Kosovo was not an independent state, so self-defense against an armed attack against a state was not a valid reason for the action. In addition, none of the three UNSC resolutions that were passed regarding Kosovo (in March, September, and October, 1998) explicitly authorized military action. However, outside of the explicitly written frameworks of UNSC resolutions, the UN Charter also states that one of the purposes of the United Nations is the promotion of human rights. After accusations of genocide and ethnic cleansing during the Kosovo War triggered international debate and developments regarding civil, political, and human rights, a state’s treatment of its own population was no longer regarded as an internal matter. Although this was an implicit opinion among state actors not based on any actual law, violations of human rights, in particular those that led to widespread loss of life, became established as a matter of international concern.\footnote{Greenwood, 927.}

Chapter VII of the UN Charter, dealing with threats to peace and security, calls upon the UNSC to preserve international peace and security through any means, up to and including military action.\footnote{United Nations, 9–11.} The three UNSC resolutions on Kosovo did, in fact, establish the situation in Kosovo as a threat to international peace and security that involved serious violations of human rights and an
impending humanitarian catastrophe well before the beginning of NATO action.\textsuperscript{25} NATO decided that intervention was justified because there was a humanitarian crisis that the UNSC was neglecting to take decisive action against. NATO’s critics also posit that NATO circumvented the UNSC because the hope of authorizing military action within the Security Council was a futile endeavor because political differences between the permanent members of the Council would prevent the necessary unanimous vote to do so. Essentially, NATO believed that lingering post-Cold War tensions between the United States and Russia would lead to gridlock within the UNSC.\textsuperscript{26}

Following NATO action, Russia filed a draft resolution in the UNSC calling for the termination and condemnation of NATO intervention in Kosovo. Its argument called attention to the illegality of intervention given previous legal documents. Namely, it cites violations of the UN Charter Article 2(4) and of previous UNSC resolutions that did not expressly authorize military action to end conflict but instead called for conflict resolution through negotiation. In addition, the draft resolution states that the NATO-enforced no-fly zone “constitutes a flagrant violation of the principle of complete and exclusive sovereignty of every state over the airspace above its territory” and reaffirms commitment to the “sovereignty and territorial integrity of the Federal Republic of Yugoslavia.”\textsuperscript{27} During the vote, Sergei Lavrov, the current Russian Foreign Minister and at the time the Russian Ambassador to the UN, said:

\begin{quote}
    The aggressive military action unleashed by NATO against a sovereign state was a real threat to international peace and security, and grossly violated the key provisions of the United Nations Charter. . . . What was in the balance now was law and lawlessness; of either reaffirming the commitments of one's people to
\end{quote}

\textsuperscript{25} Greenwood, 927.
\textsuperscript{26} Henkin, 825.
the United Nations Charter, or tolerating a situation where gross force was the norm.\textsuperscript{28}

To Russia, this new NATO strategy signified the allowance of offensive military action beyond the territory of NATO member states.\textsuperscript{29} From Moscow’s standpoint, the war in Kosovo set a dangerous precedent for international intervention by allowing the U.S. to intervene in the “domestic affairs of sovereign states” while bypassing the United Nations, an international arena in which Russia still enjoyed its postwar status as a major power.\textsuperscript{30} Former Russian Foreign Minister Igor Ivanov developed the default Russian strategy after Kosovo, objecting to changing “basic principles of international law” in order to replace them with the doctrines of “limited sovereignty” and “humanitarian intervention.”\textsuperscript{31} Kosovo for Russia was another example of the NATO partners’ ambitions for “the spread of Western dominance in the region and their blatant disrespect for international law.”\textsuperscript{32} In fact, a pressing concern for Russia was that these new humanitarian norms would be applied against them for the Russian campaign in Chechnya, which recommenced in the same year.\textsuperscript{33}

The main complaint of Russia and those who agreed that NATO intervention was illegal was that the principles of international law and the interpretations of the Charter that prohibit unilateral humanitarian intervention did not justify the conclusion that humanitarian rights stood higher in the values of the international community than the ‘sovereignty’ of the target state. Instead, the laws against intervention were too ambiguous, involving “uncertainties of fact or

