



Chinese Attitudes to International Law: China, the Security Council, Sovereignty, and Intervention

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I. INTRODUCTION

This note assesses China's engagement with the United Nations Security Council. Its focus is on the tension between China's traditional emphasis on non-intervention, and the increasing pressure on China to act as a responsible global power. To this end, China's voting record in the Security Council and its relations with 'rogue' states will be considered. China's involvement in UN peacekeeping will then be assessed, and I will argue that despite increases in China's peacekeeping commitment, its role should not be overstated.

The focus of this paper will then turn to the specific issue of China's position on intervention and the relevant preconditions for China to support such action in the Security Council. I believe that while a number of 'factors' may be publicly endorsed, in practice China has been inconsistent in exercising its decision whether to support or oppose Security Council action. In this context, China's attitude to the responsibility to protect ("R2P") will then be considered. It will be argued that China's recent veto of Security Council resolutions on Syria do not signify a more 'activist' China, but are rather a direct result of the speed with which R2P developed and China's inability to control the implementation and growth of this concept. In my view, while China will continue to resist the development of R2P, it will hope to return to its policy of abstention as soon as possible.

II. CHINESE FOREIGN POLICY

A. The Evolution of China's Foreign Policy

Since the formal establishment of the People's Republic of China ("PRC") in 1949, China's foreign policy has adhered to a "strong normative framework" centered on respecting

sovereignty and non-intervention.¹ This framework is in part derived from China's historical experiences of victimization during the so-called "century of humiliation", and its resistance to criticism of its ambition to govern "one-China" (including Tibet, Xinjiang and Taiwan).² These experiences have led the PRC to defend conventional notions of sovereignty.³

In 1953 and 1954, Chinese Premier and Foreign Minister Zhou Enlai set out the Five Principles of Peaceful Coexistence, which now form part of the Preamble to China's Constitution.⁴ These principles include mutual respect for sovereignty and territorial integrity, mutual non-aggression, and non-interference in other state's internal affairs.⁵ Throughout the Cold War, China practiced strict adherence to these principles, for example, by refusing to participate in Security Council votes on peacekeeping, or to contribute to UN missions.⁶

In the late 1970s, Deng Xiaoping emphasized a "low profile" foreign policy which allowed China to focus on its economic development, and its doctrinal attachment to sovereignty began to change.⁷ China's respect for the principle of non-intervention remained a key part of this policy, for example, following the Tiananmen Square incident in 1989 when China was resistant to foreign criticism, arguing that foreign governments were "not qualified to punish China".⁸

¹ Jochen Prantl & Ryoko Nakano, *Global Norm Diffusion in East Asia: How China and Japan Implement the Responsibility to Protect*, CENTER FOR NON-TRADITIONAL SEC. STUD., Jan. 2011, at 10.

² *Id.*

³ Allen Carlson, *Helping to Keep the Peace (Albeit Reluctantly): China's Recent Stance on Sovereignty and Multilateral Intervention*, 77 PAC. AFF. 1, 11 (2004).

⁴ Jonathan Davis, *From Ideology to Pragmatism: China's Position on Humanitarian Intervention in the Post-Cold War Era*, 44 VAND. J. OF TRANSNAT'L L., 225 (2011).

⁵ *Constitution of the People's Republic of China*, 4 December 1982 (Preamble).

⁶ Davis, *supra* note 4, at 226.

⁷ Ken Sofer, *China and the Collapse of its Noninterventionist Foreign Policy*, CENTER FOR AM. PROGRESS, Mar. 8, 2012.

⁸ *Id.*

Since the end of the Cold War, Chinese foreign policy has shown “greater moderation, engagement, and integration”.⁹ For example, in relation to issues of intervention, the conversations in Beijing are said to have changed from how to defend the principle of non-interference, to debating the conditions that would justify intervention.¹⁰

B. Current Foreign Policy

According to China’s Ministry of Foreign Affairs, China “unswervingly” pursues an “independent foreign policy of peace”, and has as its aims the preservation of China’s “independence, sovereignty and territorial integrity”, the creation of a “favorable environment for China’s reform” and the maintenance of “world peace”.¹¹

China’s foreign policy goals have been described as including first, regime security; secondly, preserving territorial integrity; and thirdly, promoting its image as a responsible international power.¹² This list is not exhaustive, and clearly other factors, such as China’s economic investments, may have a significant impact on its foreign policy. For example, in 2010 China had \$3.4 billion in foreign investment in Iran, Algeria, Nigeria, and Sudan.¹³ These investments had a significant impact on China’s policy toward these states.

While the goals of China’s foreign policy are relatively clear, these goals are at times contradictory, and it is arguable that in practice China has demonstrated a lack of an “integrated grand plan” in its foreign policy strategy.¹⁴ For example, as argued in this note, China’s commitment to the principle of non-interference is a basic contradiction, or at the very least in great tension, with China’s position on intervention based on R2P. China sought the

⁹ ROBERT SUTTER, CHINESE FOREIGN RELATIONS 1 (2012).

¹⁰ Stephanie Kleine-Ahlbrandt & Andrew Small, *China’s New Dictatorship Diplomacy*, N.Y. TIMES, Jan. 28, 2012.

¹¹ CHINA’S INDEPENDENT FOREIGN POLICY OF PEACE, MINISTRY OF FOREIGN AFFAIRS OF THE PRC (Aug. 18, 2003).

¹² Sutter, *supra* note 9, at 7.

¹³ Sofer, *supra* note 7.

¹⁴ Sutter, *supra* note 9, at 7.

international prestige of supporting the somewhat ‘fashionable’ development of R2P, but in pursuing its goal of appearing as a responsible power, it has been forced to compromise on its position on non-intervention. As Ken Sofer notes, China is not able to “play a constructive role” in the international system while it maintains a “pure policy” of non-intervention.¹⁵

III. CHINESE PARTICIPATION IN THE SECURITY COUNCIL

A. Overview to China at the UN

China’s participation in the UN reflects its increasingly engaging and active foreign policy. The PRC joined the UN in 1971, replacing the Republic of China as the representative state of China. General Assembly Resolution 2758 provided that the General Assembly “restores all its rights to the People’s Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations.”¹⁶ From 1971 through the early 1980s, China was relatively passive at the UN, joining a small number of UN agencies which would not impinge on its sovereignty.¹⁷ However, Chinese engagement with the UN increased throughout the late 1980s and 1990s as it joined all of the major UN intergovernmental organizations.¹⁸ Since the 1990s, China’s involvement at the UN has continued to increase, such that President Hu Jintao expressed his support for the UN in solving security issues,¹⁹ while Foreign Minister Li Zhaoxing noted that “the hope of the world rests on a

¹⁵ Sofer, *supra* note 7.

¹⁶ G.A. Res. 2758, U.N. GAOR, 26th Sess., Supp. No. 29, at 2, U.N. Doc. A/8439 (Oct. 25, 1971)

¹⁷ Sutter, *supra* note 9, at 100.

¹⁸ *Id.* at 102.

¹⁹ CNN World, *Hu Urges More Support for UN*, (Oct. 24, 2003), http://articles.cnn.com/2003-10-24/world/apec.special.hu_1_australia-and-china-china-s-president-hu-jintao-taiwan?_s=PM:WORLD.

strong UN.”²⁰ This change demonstrates a transition from being “suspicious and nonparticipatory”, to “passively involved with reservations”, to being a “more active and conscious advocate of multilateralism”.²¹ For example, in relation to the developing norm of R2P, China’s proactive involvement in the debates has been argued to indicate that China is acting as a “norm-maker” rather than a “norm-taker”.”²² Similarly, Nicola Contessi argues that through its “discursive interventions” and “declaratory and behavioral stance” on the issue of Darfur, China aimed to shift the “meaning of the norms regulating UN intervention and peacekeeping operations.”²³

While China’s foreign policy has shifted from “passive response” to “active participation”,²⁴ as a general rule “mainstream thinking” in China remains reluctant to lead the Security Council on politically sensitive topics, as its preference is to focus on its own national economic development.²⁵ Nevertheless, China does use its position to frame the agenda of the Security Council; for example, both China and Russia are said to have worked together to minimize consideration of human rights issues in the Security Council.²⁶

B. China’s Voting Record in the Security Council

China has used its veto in the Security Council eight times since 1971, less than any other member of the permanent five.²⁷ Despite its reluctance to use its veto, China has adopted the

²⁰ Foreign Minister Li Zhaoxing, To Enhance the Role of the United Nations, in Promotion of Peace and Development, Address to UN General Assembly (Sept. 24, 2001); see Jianwei Wang, *China’s Multilateral Diplomacy in the New Millennium*, in CHINA RISING: POWER AND MOTIVATION IN CHINESE FOREIGN POLICY 65 (Yong Deng and Fei-Ling Wang eds., 2005).

²¹ Wang, *supra* note 20, at 164.

²² Prantl & Nakano, *supra* note 1, at 11.

²³ Nicola Contessi, *Multilateralism, Intervention and Norm Contestation: China’s Stance on Darfur in the UN Security Council*, 41 SEC. DIALOGUE 326. (2010).

²⁴ Wang, *supra* note 20, at 164.

²⁵ David Bosco, *Abstention Games on the Security Council*, THE MULTILATERALIST, Mar. 17, 2011.