\textsuperscript{28} Ibid.
\textsuperscript{29} Arbatov, 30.
\textsuperscript{30} Gorodetsky, xiii–xiv.
\textsuperscript{31} Kurowska, 494.
\textsuperscript{32} Smith, 13.
\textsuperscript{33} Allison, 182.
motive, and difficult questions of degree and ‘balancing’ of need and costs . . . above all, the moral-
political conclusion that no individual state can be trusted with authority to judge and determine
wisely.\textsuperscript{34} In his analysis of the Kosovo War, Louis Henkin concluded:

\begin{quote}
[T]he likely lesson of Kosovo is that states, or collectivities, confident that the
Security Council will acquiesce in their decision to intervene, will shift the
burden of the veto: instead of seeking authorization in advance by resolution
subject to veto, states or collectivities will act, and challenge the Council to
terminate the action.\textsuperscript{35}
\end{quote}

This idea of an ‘act first and ask forgiveness later’ mentality, would come to define the strategy of
intervention in the coming years: states or multistate collaborations like NATO would find it easier
to retroactively defend their actions than leave such a matter to the UNSC, which had proven itself
to be at a stalemate regarding this issue that could not be resolved in time to fulfill its duties.
Beginning with Kosovo, Russia would continue to protest its perceived loss of power in the official
arena of the UNSC—that is, Russia would protest what it perceived as a Western interest-heavy
Council in the interest of preserving and increasing its own relative world power. At the same time,
Russia learned it could utilize the very same ‘act first and apologize later’ mentality it so
condemned to sidestep the UNSC in future conflicts.

5. Case Study: Libya

Like many revolutions during the Arab Spring, the Libyan Civil War began in February
2011, when protests aiming to end Moammar Gadhafi’s 42-year rule were violently suppressed
by government forces. This in turn galvanized a popular uprising and the formation of rebel forces
that fought against pro-Gadhafi forces for control of Libyan territory and, ultimately, the Libyan
government. In March 2011, the UNSC passed a resolution that established a no-flight zone around

\textsuperscript{34} Ibid.
\textsuperscript{35} Henkin, 827.
Libya, a vote that Russia abstained from, saying “work on the resolution was not in keeping with Security Council practice, with many questions having remained unanswered, including how it would be enforced and by whom, and what the limits of engagement would be.” They preferred a peaceful resolution of the conflict by ceasefire. In particular, the concern for military engagement was brought up when the Russian Federation Ambassador to the U.N., Vitaly Churkin, said that, “[t]he text included provisions that could potentially open the door for large-scale military intervention.”

The resolution passed anyway, and after NATO airstrikes in Libya, Russia and China issued criticisms, saying in a joint statement that, “[n]ations must ‘not allow the willful interpretation and expanded application’ of the resolutions.” To Moscow, Libya confirmed the “Western pattern:” start with an agreeable formula (a no-fly zone) and end by deposing the leader and changing the regime.

In November 2011, at the First Ministerial Meeting of the Strategic Dialogue between Russia and the Cooperation Council for the Arab States of the Gulf, Sergei Lavrov said that the main task of the international community, including regional players such as the Arab League, is to promote regional advancement toward democratic development and to maintain regional and international stability. As he stated,

“No matter how acute the overdue domestic problems may be, they can and should be solved peacefully, via a national dialogue involving all political,

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36 Editors of Encyclopædia Britannica, “Libya Revolt of 2011”.
38 Ibid.
39 To Moscow, Libya confirmed the “Western pattern:” start with an agreeable formula (a no-fly zone) and end by deposing the leader and changing the regime.
40 Rapoza.
41 Kurowska, 501.
ethnic and religious forces and population groups. External assistance for the settlement of internal conflicts should be predicated on these approaches and carried out with the utmost responsibility. . . . Relevant decisions of the UN Security Council should be formulated based on objective facts, in a rigid international legal framework and should be undeviatingly adhered to.\textsuperscript{42}

In a meeting with these regional power players, Russia takes the time to reiterate its position in favor of supporting state-run efforts to solve internal problems—no matter to what extent those state-run efforts may go. Further, they subtly condemn unauthorized NATO action on two fronts: that it was not predicated on peaceful dialogue-based approaches and that it took place outside of the parameters of UNSC authorized action, particularly after NATO essentially took over leadership of the UNSC-authorized task force in Libya. Russia portrayed itself as allies of any Arab state wishing to keep the West out, just as regional anti-Western sentiment revolving around Western military approaches to intervention was steadily growing.