²⁶ Michael Fullilove, *China and the United Nations: The Stakeholder Spectrum*, 34 WASH. Q., 78 (2011).

²⁷ Wee, *supra* note 27.

practice of abstention on Security Council votes as a key part of its strategy. China's reluctance to use its veto power is said to reflect a "cautiousness" in Beijing as to the exercise of its power.²⁸ In contrast, the United States exercised its veto 76 times from 1971 to 2006.²⁹ Notably, two of the eight vetoes exercised by China have occurred in the last 12 months. It may be argued that this recent use signifies an increasingly confident and resolute China, but I disagree with this analysis, and view China's vetoes as a product of the particular circumstances and its desire to prevent the development of R2P.

1. China as the Sole Veto

China has acted as the sole veto on Security Council resolutions on three occasions.³⁰ First, China vetoed the admission of Bangladesh in 1972 as a show of support to Pakistan. However, two years later China did not veto the admission of Bangladesh, a move that arguably demonstrates that China was "uncomfortable" sitting as the sole veto, especially where the veto did not directly serve its own interests.³¹ Second, China vetoed a resolution which would have sent peacekeepers to assist with Guatemala's peace process. Chinese Ambassador Qin Huasun explained the veto on the basis of Guatemala's support for Taiwan, noting that Taiwan was "a major question of principle" bearing upon China's sovereignty, and that "no country's peace process should be at the expense of another country's sovereignty".³² Third, China vetoed the extension of UN observers to Macedonia in 1999 (and closed its embassy in the country), as Macedonia had established diplomatic relations with Taiwan after a promise of a \$1 billion

²⁸ Editorial, *Era of Abstention Shifts to Confident Veto*, GLOBAL TIMES, Feb. 6, 2012.

²⁹ Shichor, *supra* note 29.

³⁰ Della Fok, *The Emergence of a Superpower: China's UN Policies from 1971 to Present*, DUKE E. ASIA NEXUS, May 12, 2011.

³¹ *Id.*

³² Farhan Haq, *The China Veto and the Guatemalan Peace Process*, GLOBAL POLICY FORUM, 20 Jan. 20, 1997.

investment.³³ Della Fok concludes that these examples show that recognition of Taiwan is “nonnegotiable”.³⁴ However, this does not seem to account for China’s decision not to veto the UN operation in Haiti despite its diplomatic relations with Taiwan.³⁵

2. Joint Sino-Russian Vetoes

China has vetoed Security Council resolutions with Russia (or the Soviet Union) on five occasions. It is argued that it would overstate the Chinese-Russian voting alliance to describe it as a “strategy”, but it rather simply shows greater “practical cooperation”.³⁶ First, China exercised its veto on the ceasefire in the Middle East in 1973, “most likely” because of China’s ties to the Soviet Union.³⁷ Secondly, China then vetoed a resolution criticizing human rights violations in Myanmar in 2007. China’s motivation behind the veto was arguably to “protect itself” in case it became the target of the next round of criticism.³⁸ Third, China vetoed a resolution proposing sanctions against Zimbabwe in 2008. Fok suggests that this veto was intended to show “solidarity” with the developing world and Africa, while recognizing that China had significant economic interests in Zimbabwe (having just signed a \$1.3 billion energy deal with Zimbabwe).³⁹ Finally, China has vetoed two separate Security Council resolutions on Syria in the past 12 months.

³³ Alexander Casella, *Macedonia: Taiwan’s Lost Gambit*, ASIA TIMES ONLINE, (11 July 2001), <http://www.atimes.com/china/CG11Ad02.html>.

³⁴ Fok, *supra* note 30.

³⁵ See Fullilove, *supra* note 26, at 70.

³⁶ JOEL WUTHNOW, *BEYOND THE VETO: CHINESE DIPLOMACY IN THE UNITED NATIONS SECURITY COUNCIL* (2011) (quoting Colin Keating).

³⁷ Fok, *supra* note 30.

³⁸ *Id.*

³⁹ *Id.*

3. An Era of Abstention

China's tendency to abstain from Security Council votes has led to it being labeled "Mr Abstention".⁴⁰ China's abstention from votes has been said to be its "preferred instrument of showing its opposition",⁴¹ and forms "a key part of its UN strategy".⁴² In this respect, China's abstentions have been "remarkably consistent", based on a sensitivity to UN sanctions or intervention, and to resolutions that appear to undermine the sovereignty or the territorial integrity of the target state.⁴³ China's abstention strategy allows it to focus on its own economic development,⁴⁴ and has allowed it to convey its disapproval on resolutions without "alienating allies" through exercising its veto.⁴⁵

4. The End of the Era of Abstention?

Prior to the vetoes of the Security Council resolutions on Syria, the Russian and Chinese abstention on the Libya resolution was argued to signal how "disfavored" the veto had become.⁴⁶ Robert Sutter argues that the use of the veto may be regarded as a "breach of a developing informal norm of nonuse".⁴⁷ The significance of China's veto on Syria is considerable, given that Secretary General Ban Ki-Moon had urged the permanent five members of the Security Council against using the veto "in situations of manifest failure to meet obligations relating to the responsibility to protect".⁴⁸ It chose to exercise its veto on an important resolution, with the world's media watching closely.

⁴⁰ Cary Huang, *For Beijing, it's no more Mr Abstention*, CHINA NEWS WATCH, Feb. 28, 2012.

⁴¹ Contessi, *supra* note 23, at 339.

⁴² Fok, *supra* note 30.

⁴³ Shichor, *supra* note 29.

⁴⁴ Huang, *supra* note 40.

⁴⁵ Shichor, *supra* note 29.

⁴⁶ See, e.g., Bosco, *supra* note 25.

⁴⁷ Sutter, *supra* note 9, at 104.

⁴⁸ Ian Williams, *Ban Ki Moon and R2P*, FOREIGN POLICY IN FOCUS, Aug. 3, 2009.

As a result of its veto on Syria, some commentators have concluded that China's "era of abstention" is now over, and it will no longer abstain where it is strongly opposed to a particular Security Council action.⁴⁹ This apparent shift in practice has even been argued to indicate the arrival of a "revived cold war",⁵⁰ as a more confident and influential Sino-Russian alliance may set itself against the West.

However, in my opinion, China's veto on Syria does not mark the end of an 'era' of abstention. Rather, the development of R2P presented such a significant threat to China's principle of non-interference, that to abstain on Syria would have compromised the key pillars of its foreign policy. Accordingly, its veto should not be interpreted as signaling a 'new' China, rather it is a reaction to an aggressive attempt by Western states to justify a revised form of humanitarian intervention. It is my view that assuming China and Russia can block or constrain the development of R2P to a narrow set of circumstances, China will be eager to return to its passive policy of abstention.

C. China's Compliance with Security Council Sanctions

China has "overtly flaunted" a number of Security Council sanctions, or at least subjected them to "uneven enforcement".⁵¹ For example, a UN report in 2010 alleged that Chinese ammunition was shipped to Darfur in violation of Security Council sanctions.⁵² Similarly, following the Security Council sanctions on Libya, a number of Chinese arms manufacturers were still found to have tried to sell weapons to Qaddafi's forces.⁵³ Finally, China's commercial contracts entered into in 2009 with North Korea arguably violated the terms of Security Council

⁴⁹ Frank Ching, *The Era of Abstention by China is Gone*, NEW STRAIT TIMES, Feb. 16, 2012.

⁵⁰ Huang, *supra* note 40.

⁵¹ Sofer, *supra* note 7.

⁵² Colum Lynch, *UN Report: Chinese Bullets used to attack Peacekeepers in Darfur*, FOREIGN POL'Y, Oct. 15, 2010.

⁵³ Sofer, *supra* note 7.

Resolution 1874, and its prohibition on commercial agreements with the North.⁵⁴ China's failure to comply and adhere to the terms of Security Council resolutions demonstrates that while it may support these resolutions to maintain international prestige, it will still try to further its national interest where it is able to do so.

D. China's Position on Iran

China has been accused of playing "fast and loose on Iran".⁵⁵ Given China's significant energy ties with Iran, its perception of Iran as a partner in the Middle East and its adherence to the principle of state sovereignty, China has been "most reluctant" to agree to UN sanctions.⁵⁶ When China has succumbed to agree to UN sanctions, together with Russia it has adopted a "delay and weaken" strategy to lessen the effect of those sanctions.⁵⁷

In its policy toward Iran, China has acted as though it "did not want to choose" between its concern to cooperate with the West, and sacrificing its energy ties with Iran.⁵⁸ China's energy and oil interests in Iran are significant. In 2010, China received 11.4% of its oil from Iran.⁵⁹ In 2011, China was Iran's single largest customer of oil, purchasing 20% of Iranian oil at a value of \$16 billion.⁶⁰ While China has not openly indicated a change in its policy toward Iran, Chinese energy transactions with Iranian companies are in decline – for example, Chinese Unipecc plan to cut 10-20% of its crude oil imports from Iran in 2012.⁶¹ This reduction may indicate a policy decision within China to move away from transactions with states that pose a significant political risk.

⁵⁴ Gordon Chang, *Beijing is Violating North Korea Sanctions*, WALL ST. J., Oct. 15, 2009.

⁵⁵ Fullilove, *supra* note 26, at 74 (quoting a UN official).

⁵⁶ *Id.*

⁵⁷ Fullilove, *supra* note 26, at 75.

⁵⁸ Sutter, *supra* note 9, at 308.

⁵⁹ Daniel Workman, *China's Top Suppliers of Imported Crude Oil by Country in 2010*, INT'L TRADE, Mar. 4, 2011.

⁶⁰ Kenneth Katzman, *Iran Sanctions*, CRS Report for Congress: Congressional Research Service, Feb. 10, 2012.

⁶¹ Sofer, *supra* note 7.

E. China's Position on North Korea

China's relationship with North Korea has compromised the ability of the Security Council to respond to North Korean provocations. North Korea's missile and nuclear tests in 2009 provide a good example of China's obstructionist attitude in the Security Council. On April 5, 2009, North Korea launched a long-range ballistic missile. China argued against a Security Council resolution or sanctions, urging the Security Council to "act prudently".⁶² Accordingly, the Security Council adopted a President's Statement on April 14th.

However, China was unable or unwilling to resist Western pressure and Security Council action following North Korea's nuclear test on May 25, 2009. Accordingly, China voted in favor of Security Council Resolution 1874, which "sharpened" its weapons import-export ban on North Korea, and noted its "resolute" opposition to the test.⁶³ However, China's affirmative vote was couched with strong non-interventionist language. For example, China noted that its supporting vote for Resolution 1874 was based on the emphasis on dialogue and negotiations in the resolution.⁶⁴ China noted the need to respect the territorial integrity and sovereignty of North Korea, stressing that "under no circumstances should there be use of force or threat of use of force".⁶⁵ China also stated that as a sovereign state North Korea should "have the right to peaceful use of nuclear energy" on returning to the Nuclear Proliferation Treaty.⁶⁶

⁶² Scott Snyder, *China-Korea Relations: Pyongyang Tests Beijing's Patience*, COMP. CONNECTIONS, July 2009.

⁶³ *Id.*

⁶⁴ Un. Sec. Council, *Security Council, Acting Unanimously, Condemns in Strongest Terms Democratic People's Republic of Korea Nuclear Test, Toughens Sanctions*, SC/9679, Security Council 6141st Meeting (June 12, 2009)

⁶⁵ *Id.*

⁶⁶ *Id.*

Similarly, following North Korea's unprovoked sinking⁶⁷ of the ROKS Cheonan (PCC-772), a South Korean navy ship in 2010 and death of 46 sailors,⁶⁸ China's "diplomatic maneuvers" managed to limit the Security Council's response to an "absurdly, dangerously lame" statement from the Security Council President.⁶⁹ A further example of China's position on North Korea arose in 2010, when China prevented the Security Council from condemning North Korea over the development of a new uranium enrichment facility and its artillery attack on South Korea.⁷⁰

F. China's Position on Zimbabwe

China has adopted a sympathetic position toward Zimbabwe. This position has been, in part, reciprocal. Following the Tiananmen Square incident, Zimbabwean President Robert Mugabe defended the actions of the Chinese government.⁷¹ In 2005, Chinese President Hu Jintao referred to President Mugabe as a "much respected old friend of the Chinese people."⁷² This 'friendship' was well-illustrated in 2008, where 70 tons of arms were sent from China intended for President Mugabe.⁷³

The alliance between the two countries is also evident from China's conduct in the Security Council. In 2008, China and Russia vetoed a Security Council resolution which sought to impose sanctions (a travel ban on President Mugabe, frozen assets, and an arms embargo)

⁶⁷ While North Korea rejected the claim as a "fabrication", an international report found that the evidence pointed "overwhelmingly to the conclusion that the torpedo was fired by a North Korean submarine." *North Korean torpedo sank South's navy ship*, BBC NEWS, (May 20, 2010), <http://www.bbc.co.uk/news/10129703>.

⁶⁸ *Id.*

⁶⁹ Fullilove, *supra* note 26, at 77.

⁷⁰ *Id.*

⁷¹ David Shinn, *China's Relations with Zimbabwe, Sudan, and the Democratic Republic of Congo*, ELLIOT SCH. OF INT'L AFF. (Mar. 15, 2008), <http://elliott.gwu.edu/news/speeches/shinn031508.cfm>.

⁷² Sutter, *supra* note 9, at 323.

⁷³ Note that the South African dockworkers refused to unload the cargo. *See* U.S. DEPARTMENT OF DEFENSE, ANNUAL REPORT TO CONGRESS ON THE MILITARY POWER OF THE PEOPLE'S REPUBLIC OF CHINA, at 56 (2009).

against Zimbabwe.⁷⁴ In 2009, Chinese Ambassador Yuan sought to explain the veto retrospectively citing the formation of an inclusive Zimbabwean government as a direct result of the veto, while also emphasizing China's coalition with "most African countries" in opposing the resolution.⁷⁵ This alliance has endured. In 2011, Chinese Vice Premier Wang Qishan visited Zimbabwe, and "promised to lobby" for the lifting of Security Council sanctions against President Mugabe.⁷⁶

G. The Increasing Risks of Friendship with Rogue Regimes

China's principle of non-intervention and respect of sovereignty has provided it with significant economic opportunity, investing in rogue regimes such as Zimbabwe and Sudan where there is little other international interest. However, the negative impact of supporting these states on China's international image is "beginning to outweigh the economic incentives".⁷⁷

Furthermore, China's involvement with these regimes also carries a financial risk because where there is a change in government or political uprising, China's assets and personnel may be compromised. For example, China's Railway Construction Company lost \$4.24 billion after the uprising in Libya, and 54 Chinese workers were kidnapped in Egypt and Sudan in February 2012.⁷⁸ Accordingly, as international pressure and condemnation of rogue states continues to increase, China may be forced to reassess whether the benefits of investing in these states outweigh the potential risks that its commercial agreements may be frustrated.

⁷⁴ Sutter, *supra* note 9, at 323.

⁷⁵ *China Justifies Veto of Zimbabwe Sanctions*, Embassy of the People's Republic of China in the Republic of South Africa, June 25, 2009.

⁷⁶ *Zimbabwe, China Signs \$585 million Trade Agreements*, MAIL & GUARDIAN ONLINE, (Mar. 21, 2011), <http://mg.co.za/article/2011-03-21-zimbabwe-china-sign-585million-trade-agreements>.

⁷⁷ Sofer, *supra* note 7.

⁷⁸ *Id.*

H. China's Use of Its Soft Power

Despite China's official hard line on sovereignty issues, China has in many cases used its position and leverage to influence regimes. For example, despite China's veto of the resolution on the situation in Myanmar/Burma, China played a "pivotal role" in arranging a visa for UN Special Envoy to Myanmar and ensuring access to key personnel in Yangon.⁷⁹ Similarly, despite China's objection to sanctions against Sudan, the Chinese Special Envoy to Sudan warned Sudan "not to do things that will cause the international community to impose sanctions on them," and reportedly played a key role in 2006 to broker the 'Annan Plan' in deploying peacekeepers to Darfur.⁸⁰

IV. CHINA AND UN PEACEKEEPING

China's position on UN peacekeeping provides an insight into China's approach to the international community, its position as a world power, its views on sovereignty, and its commitment to international norms.⁸¹ Importantly for the purposes of this note, China's engagement in UN peacekeeping suggests an increasing flexibility as to its insistence on respecting sovereignty and the principle of non-interference.⁸²

⁷⁹ Sarah Teitt, *China and the Responsibility to Protec*’, ASIA-PACIFIC CENTRE FOR THE RESPONSIBILITY TO PROTECT, Dec. 19, 2008, at 7.

⁸⁰ *Id.*

⁸¹ Bates Gill & Chin-Hao Huang, *China's Expanding Role in Peacekeeping*, SIPRI POLICY PAPER, Nov. 25, 2009, at 2.

⁸² Miwa Hirono & Marc Lanteigne, *Introduction: China and UN Peacekeeping*, 18 INT’L PEACEKEEPING, 244 (2011).

A. China's Changing Attitude to UN Peacekeeping

Prior to admission to the UN in 1971, Beijing was strongly opposed to all peacekeeping operations.⁸³ On admission to the UN, China continued to reject “the entire concept of peacekeeping”.⁸⁴ As a result, through the 1970s China abstained on peacekeeping votes in the Security Council, considering the resolutions authorizing action to be a tool of United States imperialism.⁸⁵ China would label any form of intervention as an exercise of American or Soviet hegemony in the developing world. Indeed, until the early 1980s, China was “one of the most vocal critics” of any form of intervention.⁸⁶

In 1981, China voted for the first time on peacekeeping in the Security Council, supporting Security Council Resolution 495 on Cyprus.⁸⁷ China then made its first financial contribution to peacekeeping in 1982, and was accepted as a member of the UN Special Committee on Peacekeeping Operations in 1988.⁸⁸ In 1989, China contributed its first civilian observers to Namibia.⁸⁹ Over the next few years, China sent personnel to the UN Truce Supervision Organization, the Iraq-Kuwait Observation Mission, the United Nations Transitional Authority in Cambodia, the UN mission in Mozambique, and the UN Mission in Liberia.⁹⁰ China's engagement with UN peacekeeping had begun.

⁸³ International Crisis Group, *China's Growing Role in Peacekeeping Operations*, ICG ASIA REP. NO. 166, Apr. 17, 2009, at 3.