6. Case Study: Syria

The effect of Russia’s complete rejection of NATO intervention directly impacted how Russia would view the divide between state sovereignty and R2P a few months later regarding Syria. The Syrian civil war is one of the worst in recent history, accounting for more than 200,000 casualties\textsuperscript{43} and forcing more than four million people to flee Syria and seek refuge in surrounding Lebanon, Jordan, Turkey, and Iraq, as well as states within the European Union and even in the Americas. The Syrian refugee population makes up the largest amount of displaced persons from a single crisis in a generation.\textsuperscript{44} The Syrian conflict also began during the Arab Spring, in March 2011, also as a result of protests against president Bashar al-Assad’s regime that turned violent after severe government crackdowns. Notably, Assad’s regime has been supported by the Russian

\textsuperscript{42} Russian Federation Embassy in Canada.
\textsuperscript{43} Yourish.
\textsuperscript{44} European Commission, 2.
government, which has provided military arms and monetary support in the face of condemnation from the international community. From the latter half of 2013 into early January of 2014, the Russian government announced an increase in support for the Syrian regime.  

During the Syrian conflict Russia was instrumental in blocking any UNSC resolutions that, in its mind, inflicted unlawful regime change upon Syria or authorized external military action in indirect support of regime change. Part of the reason Russia immediately presented such strong opposition to these proposed resolutions had to do with what was, in their minds, the disastrous conclusion of international intervention in Libya, leading to a country overrun by terrorists and jihadists. The Russian newspaper Pravda reported that the Russian-based committee for Solidarity with the Peoples of Syria and Libya said, “The interim government in Syria is possible, although not at the will of John Kerry or the Saudis, but rather at the will of the Syrian people. Russia will not let them install a puppet government.”

In February of 2012, the UNSC tried to pass a resolution that demanded all parties in Syria immediately stop all violence and implement an Arab League-proposed plan from January, which called for “an inclusive Syrian-led political process conducted in an environment free from violence, fear, intimidation and extremism, and aimed at effectively addressing the legitimate aspirations and concerns of the Syrian people.” Russia and China were the only veto votes of the fifteen UNSC members. Russia’s critique centered on the fact that the message was ‘unbalanced,’ calling for the government to end its attacks but making no effort to end violence perpetrated by armed groups or extremists. As an alternative, Russia tried to take direct action by meeting with

45 Saul.
46 Временное правительство в Сирии—возможно, но не по воле Джона Керри (госсекретарь США) или саудитов, а по воле сирийского народа. Марионеточное правительство посадить не удастся. Россия не даст этого сделать. Liul’ko. Translation by Liubov’ Liul’ko.
47 United Nations Security Council, “Bahrain, Colombia, Egypt, France, Germany.”
Syrian President Bashar al-Assad, preferring to try to open negotiations. The Russian Federation Ambassador to the U.N., Vitaly Churkin, said that, “while the Russian Federation was committed to finding a solution, some influential members of the international community had been undermining the possibility of a peaceful settlement by advocating regime change.”

Russia’s statements were supported by the Syrian Ambassador to the U.N., who said that, “Syria sought dialogue that was inclusive of all parties, under ‘the roof of its homeland’” and emphasized that this dialogue would be developed in Syria, by Syrians.

In July of 2012, Russia and China were again the only vetoes against a UNSC resolution that threatened sanctions against the Syrian government if it did not halt the violence. A key component of the resolution was the extension of the UN observer mission to Syria, which involved a contingent of both military and civilian observers. In regards to their veto, Vitaly Churkin said, “We simply cannot accept a document in accordance with Chapter 7 [of the UN Charter] that would open the path for the pressure of sanctions and further to external military involvement in Syrian domestic affairs.”