⁸⁴ *Id.* at 1.

⁸⁵ Bosco, *supra* note 25.

⁸⁶ Carlson, *supra* note 3, at 12-13.

⁸⁷ Gill & Huang, *supra* note 81, at 4.

⁸⁸ *Id.*

⁸⁹ Hirono & Lanteigne, *supra* note 82, at 243.

⁹⁰ Carlson, *supra* note 3, at 16.

B. China's Peacekeeping Contributions

1. The Number of Chinese Peacekeepers

As of January 2012, China contributed 1,896 military and police personnel to UN operations, ranking 16th out of contributing countries.⁹¹ From April 1990 to July 2010, China had deployed over 15,600 personnel to 18 UN missions.⁹² Within the Security Council, China sends more peacekeepers to UN missions than any of the other permanent five members of the Security Council.⁹³ Indeed, within Africa, Chinese personnel represent 63 percent of troop contributions within the permanent five.⁹⁴

However, in my view the academic literature overstates the increase in Chinese peacekeeping contributions. For example, a SIPRI Policy Paper ("China's Expanding Role in UN Peacekeeping") noted that in 2009, China deployed over 20 times the number of peacekeepers as it did in 2000.⁹⁵ Such statements evoke a sense of momentum or continued progress. However, this is less impressive given that China contributed only 52 peacekeepers in January 2000.⁹⁶ Given that the increase in number of Chinese peacekeepers from April 2003 to the end of 2004 rose from 329 to 1,036,⁹⁷ in the past eight years the growth rate has been relatively slow. In fact, the current trend is actually a decline in Chinese contributions, with the

⁹¹ U.N. Report, *Ranking of Military and Police Contributions to UN Operations*, http://www.un.org/en/peacekeeping/contributors/2012/jan12_2.pdf (last visited Jan. 31, 2012).

⁹² Hirono & Lanteigne, *supra* note 82, at 245.

⁹³ United Nations Report, *Contributors to United Nations Peacekeeping Operations Monthly Summary of Contributions*, http://www.un.org/en/peacekeeping/contributors/2012/feb12_1.pdf, (last visited Feb. 29, 2012).

⁹⁴ Carolina McGiffert, *Chinese Soft Power and its Implications for the United States*, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, (March 2009), at 37.

⁹⁵ Gill & Huang, *supra* note 81, at 1.

⁹⁶ United Nations Document, *Monthly Summary of Military and Civilian Personnel Deployed in Current United Nations Operations*, http://www.un.org/en/peacekeeping/resources/statistics/contributors_archive.shtml (last visited January 31, 2012).

⁹⁷ Daniel Griffith, *The Dragon with the Blue Beret: China's Contributions to UN Peacekeeping Operations*, (Dec. 2010) (unpublished B.A. thesis, University of British Columbia), https://circle.ubc.ca/bitstream/handle/2429/30363/ubc_2011_spring_griffith_daniel.pdf?sequence=5.

1,896 personnel serving in 2012 representing a reduction on the 2,038 personnel serving in 2011.⁹⁸ Michael Fullilove also warns against China's peacekeeping contributions being overstated, considering that there are over two million personnel in the Chinese armed forces.⁹⁹

2. China's Financial Contributions

China's financial contributions must be considered when analyzing its overall engagement with UN peacekeeping. Importantly, three of the other permanent five members contribute more financially to UN peacekeeping than China, as does Japan, Germany, and Italy.¹⁰⁰ For the 2011-2012 year, China's financial contribution to UN peacekeeping was 3.94%, while the US contributed 27.17%.¹⁰¹ China contributed just over 3% in 2008,¹⁰² indicating relative stagnation (indeed, no significant growth) in China's financial contribution. In 2008 China's contribution represented .005% of China's GDP, whereas the US contribution represented .01% of its GDP.¹⁰³ Accordingly, China's increasing involvement in peacekeeping should not be overstated, especially considering its continued conservative financial contributions.

3. The Role of Chinese Peacekeepers

Chinese peacekeepers have been described as "among the most professional, well-trained, effective and disciplined contingents in UN peacekeeping operations".¹⁰⁴ Chinese peacekeepers have built more than 73,000 kilometers of roads, treated more than 28,000 patients

⁹⁸ United Nations Report, *Ranking of Military and Police Contributions to UN Operations*, http://www.un.org/en/peacekeeping/contributors/2012/jan12_2.pdf (last visited Jan. 31, 2012).

⁹⁹ Fullilove, *supra* note 26, at 70.

¹⁰⁰ UNITED NATIONS PEACEKEEPING, *Financing Peacekeeping*, , <http://www.un.org/en/peacekeeping/operations/financing.shtml>.

¹⁰¹ United Nations, *Background Note: United Nations Peacekeeping*, <http://www.un.org/en/peacekeeping/documents/backgroundnote.pdf>.

¹⁰² International Crisis Group, *supra* note 83, at 8.

¹⁰³ *Id.*

¹⁰⁴ Fullilove, *supra* note 26, at 70.

and cleared more than 7,500 explosive devices.¹⁰⁵ Until January 2012, Chinese peacekeeping personnel had consisted of non-combat forces, such as engineers, police, medical, and logistics personnel.¹⁰⁶ On January 11, 2012, China deployed its first “combat unit” to a UN Mission, with a small infantry platoon that is to provide protection of Chinese medics and engineers in South Sudan.¹⁰⁷

China has “demonstrated a willingness” to send its personnel to operations where there are safety concerns.¹⁰⁸ For example, following the death of a Chinese peacekeeper in Lebanon in 2006, rather than reducing the number of peacekeepers deployed, China increased its contribution of personnel to the UN mission.¹⁰⁹ Notably, the PRC has suffered 14 fatalities from its UN peacekeeping forces as of February 2012.¹¹⁰

Chinese peacekeepers have come to hold senior and mid-level posts within the UN peacekeeping system. For example, Major General Zhao Jingmin was appointed force commander of the UN Mission for the Referendum in Western Sahara in 2007.¹¹¹ However, Zhao noted that the ratio of Chinese in leadership positions “is still lower than those from other major world powers”.¹¹²

¹⁰⁵ Gill & Huang, *supra* note 81, at 5.

¹⁰⁶ Daniel Hartnett, *China’s First Deployment of Combat Forces to a UN Peacekeeping Mission – South Sudan*, U.S.-CHINA ECON. AND SEC. REV. COMMISSION, Mar. 13 2012, at 3.

¹⁰⁷ *Id.*

¹⁰⁸ US Department of Defense, *Annual Report to Congress on the Military Power of the People’s Republic of China* (2009), at 56.

¹⁰⁹ *Id.*

¹¹⁰ United Nations Peacekeeping, *Fatalities by Nation and Mission up to 31 March 2012*, http://www.un.org/en/peacekeeping/fatalities/documents/StatsByNationalityMission_2.pdf.

¹¹¹ Gill & Huang, *supra* note 81, at 7.

¹¹² *Id.* at 8.

C. Peacekeeping and China's Interests

1. China's International Profile

China's increasing engagement with UN peacekeeping reflects its effort to raise its profile as a responsible power. Engagement in peacekeeping is argued to show a "benign" China, reassuring the world of its peaceful intentions and its commitment to integrating within the existing world order, balancing Western power, and establishing China's status as a "great power".¹¹³ For example, the deputy chief of general staff for the PLA noted that Chinese peacekeeping activities demonstrate China's image as a "responsible superpower" and "sets a glorious example".¹¹⁴

2. China's Domestic Image

China's peacekeeping efforts have also served to promote the image of an active and international China domestically, and improve the perception of the PLA and Chinese police.¹¹⁵ For example, following the death of a Chinese military observer in 2006, the government portrayed him as a hero, while also investing in a twenty-episode television series focused on Chinese peacekeepers.¹¹⁶ These efforts attempt to "soften" the legacy that has perpetuated after the conduct of the armed forces in the Tiananmen Square incident.¹¹⁷

3. Training

Chinese peacekeeping forces benefit from the training given to its military and police and from the associated field experience.¹¹⁸ A Crisis Group interview suggested that "jealousy" was

¹¹³ *Id.* at 12-13.

¹¹⁴ International Crisis Group, *supra* note 83, at 13.

¹¹⁵ *Id.* at 14.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 1.

expressed over the exposure US troops have had to combat experience in Iraq and Afghanistan.¹¹⁹ Accordingly, China has sought to establish exchanges with other countries to benefit from their experience, and has opened a new peacekeeper training center near Beijing.¹²⁰ In addition, China has also increased its participation in joint military exercises and joint naval activities.¹²¹

D. The Global Impact of Increasing Chinese Peacekeeping

1. Advantages of Increased Chinese Forces

China's increased role in UN peacekeeping has been encouraged by the permanent members of the Security Council. For example, during a visit to China, President Obama noted that "a growing economy is joined by growing responsibilities".¹²² In addition to the sheer resources advantage of an active Chinese contribution, there are more indirect advantages to a large Chinese UN peacekeeping presence. For example, China's relationship with developing states and "troublesome" regimes may benefit UN peacekeeping efforts, as it has valuable political and economic leverage that other Western powers may not have.¹²³ Similarly, China's involvement reinforces the legitimacy of UN peacekeeping missions, and may allay concerns that UN missions are a Western intervention.¹²⁴

¹¹⁹ *Id.* at 14.

¹²⁰ Gill & Huang, *supra* note 81, at 6.

¹²¹ *Id.* at 18.

¹²² Andrew Higgins, *China Taking on Growing Role in UN Peacekeeping Missions*, *Wash. Post*, Dec. 2, 2009.

¹²³ International Crisis Group, *supra* note 83, at 1.

¹²⁴ Gill & Huang, *supra* note 81, at 27.

2. Concerns for Balance of Power

China may be concerned about “overstepping” the line of acting as a responsible power, and appearing as a threatening state.¹²⁵ Some commentators, and notably the US military, have expressed this concern. In the U.S. Department of Defense Annual Report to Congress on the Military Power of the PRC in 2011, it was noted that China’s improvements in its peacekeeping capabilities may be used to increase China’s options for “military coercion to gain diplomatic advantage, advance interests, or resolve disputes in its favor”.¹²⁶ The Department of Defense also expressed its concern that China’s improved capability to “operate at greater distances from the mainland” through its peacekeeping exercises may facilitate a Chinese “‘global’ military presence”.¹²⁷

E. Impact of Increased Peacekeeping on China’s Policy of Non-Intervention

The increase in Chinese participation in UN peacekeeping may be argued to indicate that China’s attitude toward sovereignty has “become increasingly flexible”.¹²⁸ For example, China seems to no longer view recognition of Taiwan as a bar on approving a peacekeeping mission.¹²⁹ China had originally adopted an obstructive position on peacekeeping resolutions relating to states which recognized Taiwan. China threatened a veto on extending the peacekeeping operation in Haiti based on “China’s global scorecard on who supports Taiwan”.¹³⁰ China also withdrew its veto of a peacekeeping mission to Guatemala after receiving assurances that

¹²⁵ International Crisis Group, *supra* note 83, at 1.

¹²⁶ US Department of Defense, *Annual Report to Congress on the Military Power of the People’s Republic of China* (2011), 37-38.

¹²⁷ *Id.* 62.

¹²⁸ Prantl & Nakano, *supra* note 1, at 10.

¹²⁹ Gill & Huang, *supra* note 81, at 14.

¹³⁰ ‘China Threatens Veto on Haiti peace force: Move hits UN’s Taiwan Supporters’, *The Washington Times*, February 29 1996.

Guatemala would not support a General Assembly vote on the admission of Taiwan to the UN.¹³¹ However, China now supports the current Haitian mission despite Haiti's recognition of Taiwan.¹³² Similarly, China's deployment of civilian police to East Timor has been said to demonstrate a "significant softening of its attitude toward sovereignty and non-interference".¹³³

Nevertheless, despite China's "softening" on the importance of sovereignty, the traditional Chinese emphasis on sovereignty and non-intervention remain the "most important concern" in Chinese peacekeeping policy.¹³⁴ For example, in 2008 China opposed the Security Council pressuring Burma to accept emergency assistance, and then later that year vetoed a Security Council resolution imposing sanctions on Zimbabwe.¹³⁵

V. CHINA'S POSITION ON INTERVENTION

China has emphasized a number of factors which influence whether it will support intervention. However, the International Crisis Group noted in 2009 that a number of these principles have been qualified to such a degree that it "can no longer be said that they guide Beijing's decision-making on peacekeeping".¹³⁶

A. Compliance with the Principles of the UN Charter

In its statements in the Security Council Open Debates on the Protection of Civilians in Armed Conflict, China continually emphasizes that action taken must "comply with the purposes

¹³¹ Gill & Huang, *supra* note 81, at 13.

¹³² *Id.* 14.

¹³³ International Crisis Group, *supra* note 83, at 6.

¹³⁴ Gill & Huang, *supra* note 81, at 5.

¹³⁵ *Id.* at 11.

¹³⁶ International Crisis Group *supra* note 83, at 19.

and principles” of the UN Charter.¹³⁷ The “principles” that China emphasizes are the “sovereign equality” of all UN members,¹³⁸ that all member states are to refrain from the use of force against the territorial integrity or political independence of any state,¹³⁹ and that the UN may not intervene in matters which are “essentially within the domestic jurisdiction of any state”.¹⁴⁰

China has promoted strict adherence to the terms of the Charter and traditional interpretations of these concepts. For example, the nature of sovereignty has been argued to have changed “dramatically” since 1945, as new expectations have arisen as to how states treat their own citizens.¹⁴¹ In the Report of the International Commission on Intervention and State Sovereignty (“ICISS”) in 2001, the continuing importance of sovereignty was noted, but it was argued that this does not correlate to “unlimited” state power.¹⁴² Rather, the ICISS argued for a “re-characterization” from “sovereignty as control to sovereignty as responsibility”.¹⁴³ China has not embraced this reformulation, preferring to rely on more traditional interpretations of sovereignty.

B. Target State Consent

1. Strong Rhetoric on the Requirement of Consent

China has consistently used strong rhetoric emphasizing the importance of the consent of the host state before authorizing intervention. For example, reliance on consent was invoked by

¹³⁷ For example, see: Statement by Ambassador Li Baodong, ‘Security Council Open Debate on Protection of Civilians in Armed Conflict’, 9 November 2011.

¹³⁸ *United Nations Charter* (1945), Article 2(1).

¹³⁹ *United Nations Charter* (1945), Article 2(4).

¹⁴⁰ *United Nations Charter* (1945), Article 2(7).

¹⁴¹ Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, (2001) 8.

¹⁴² *Id.*

¹⁴³ *Id.* at 13.

China to justify its abstention on Security Council Resolution 929 on Rwanda.¹⁴⁴ Similarly, in East Timor China insisted that any peacekeeping force should only be deployed “at the request of the Indonesian Government”.¹⁴⁵ China was especially careful in this case to insist on Indonesian consent, given that the conflict was within Asia.¹⁴⁶

China’s position on the Sudan may also be argued to demonstrate a “clear and explicit reiteration” of the need to protect the principle of sovereignty.¹⁴⁷ China has consistently pressed for consent as a prerequisite for international intervention, for example, on Resolution 1679 China argued that “the agreement and cooperation of the Sudanese Government must be obtained” before a peacekeeping operation could be established in Darfur.¹⁴⁸ Similarly, China abstained on Resolution 1706 on the expansion of the mission in Sudan to include Darfur, due to the failure to include the prerequisite of state consent.¹⁴⁹

2. A Weakening in the Importance of Consent

However, in a number of circumstances, China has wavered on its requirement of consent. Security Council Resolution 1973 on Libya has been said to be the first time the Security Council authorized the use of force under the doctrine of R2P without the consent of the target state.¹⁵⁰ Arguably, China had weakened on its requirement of consent prior to Libya. In Bosnia, China voted for resolutions expanding the UN mandate, despite the fact that the consent of the parties to the conflict was “unclear, eroding or nonexistent”.¹⁵¹ Similarly, in supporting

¹⁴⁴ International Crisis Group *supra* note 83, at 19.

¹⁴⁵ Davis, *supra* note 4, at 274.

¹⁴⁶ International Crisis Group, *supra* note 83, at 20.

¹⁴⁷ Contessi, *supra* note 23, at 331.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 332.

¹⁵⁰ Alex Bellamy & Paul Williams, *The New Politics of Protection? Cote d’Ivoire, Libya and the responsibility to protect*, 87 INT’L AFF. 825 (2011).

¹⁵¹ Davis, *supra* note 4, at 275.

intervention in Somalia in 1992, China justified its vote in part on the basis of “the present lack of a Government in Somalia”.¹⁵² Accordingly, it is arguable that host state “consent” has not been a fixed requirement in China’s intervention policy.

C. Authorization by the Security Council and Limited Use of Force

China has sought to ensure that intervention or the use of force is only permitted when authorized by the Security Council. Given its veto power, this enables China to influence (and ultimately block) the use of force where it is contrary to its interests, as it has done most recently in Syria. Accordingly, China has viewed organizations like NATO with “deep wariness”,¹⁵³ its greatest fear being the “obsolescence” of the Security Council.¹⁵⁴ For example, following the NATO airstrikes on Libya China was deeply critical of NATO’s conduct.¹⁵⁵ In the context of the developing norm of R2P, China’s statements at the Security Council Open Debate on the Protection of Civilians in Armed Conflict have consistently emphasized controlling situations through the UN framework, and maximizing the use of all peaceful means.¹⁵⁶ However, Jonathan Davis makes the important point that this reach for control has meant that China “risks focusing attention on its position anytime it obstructs Security Council action”.¹⁵⁷

¹⁵² United Nations Document, S/PV.3145, Security Council Meeting 3145, 3 December 1992.

¹⁵³ Higgins, *supra* note 122.

¹⁵⁴ Joel Wuthnow, *China’s Troubling Syria Veto*, THE DIPLOMAT, Feb., 16, 2012.

¹⁵⁵ David Cohen, *China Shifts on Sudan, Libya*, THE DIPLOMAT, July 11, 2011.