The most recent case of a clash regarding Syria within the UNSC happened in May 2014. France proposed a resolution that would refer Syria to the International Criminal Court, and for the fourth time Russia and China used their veto vote against a resolution that otherwise had complete approval from the UNSC. In his statement to the Council, Vitaly Churkin said,

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49 Ibid.
51 Мы не можем пропустить документ по Главе VII, открываящий путь к санкционному давлению, а дальше — и к внешнему военному вмешательству в сирийские дела. Postoiannoe predstavitel’stvo, “по пункту ‘Положение на Ближнем Востоке.’” Translation by Michelle Nichols.
52 United Nations Security Council, “Albania, Andorra, Australia, Austria, Belgium.”
“It is pursuing the regime change by force in Syria at all costs that precipitated the drawing out of the crisis and undermines the Geneva negotiations. . . . [W]e proceed from the premise that the Geneva Communiqué of June 30, 2012 remains at the core of efforts to settle the Syrian crisis. The Communiqué interprets the principle of accountability and national reconciliation as interrelated, leaving the leading role in this process to the Syrians themselves.”

The Geneva Communiqué, authored by the UN Action Group for Syria (of which Russia was a member), states that, “Action Group members are committed to the sovereignty, independence, national unity and territorial integrity of Syria.” Further, it concentrates on a Syrian-led political process that will transition them out of the conflict and toward a more independent and democratic future, stating many times that it is for the Syrian people to determine the future of the country. Even more explicitly, it states that, “the conflict must be resolved through peaceful dialogue and negotiation alone.” Part of Russia’s July 2012 veto explanation included the potential use of external military force present in the proposed resolution, something Russia argues would violate the Communiqué. The May 2014 resolution was vetoed because it went against the provision of the Communiqué stating that the conflict should be resolved through peaceful dialogue and negotiation between Syrians. The Communiqué has hindered more than helped any UNSC-proposed humanitarian efforts to Syria, because Russia has an official international text, which it was instrumental in passing, to support its vetoes.

7. When Russia Supports R2P: Georgia and Ukraine

In cases where Russia “intervenes” in other states, it establishes a legal precedent, no matter how flimsy, using the idea that they are responsible for protecting human rights, in particular, the human rights of their own citizens, wherever they are in the world. This results in the opportunity

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53 Russia Today.
54 United Nations Action Group for Syria.
55 Ibid.
for strategic land grabs in areas that Russia finds highly beneficial. Because of the dual purpose of Russia’s interventions, their claims that they are upholding R2P become a facade to mask geopolitical ambitions.

8. Case Study: Georgia

When Georgia declared independence from the Soviet Union in 1991, the movement took place against the backdrop of a war between Georgia and separatists in the territories of South Ossetia, located on the border with Russia, and Abkhazia, located on the Black Sea. The war ended with both territories gaining a sort of de facto independence, with unrecognized governments in power. Russia had a strong interest in both regions, especially Abkhazia for its Black Sea ports. This war prompted the installation of Russian, Georgian, and Ossetian peacekeeping forces in the regions, especially in South Ossetia. Over the years, this cultivated an attitude that led Russian leadership to view South Ossetia as having become de facto ‘our territory.’ 56 In April 2008, relations between Georgia and Russia steadily began to worsen due to Russia’s recognition of the separatist territories and increased economic and political support. In August, separatists in South Ossetia launched an attack against Georgia, prompting Georgia to invade the capital of South Ossetia, Tskhinvali. Russian forces quickly joined separatist fighters in South Ossetia and began attacking Georgia in large-scale military maneuvers. By October, a ceasefire had been negotiated and Russia had mostly withdrawn its troops from Georgia proper, although Russian forces still remain in South Ossetia and Abkhazia today. 57 Only Russia and three other UN members (Nicaragua, Venezuela, and Nauru) recognize South Ossetia and Abkhazia as independent states. Of course, Russian officials deny that the fighting on Georgian territory constituted a war between