¹⁵⁶ See Statement by Ambassador Li Baodong at Security Council Open Debate on Protection of Civilians in Armed Conflict’, (Nov. 9, 2011); *General Assembly Debate Statement: China* (unofficial transcription from webcast), (July 12, 2011); Statement by Ambassador Li Baodong at Security Council Open Debate on Protection of Civilians in Armed Conflict, (May 10, 2011); Statement by Ambassador Wang Min at the Security Council Open Debate on the Protection of Civilians in Armed Conflicts, (July 7, 2010); Statement by Ambassador Zhenmin Liu at the Security Council Open Debate on Protection of Civilians in Armed Conflict, (Jan 14, 2009); Statement by the Chinese Delegation at the Security Council Open Debate on Protection of Civilians in Armed Conflict, (June 22, 2007).

¹⁵⁷ Davis, *supra* note 4, at 274.

D. Regional Support

1. The Importance of Regional Support

There are numerous examples of situations where regional support for sanctions or intervention encouraged China to support peacekeeping. Foreign Minister Yang Jiechi justified China's decision not to veto the 2011 Libya resolution in part because it had "attached great importance to the requests of the Arab League and African Union".¹⁵⁸ In relation to the conflict in Sudan, China emphasized the importance of the position of the African Union,¹⁵⁹ and the regional support for UN peacekeeping operations in Somalia led China to support a UN peacekeeping operation.¹⁶⁰

China also relies on regional organizations or the position of neighboring states to legitimize its decision to oppose UN action. Ambassador Wang justified the veto of the Myanmar/Burma resolution on the basis that "all Myanmar's immediate neighbors, all ASEAN members and most Asia-Pacific countries" did not believe that the situation amounted to a threat to regional peace and security.¹⁶¹ Similarly, in relation to Zimbabwe, China justified its veto in part on adopting the "same position" as the African Union, the South African Development Community, "most African countries" and "especially" Zimbabwe's neighbors.¹⁶²

2. Regional Support is Not Conclusive

China's decision to veto the Syria resolution in February 2012 has demonstrated that regional support is not a guarantee of Chinese acquiescence. The fact that this resolution on

¹⁵⁸ United Nations Document, *Security Council Approves No-Fly Zone over Libya*, UN Doc SC/10200, 6498th Meeting (Mar. 17, 2011).

¹⁵⁹ Ching, *supra* note 49.

¹⁶⁰ International Crisis Group, *supra* note 83, at 24.

¹⁶¹ Excerpted Statements from Security Council Meeting on the Situation in Burma, (Jan. 12, 2007), Security Council Chamber.

¹⁶² *China Justifies Veto of Zimbabwe Sanctions*, Embassy of the People's Republic of China in the Republic of South Africa, June 25, 2009.

Syria was sponsored by Morocco on behalf of the Arab League did not prevent China from exercising its veto.¹⁶³ Accordingly, while an important factor, regional support for intervention is not decisive in determining Chinese action.

E. Fear of Setting Precedent

Where China has supported UN action or intervention, it has sought to stress that the circumstances were “exceptional”, and that it should not be viewed as creating a precedent. This trend was evident as early as 1992, when China emphasized that the military operation authorized in Somalia was “an exceptional action” given the “unique situation” in that state.¹⁶⁴

This trend has continued. In 2006, China noted that while it had not “pressed its objections” on Security Council Resolution 1679 on the Sudan, its abstention and the passage of the resolution “should not be construed as constituting a precedent for the Security Council’s future discussion and adoption of new resolutions on the Sudan”.¹⁶⁵ Finally, in 2011, after emphasizing the regional support for the resolution, Ambassador Li Baodong stressed the “special circumstances” in Libya which justified China’s abstention on Resolution 1973.¹⁶⁶

F. Fear of Isolation

China’s decision on whether to use its veto power to prevent UN intervention may also be influenced by its fear of acting as the sole veto on a resolution. China has not cast a lone veto on a Security Council resolution since 1999. While a number of commentators argue that, following Syria, the days of China “sitting on the sidelines” are now over,¹⁶⁷ in my view it is

¹⁶³ Ching, *supra* note 49.

¹⁶⁴ United Nations Document, S/PV.3145, Security Council Meeting 3145, (Dec. 3, 1992).

¹⁶⁵ Contessi, *supra* note 23, at 337.

¹⁶⁶ *Explanation of Vote by Ambassador Li Baodong after Adoption of Security Council Resolution on Libya*, PERMANENT MISSION OF THE PEOPLE’S REPUBLIC OF CHINA TO THE UN, (Mar. 17, 2011).

¹⁶⁷ See e.g. Sofer, *supra* note 7.

extremely unlikely that China would exercise its veto without Russian support. In vetoing the Syria resolutions with Russia, China effectively stood against “world opinion writ large” – including the U.S., Europe, South Africa, India, and Pakistan.¹⁶⁸ Despite the value of a Russian alliance, China will not be able to continue to afford to politically isolate itself from the rest of the international community.

VI. THE RESPONSIBILITY TO PROTECT

A. The R2P Doctrine

R2P has been described as “the most significant development in the defense of human rights” since the Universal Declaration on Human Rights.¹⁶⁹ However, its implementation remains “frustratingly elusive”.¹⁷⁰ R2P has also been described as an “emerging transnational soft norm”,¹⁷¹ and as the “antidote to complacency”, in creating a mechanism to prevent the international community acting as a “passive spectator to mass murder”.¹⁷²

In 2008, UN Secretary General Ban Ki-moon sought to clarify what was meant by the term R2P. In doing so, he described it as “sovereignty as responsibility”, and noted that it rests on “three pillars”.¹⁷³ First, the responsibility of states to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Second, the commitment of the international community to assist states in meeting those obligations. Third, the responsibility of the UN Member States to respond potentially using “the whole range of UN tools” to protect

¹⁶⁸ Wuthnow, *supra* note 154.

¹⁶⁹ Vaclav Havel & Desmond Tutu, *Introduction in THE RESPONSIBILITY TO PROTECT* XXV, (2011).

¹⁷⁰ *Id.*

¹⁷¹ Prantl & Nakano, *supra* note 1, at ii.

¹⁷² *China/Russia Veto a Victory for ‘Impunity, Inaction and Injustice*, INT’L COALITION FOR THE RESPONSIBILITY TO PROTECT, Oct. 4, 2011.

¹⁷³ United Nations Document, *Secretary-General Defends, Clarifies ‘Responsibility to Protect*, at Berlin Event on Responsible Sovereignty’, UN Doc SG/SM/11701, (July 15, 2008).

populations from genocide, war crimes, ethnic cleansing and crimes against humanity.¹⁷⁴ Anticipating the fears of the non-Western world, Ban Ki-Moon argued that R2P was “an ally of sovereignty, not an adversary”.¹⁷⁵

B. The Development of R2P

In assessing China’s attitude to R2P, it is important to understand that this doctrine developed at an “extraordinary speed”.¹⁷⁶ Given that the development of international norms is typically a slow process, in the context of R2P the “rapid trajectory from idea to norm is remarkable”.¹⁷⁷ In my view, this rapidity is instrumental to understanding China’s veto on the Syria resolutions. Essentially, China sought the international prestige of supporting the development of R2P. However, China was caught out by the speed of the development of R2P as a concept, as it accelerated out of its control.

The development of R2P began with the reevaluation of the legality of humanitarian intervention following NATO’s intervention in Kosovo.¹⁷⁸ The result of this process was R2P, which moved away from a focus on the “rights” of the interveners, to focus on the “responsibility” owed to those needing assistance.¹⁷⁹ As noted in Part V(A), the ICISS released its “Responsibility to Protect” Report in 2001, characterizing this shift as moving from “sovereignty as control” to “sovereignty as responsibility”.¹⁸⁰ The concept of R2P was then endorsed at the UN, first in the UN Secretary General’s High-Level Panel on Threats, Challenges

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ William Burke-White, *Adoption of the Responsibility to Protect*, (Research Paper No. 11-40, Univ. of Penn. Law School) at 24.

¹⁷⁷ *Id.*

¹⁷⁸ Davis, *supra* note 4, at 254.

¹⁷⁹ Davis, *supra* note 4, at 254 (quoting Gareth Evans).

¹⁸⁰ *Report of the International Commission on Intervention and State Sovereignty*, THE RESPONSIBILITY TO PROTECT, (2001), at 3.

and Change report in 2004. Gareth Evans suggests that the “support that mattered most” to further the recommendations of the UN High-Level Panel and push for the development of R2P was from Qian Qichen, whose “immense prestige” in Beijing facilitated a more “relaxed” China on the development of R2P.¹⁸¹

In 2005, the World Summit Outcome Document set out the formula for the responsibility to protect. The concept of R2P was then unanimously reaffirmed in Security Council Resolution 1674 in 2006. Later that year, R2P was referred to in Security Council Resolution 1706 on the situation in the Sudan.¹⁸² This created some “toeholes” for R2P to gain traction.¹⁸³ The implementation of R2P then reached its “high point” with Resolution 1973 on Libya in 2011.¹⁸⁴

C. China’s Position on the Development of R2P

At first glance, China has actively supported the notion of R2P. For example, at the World Summit in 2005 China was a party to the unanimous endorsement of R2P. In its Position Paper on UN Reform in 2005 China noted that “when a massive humanitarian crisis occurs, it is the legitimate concern of the international community to ease and defuse the crisis.”¹⁸⁵ Finally, China voted in 2006 in favor of Security Council Resolution 1674, which reiterated the concept of R2P as expressed in the World Summit Outcome Document.¹⁸⁶

Accordingly, it may be argued that China has demonstrated “firm, but cautious” support for the concept of R2P.¹⁸⁷ Indeed, despite the concerns outlined below, at every debate since the

¹⁸¹ Gareth Evans, *The Responsibility to Protect*, The Brookings Institution, (2008), at 45.