56 Allison, 177.
57 Nichol, 2–10.
Russia and Georgia. Instead, they represent it as a Georgian military attack on South Ossetia, which catalyzed a necessary, internationally mandated Russian peacekeeping response, associated with high-minded international responsibilities.\footnote{Allison, 174–75.}

Some scholars have suggested that the Georgian war developed a template in Russia that these scholars term the ‘Expulsion of Foreign Enemies,’ a story that allowed them to spin the narrative in such a way as to defend and legalize their actions. This narrative consists of the following parts:

“1. An initial situation, in which Russia is peaceful and not interfering. 2. Trouble, in which a foreign enemy attacks Russia without provocation. 3. Russia nearly loses everything in total defeat as it suffers from the enemy’s attempts to destroy it as a civilization. And finally, 4. Through heroism and exceptionalism, against all odds, and acting alone, Russia triumphs and succeeds in expelling the foreign enemy and defeating this enemy in its own land.”\footnote{Wertsch, 381.}

In the case of the war in Georgia, Russia was able to apply this narrative to the Georgian forces who were attacking South Ossetia and the Russian forces who had come to their defense. This allowed Russia to advance their core legal arguments justifying their incursion into South Ossetia as those of self-defense.\footnote{Allison, 175.} In February of 2008, Russian president Vladimir Putin met with Georgian president Mikheil Saakashvili to discuss Russian-Georgian relations. Sergei Lavrov, speaking on behalf of Putin, said that, “the President emphasized the need to comply strictly with all the arrangements for the settlement of the Abkhaz and South Ossetian conflicts with full consideration of interests of the parties.”\footnote{Президент особо подчеркнул необходимость строго выполнять все имеющиеся договоренности по урегулированию абхазского и югоосетинского конфликтов при полном учете интересов сторон. Solianskaia. Translation by Melanie Dalby.}
In essence, this was preparing the narrative of self-defense by acknowledging equal importance for both Georgia and the separatist groups.62 However, the legality of self-defense is not enough, since Russian forces intervened to assist the separatists. The International Criminal Court has found no general right of intervention in support of an opposition within another state.63 Russia needed to prove that Georgian aggression into South Ossetia directly threatened it or its citizens. As a result, in August 2008, Moscow advanced a claim with wide foreign policy reverberations, a claim that they still utilize to this day. Dmitri Medvedev, who had become president of the Russian Federation in May of that year, stated, “In accordance with the Constitution and the federal laws, as President of the Russian Federation it is my duty to protect the lives and dignity of Russian citizens wherever they may be.”64

Russia widely distributed Russian passports to residents in South Ossetia and Abkhazia (without Georgian consent) over a short period of time, just before the beginning of conflict. Therefore, by the time the conflict began, Russia could technically advance this narrative of protecting their citizens abroad. Critics of this movement, however, contest that this is questionable at best because the purpose of granting such citizenship was to justify in advance the use of force.

To justify continuing Russian military action beyond South Ossetia and advancing into Georgia, Russia claimed it was conducting a “peace coercion operation…for troops to be able to operate in a normal situation,” which necessitated that, “the enemy infrastructure directly supporting combat operations. . . be neutralized.”65 This reasoning is similar to how NATO

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62 Self defense is acknowledged under Article 51 of the UN Charter.
63 Allison, 175.
64 В соответствии с Конституцией и федеральным законодательством как Президент Российской Федерации я обязан защищать жизнь и достоинство российских граждан, где бы они ни находились. Ministerstvo inostrannykh del Rossiiskoi Federatsii. Translation by the Kremlin, “Statement on the Situation in South Ossetia.”
65 Allison, 180.
justified their operations in Libya, operations which Russia criticized heavily. However, during the Georgia War two years earlier, Russia utilized the same rhetoric they would later condemn. NATO operations extended beyond simply defending citizens under duress and moved into direct aggression against the pro-Gaddhafi government forces, something they were not legally justified in doing, just as Russian forces in defense of South Ossetia were not justified in moving into Georgia if they were there simply to defend South Ossetian autonomy.

Given Russia’s vehement rejection of humanitarian norms as a justification for NATO intervention in Kosovo in 1999, it is interesting that they would then decide to advance those same norms (in the context of protecting their own citizens abroad) as their primary motivation for interference in Georgia. It had the effect of turning the issue of humanitarian catastrophe into a sort of trump card that Russia hoped could successfully persuade foreign states of the justice of Russian operations. As many predicted, the war in Georgia allowed Moscow to relativize the interpretation of customary international law on the use of force and the nature of sovereignty. That is to say, the risk remained that a wider contest between Russia and the West over international norms and sovereignty could link regional and systemic level antagonisms in other areas of contention, such as Ukraine, and that these antagonisms would be enabled by the difference between Russia’s relativized definition of acceptable intervention and the West’s.

9. Case Study: Ukraine

In November 2013, Ukrainian president Viktor Yanukovych withdrew from an Association Agreement with the European Union. This agreement, largely supported by the Ukrainian population, would have moved Ukraine, politically and economically, towards the West and

66 Ibid., 182.
67 Ibid., 186.
68 Ibid., 174.
further away from their ties with Russia. A large group of students gathered in Ukraine’s Independence Square (Maidan Nezalezhnosti) in protests that quickly grew to encompass hundreds of thousands of people and lasted well into the new year, with people occupying the square and refusing to leave until Yanukovych’s regime was changed.\footnote{Diuk.} Amid these growing tensions, the region of Crimea (in which there was a slight majority of ethnic Russians) voted to hold a referendum on independence. The move was largely regarded as illegal in the international community, but was supported by Russia. Circumstances surrounding the parliamentary votes on whether to hold the referendum and what the referendum should say aroused international suspicion, with many accusations launched of rigging the polls or underhanded pressure to change votes. On March 16, Crimean residents voted on this referendum. The ballot had two choices:

1. Do you support the reunification of Crimea with Russia with all the rights of the federal subject of the Russian Federation?
2. Do you support the restoration of the Constitution of the Republic of Crimea in 1992 and the status of the Crimea as part of Ukraine?\footnote{1. Вы за воссоединение Крыма с Российской на правах субъекта Российской Федерации? 2. Вы за восстановление действия Конституции Республики Крым 1992 года и за статус Крыма как части Украины? Mirnoe. Translation by the BBC.}

On March 4, 2014, Russian ambassador Vitaly Churkin presented the UN with a letter from Yanukovych, who had already been ousted from the presidency, asking that Putin send troops to Ukraine to help restore order. It was a retroactive move, because on March 1, Russian troops were reported as having entered the Crimean peninsula and occupying the region.\footnote{Churkin.} Putin claimed that the intervention, in large part, was to defend Russian-speaking minorities in the region from threats to life and health, among other humanitarian purposes.\footnote{Reeves, 227.} This mirrors the sort of rhetoric Russia used to justify its intervention in Georgia: since defense of Russian citizens had already worked...
once as a justification, Russia decided to use it again, with even less legal precedence. Now instead of hastily issuing passports, Russia felt comfortable in claiming a responsibility to ethnic Russian civilians in Crimea, despite the fact that they were technically Ukrainian citizens. Despite mass warnings and explicit disapproval from the international community, Russian leaders persisted in the claim that there were “regions in which Russia has privileged interests,” specifically regions with which Russia shared special historical relations, and that these neighbors shared the same privileged interests in Russia.  

Russia’s recognition of South Ossetia and Abkhazia fueled the hopes of Russian nationalists who believed that Crimea (by loose analogy) also deserved some degree of greater autonomy. In addition to this nationalist support, after the Georgian war Russia took steps to write its actions into its laws, to ensure that any future decisions of military intervention would be protected. Specifically, the Federal Law on Defense was amended to explicitly permit the use of Russian military force abroad to prevent aggression against other countries, to defend Russian units deployed abroad, and protect Russian citizens. This wording was deliberately vague: “countries” by Russian definition would therefore also include the “states” of South Ossetia and Abkhazia, and as would become clear in Ukraine, the Crimean peninsula.