¹⁸² Security Council Resolution 1706 (2006), S/RES/1706, 5519th Meeting, (Aug. 31, 2006).

¹⁸³ Evans, *supra* note 181, at 50.

¹⁸⁴ Jes Gifkins, *The Responsibility to Protect: Pillar Three Responses to Mass Atrocity Crimes*, <http://www.uq.edu.au/isaasiapacific/content/JessGifkins.pdf>.

¹⁸⁵ Teitt, *supra* note 79, at 8.

¹⁸⁶ United Nations Document, *Importance of Preventing Conflict Through Development, Democracy Stressed, as Security Council Unanimously Adopts Resolution 1674 (2006)*, UN Doc SC/8710, 5430th Meeting, (Apr. 28, 2006).

¹⁸⁷ Teitt, *supra* note 79, at 2.

2005 World Summit, China has acknowledged that each state has a responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity.¹⁸⁸

D. Reading Between the Lines: China on R2P before Libya

A closer look at China's participation on R2P issues indicates that it has "proactively" tried to contain R2P by containing its application and development.¹⁸⁹

1. Resistance to the Concept of R2P

China has made a number of statements which contradict its apparent support for the concept of R2P. For example, following Kofi Annan's comment in his opening address to the General Assembly in September 1999 that the concept of state sovereignty was being "redefined", two days later Chinese Foreign Minister Tang Jiaxuan responded by reiterating the importance of non-interference in internal affairs.¹⁹⁰ Similarly, in October 1999 China's representative to the General Assembly called for "vigilance" against the notion of "human rights over sovereignty".¹⁹¹ Then in 2001, China initially rejected the concept of R2P at the ICISS Roundtable Consultation.¹⁹²

China's resistance to the concept of R2P has persisted. For example, while Secretary General Ban Ki-Moon in 2009 referred to the principle of "responsible sovereignty",¹⁹³ China has continued to assert the more traditional notions of sovereignty and non-interference in internal affairs. Similarly, review of China's statements at the Security Council Open Debate on the Protection of Civilians in Armed Conflict from 2007 demonstrate that China has continued to

¹⁸⁸ *Id.* at 9.

¹⁸⁹ Prantl & Nakano, *supra* note 1, at 11.

¹⁹⁰ Davis, *supra* note 4, at 255-256.

¹⁹¹ *Id.* at 256.

¹⁹² Prantl & Nakano, *supra* note 1, at 10.

¹⁹³ Williams, *supra* note 48.

stress that protection of civilians is primarily the responsibility of the relevant government, that any action taken to protect civilians must accord with the UN Charter, and that the principles of sovereignty, territorial integrity, and non-interference must be respected.¹⁹⁴

2. Resistance to the Implementation of R2P

China has sought to stress that R2P is only a “concept”, and is not ready to be implemented. In its statements at the Security Council Open Debate on the Protection of Civilians in Armed Conflict, China has continued to reiterate the need for the General Assembly to continue to develop the application of R2P.¹⁹⁵

In a 2007 Security Council meeting on the protection of civilians in armed conflict, Li Junhua argued that the Security Council should refrain from adopting the concept of R2P given that there “are still differing understandings and interpretations of this concept among Member States”.¹⁹⁶ This position was repeated in 2009, when Ambassador Liu Zhenmin noted that member states still had divergent views on R2P and that the General Assembly should discuss the concept – reiterating that it “so far” remains just a concept, and “does not constitute a rule of international law”.¹⁹⁷

3. Confining R2P to existing parameters

In the context of Security Council Resolution 1674 and its express support for the concept of R2P, China only agreed to support the resolution as long as it used the exact same language from the 2005 World Summit Outcome document.¹⁹⁸ Accordingly, paragraph 4 of the

¹⁹⁴ See statements, *supra* note 156.

¹⁹⁵ *Id.*

¹⁹⁶ United Nations Document, UN Doc S/PV.5703, 5703rd Meeting, (June 22, 2007).

¹⁹⁷ Ambassador Liu Zhenmin, Statement at the Plenary session of the General Assembly on the Question of *Responsibility to Protect*, (July 24, 2009), <http://responsibilitytoprotect.org/Statement%20by%20Ambassador%20Liu%20Zhenmin.pdf>.

¹⁹⁸ Security Council Report, *Update Report: Protection of Civilians in Armed Conflict*, (Mar. 8, 2006).

resolution refers to the responsibility to “protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”.¹⁹⁹ Again, at the 2009 Plenary session of the General Assembly on the Question of Responsibility to Protect, Ambassador Liu Zhenmin noted that the World Summit Outcome Document “strictly limited” the scope of application of R2P to these four crimes, and that R2P “applies only” to these crimes.²⁰⁰

4. Preventing Abuse of R2P

China’s concern relates to its fear that R2P will become a tool for the West to justify military intervention in the developing world.²⁰¹ At the 2009 Plenary session of the General Assembly on the Question of Responsibility to Protect, Ambassador Liu Zhenmin argued for the importance of ensuring that all peaceful means must be exhausted and that the crisis must be addressed within the framework of the UN as no state may unilaterally implement R2P.²⁰² He noted that “no state should expand on the concept”, and its abuse must be avoided to ensure it does not become “another version of humanitarian intervention”.²⁰³ This concern has underpinned China’s resistance to the development of R2P.

E. China’s Position on Libya

1. Background to the Libya Resolution

In early 2011, in response to political tension following the Arab Spring, Qadhafi forces posed a significant threat to civilians, as he sought to quell protests noting that “any Libyan who takes up arms against Libya will be executed.”²⁰⁴ In response to the “deteriorating situation, the

¹⁹⁹ UN Document, Security Council Resolution 1674, UN Doc S/RES/1674, (Apr. 28, 2006).

²⁰⁰ See Zhenmin, *supra* note 197.

²⁰¹ Prantl & Nakano, *supra* note 1, at 10.

²⁰² See Zhenmin, *supra* note 197.

²⁰³ *Id.*

²⁰⁴ Bellamy & Williams, *supra* note 150, at 838.

escalation of violence, and the heavy civilian casualties”, Security Council Resolution 1973 authorized member states acting through “regional organizations” to “take all necessary measures. . . .to protect civilians”.²⁰⁵ China abstained from voting on Resolution 1973; this move arguably represents “on the face of it, a significant advance” for the development of R2P.²⁰⁶

2. China’s Reasons for its Abstention on Resolution 1973

China’s decision on Libya was “the product of very particular circumstances”, and in this case it found itself “boxed in”.²⁰⁷ In the Security Council debates, China was reluctant to permit the use of force in the resolution given its tension with the principle of non-interference, and the concern that force would exacerbate the situation.²⁰⁸ However, despite its resistance, there was strong pressure within the Security Council to act. For example, the Security Council had endorsed the concept of R2P, it had already unanimously adopted Resolution 1970 recognizing the seriousness of the situation in Libya, and ultimately it could not “legitimize inaction in the face of mass atrocities”.²⁰⁹ In his explanation of the vote, Li Baodong noted that “China has serious concerns over some elements of the resolution and noted the need to respect “sovereignty, independence, unification and territorial integrity of Libya”.²¹⁰

3. The Significance of China’s Abstention

China’s abstention on Libya may be argued to indicate a softening on its requirement of host state consent. For example, in June 2007, China’s statement at the Security Council Open

²⁰⁵ UN Document, Security Council Resolution 1973, UN Doc S/RES/1973, (Mar. 17, 2011).

²⁰⁶ Fullilove, *supra* note 26, at 71.

²⁰⁷ *Id.* at 72.

²⁰⁸ Bellamy & Williams, *supra* note 150, at 843.

²⁰⁹ *Id.* at 844.

²¹⁰ *Explanation of Vote by Ambassador Li Baodong after Adoption of Security Council Resolution on Libya*, PERMANENT MISSION OF THE PEOPLE’S REPUBLIC OF CHINA TO THE UN, (Mar. 17, 2011).

Debate on Protection of Civilians in Armed Conflict noted that external assistance should only be carried out “with the prerequisite that the will of the government concerned be respected”, and that “no arbitrary intervention be imposed on the government concerned over its objection”.²¹¹ However, by May 2011, after the vote on Libya, this requirement of state consent did not form part of China’s statement on R2P at the Open Debate.²¹² China’s abstention on Libya may have been argued to signal China’s capitulation to Western pressure.

4. The Aftermath of Libya

China and Russia criticized the NATO operation in Libya as going beyond the intent and terms of Security Council Resolution 1973.²¹³ Following the fallout from Libya, China’s statements on R2P began to express an explicit concern over attempted regime change, such that “there must be no attempt at regime change or involvement in civil war by any party under the guise of protecting civilians.”²¹⁴ The May 2011 statement noted China’s opposition to the willful interpretation of the resolutions, exceeding the mandate, and departing from the “original intention” of resolutions 1970 and 1973 on Libya.²¹⁵ This sentiment was echoed in China’s November 2011 statement, such that “no party should willfully misinterpret the resolutions” or “take action that is beyond the authorization of the Security Council.”²¹⁶ This resistance to the implementation of R2P in Libya set the scene for China’s veto on the Syria resolutions.