Moscow’s effort to legitimize the forceful protection of Russian citizens on self-proclaimed grounds is, essentially, the only legal claim Russia has to support its invasion of Crimea, despite its tenuousness. This, combined with the “self-determination of peoples” argument advanced

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73 Allison, 188.
74 Ibid.
75 Kremlin, “Proekt Federal’nogo zakona.”
76 Allison, 191.
during the Georgia conflict, is presented by Russia as justifying forceful action beyond Russia’s own borders.\textsuperscript{77}

The UNSC veto system allows a permanent member to unilaterally block international action, even if that means that a state may commit mass atrocities against its own citizens.\textsuperscript{78} By deliberately defining both the situations in Georgia and Ukraine as involving their own citizens, Russia is able to justify acts of military intervention under the guise of the responsibility to protect these citizens. However, Russia is also able to use the veto to prevent a precedent of military intervention being established in order to avoid having the same fate visited upon them for their actions in CIS territories. As Shane Reeves concluded, “while the legal concept of humanitarian intervention may allow for a solution to an immediate crisis, such as that in Syria, it may also allow for an opportunist state, such as Russia, to exploit the amorphous nature of morality to justify an intervention into a coveted territory, such as the Ukraine.”\textsuperscript{79} The moral imperative advanced by R2P is thereby twisted in order to provide the best net benefit to the state using such responsibility to justify their encroachment upon state sovereignty.

\textbf{10. Conclusion}

The R2P norm concerns the responsibility of a state to protect populations within its own borders, the measures that the international community must take to assist that state in protecting its populations, and the international community’s responsibility to take action through the UN, when the state in whose borders the populations are found fails to protect them. It does not confer authority on an individual country to act unilaterally to protect its nationals located outside its own

\textsuperscript{77} Ibid.
\textsuperscript{78} Reeves, 210.
\textsuperscript{79} Ibid., 212.
Perhaps most crucially, there is no legal authority for a R2P-based military intervention without UNSC approval, which Russia lacked in both Georgia and Ukraine. This is particularly important given the significance Russian leaders attach to formal UNSC authorization (due to the fact that UNSC offers Russia international veto power) in appeals to deploy military personnel to uphold peace and security.

The paradox of the situations in both Georgia and Ukraine is that for years, Moscow has appealed to international law to constrain forceful interventions by the U.S. and its allies in areas such as Kosovo, Libya, and Syria. These interventions, made under the umbrella of R2P, remain contentious due to the nonexistent legal framework of R2P and its implementation. To solve this problem, the development of international law that enforces and furthers humanitarian ideals can only be fully recognized by developing bona fide, responsible, collective intervention—a method intrinsically tied to implementation of R2P.

The question is how to develop such an international law. Some, like Louis Henkin, say that amending the UN Charter to develop a form of collective intervention beyond a ‘veto-bound Security Council’ is virtually impossible, and instead rely upon a form of ‘gentlemen’s agreement’ among the permanent members. On the other hand, the current iteration of Responsibility to Protect already relies upon a form of a ‘gentlemen’s agreement’ in the UN, due to the lack of established law. As shown in the situations from Kosovo and beyond, this implicit agreement is not enough.

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80 The Global Centre for the Responsibility to Protect, 2.
81 Allison, 185.
82 Ibid.
Prospects for future interaction seem bleak. If the international community loses legal control over the use of force and application of military intervention, states will simply define for themselves when acts of aggression are morally justified. And as has been shown in such situations in Kosovo, Libya, Syria, Georgia, and Ukraine, which use the same amorphous moral imperative of Responsibility to Protect, each country has vastly different views of what definition of R2P allows unilateral action. It is only by centralizing control of use of force decisions through the comprehensive development of a legal framework that the international community can attempt to harness the devastation of international armed conflicts and achieve its stated aim to protect human rights globally.

Works Cited


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84 Reeves, 225.
85 Ibid.