²¹¹ Chinese Delegation at the Security Council, Statement at Open Debate on *Protection of Civilians in Armed Conflict*, (June 22, 2007).

²¹² See Ambassador Li Baodong, Statement at Security Council Open Debate on Protection of Civilians in Armed Conflict, (May 10, 2011).

²¹³ Ching, *supra* note 49.

²¹⁴ Baodong, *supra* note 212.

²¹⁵ *Id.*

²¹⁶ Baodong, *supra* note 212.

F. China's Position on Syria

1. Background to the Syria Resolutions

On October 4, 2011, China, together with Russia, vetoed a Security Council resolution threatening sanctions against Syria. In February 2012, China and Russia again vetoed a resolution on Syria. It is important to note that Brazil, South Africa, India, and Lebanon abstained from voting on the October 2011 resolution, and the representatives from Lebanon and South Africa also noted their concern to respect the “territorial integrity and sovereignty of Syria”.²¹⁷ It is important not to isolate China and Russia as the only states resistant to the notion of R2P, as other states also share similar concerns. However, all other 13 members of the Security Council voted in favor of February resolution, including India and South Africa, although Lebanon and Brazil were no longer sitting on the Security Council.

2. China's Reasons for Vetoing the Syria Resolutions

The Chinese statement on the resolutions both included a comment that Syria's sovereignty and territorial integrity must be respected, and that any action should comply with “the United Nations Charter principles of non-interference in internal affairs”.²¹⁸ In vetoing the February resolution, Li Baodong sought to justify the veto in part on the basis of Security Council members remaining “seriously divided” over the issue.²¹⁹ However, there are a number of other reasons which may have contributed to China's decision to veto the Syria resolutions.

²¹⁷ United Nations Document, *Security Council Fails to Adopt Draft Resolution Condemning Syria's Crackdown on Anti-Government Protestors*, UN Doc SC/10403, 6627th Meeting, (Oct. 4, 2011).

²¹⁸ See Baodong, *supra* note 212; United Nations Document, *Security Council Fails to Adopt Draft Resolution on Syria as Russian Federation, China Veto Text Supporting Arab League's Proposed Peace Plan*, UN Doc SC/10536, 6711th Meeting, (Feb. 4, 2012).

²¹⁹ United Nations Document, *Security Council Fails to Adopt Draft Resolution on Syria as Russian Federation, China Veto Text Supporting Arab League's Proposed Peace Plan*, UN Doc SC/10536, 6711th Meeting, (Feb. 4, 2012).

(a) China's Reaction to Libya

China's experience with the Libya resolution had a "direct impact" on its decision to veto the resolutions on Syria.²²⁰ In abstaining on the Libya resolution, China felt it "gained nothing while losing everything".²²¹ For example, China's abstention was characterized as giving in to Western interests, it was criticized for "compromising its principles" on non-interference, and it was criticized for failing to participate directly in military action in Libya.²²²

(b) China saw no Benefit in Supporting the Resolution

China may have considered that it had "nothing to gain" from supporting the resolution on Syria. As was the case with the Libya resolution, China may have feared that Western countries would receive the international prestige, while the international community would see Chinese acquiescence as weakness or merely as an act to gain international support.²²³

(c) Protecting Chinese Interests

China may have thought it would be better off trying to protect its own interests in the Middle East rather than acquiescing to UN action. For example, China adopted a "far more sophisticated hedging strategy" on Syria than it did against Libya, reflecting a "more mature, flexible, and sophisticated" position.²²⁴ Instead of aligning itself with Assad or the opposition, China is "actively betting on both".²²⁵ China used its veto to shield Assad from military intervention, while inviting the Syrian opposition to meet with China's Vice Foreign Minister on

²²⁰ Yun Sun, *Syria: What China has Learned from its Libya Experience*, 152 ASIA PACIFIC BULLETIN (2012), http://www.eastwestcenter.org/sites/default/files/private/apb152_1.pdf.

²²¹ *Id.*

²²² See *id.*; Yan Xuotong, *China's Veto on Syria: A View from China*, CARNEGIE ENDOWMENT FOR INT'L PEACE, Feb. 8, 2012.

²²³ Xuotong, *supra* note 222.

²²⁴ Sun, *supra* note 220.

²²⁵ *Id.*

Africa and West Asia.²²⁶ Arguably, this indicates the importance for China of protecting its own interests.

(d) Domestic Support

China's abstention may have operated as a domestic strategy, allowing the PRC to characterize its veto as a "rebuff to the West" to encourage nationalist support.²²⁷ However, there is also contradictory evidence, such that a growing number of the Chinese public are actually advocating for a more "active, engaged foreign policy", and a movement away from the principle of non-intervention.²²⁸

(e) Reaffirming the Principle of Non-Intervention

Importantly, China's veto may be regarded as its attempt to reaffirm to the world that it still not only believes in the principle of non-intervention, but would actively protect it in the Security Council. China was seeking to establish that Libya was the exception rather than the rule, and importantly that the international community should not conclude that R2P was now a "rule" of international law.

3. The Consequences for China of its Veto

(a) The Benefits to China from its Veto

It may be argued that China's vetoes on the situation in Syria may have some positive benefits for China. Firstly, as discussed above, in signaling its intention to adhere to the principle

²²⁶ *Id.*

²²⁷ Wee, *supra* note 27.

²²⁸ Sofer, *supra* note 7.

of non-interference, China's veto may allow it to continue to develop relationships with "a wide variety of regime types",²²⁹ and continue to invest and trade with 'rogue' regimes.

Second, China's veto clearly strengthens its relationship with Russia. This has led some to suggest that its action on Syria was a "warning to the west" of a closer Sino-Russian relationship.²³⁰ This relationship has been described as a potential "axis of obstruction" in the Security Council, working to ensure that neither regime is left isolated as the sole veto on a Security Council resolution.²³¹ Regardless of China's intent, it would now seem that China "saved" Russia from international isolation, being a favor that Russia must now return.²³²

Third, it has been argued that the prolonging of conflict in Syria may mean that the risk of war over Iran's nuclear program will be "postponed".²³³ In my view, this is not a strong argument. It is not clear that the conflict in Syria would postpone action against Iran, and even so, the longer the conflict persists in my view leads to increasing criticism over China's obstructionist Security Council action on Syria.

Finally, it may be in China's interest to exercise its right of veto, to force the international community to recognize and respect China's role on the Security Council.²³⁴ China's readiness to use its veto will ensure that its support or acquiescence must be earned, and sends a message that China will not succumb to international pressure. This is a key lesson for the Arab League, in recognizing the importance after Libya of showing its appreciation for China's abstention.

²²⁹ *Id.*

²³⁰ Ching, *supra* note 49.

²³¹ Wuthnow, *supra* note 154.

²³² Sun, *supra* note 220.

²³³ Xuetong, *supra* note 222.

²³⁴ *Id.*

(b) *The Damage caused by China's Veto*

Despite these “benefits” to China from its vetoes on Syria, in my view these factors are all outweighed by the negative impact on China’s image as a responsible global power. It may be argued that China’s veto will not have “any substantive effect on China’s international image”, rather, the international community will just be “disappointed in China once again”.²³⁵ I strongly disagree with this position, especially given the ongoing conflict in Syria and the increasing significance of the Security Council’s failure to act.

China has been labeled as “responsible for Syria’s genocide”, and it has been argued that its international reputation has “struck a new low”.²³⁶ As Frank Ching notes, if the conflict in Syria continues, China will find itself facing increasing pressure to justify its veto and will risk political isolation not only from the West, but from other developing countries.²³⁷ Accordingly, China may find itself “on the wrong side of history” in exercising its veto.²³⁸ China’s position on Syria significantly threatens its image as a responsible world power, and this political isolation should be viewed as a significant concern in China.

Furthermore, China and Russia’s vetoes have paralyzed the Security Council on Syria. This may work against China’s interests as other multinational organizations such as NATO may seek to play an increasing role, meaning that China loses its control over international interventions.

²³⁵ *Id.*

²³⁶ Sun, *supra* note 220.

²³⁷ Ching, *supra* note 49.

²³⁸ *China/Russia Veto a Victory for ‘Impunity, Inaction and Injustice’*, International Coalition for the Responsibility to Protect, Oct. 4, 2011.

4. The Consequences of China's Position on R2P

It has been said that Chinese leaders have agreed that “Libya would be the last place where the West would be allowed to intervene.”²³⁹ In my view, I would agree that it is likely that China will continue to resist the development and implementation of R2P, at least for the foreseeable future.

VII. CONCLUSIONS

It is clear that since the end of the Cold War, China has become increasingly engaged in the Security Council. However, this engagement is in tension with the traditions of China's foreign policy. On the one hand, China is conscious of maintaining its relations with the West, and since the mid-1990s has placed “great importance” on building its image as a “responsible cooperative power”.²⁴⁰ Indeed, in its Report on the Implementation of Security Council Resolution 1970 on Libya, China noted that it had “always conscientiously implemented the Council's resolutions in a responsible manner”.²⁴¹

On the other hand, China is traditionally regarded as a “staunch advocate” of national sovereignty.²⁴² This emphasis on protecting sovereignty led China to veto the Security Council resolutions on Syria, and outweighed its interest in developing its status as a responsible power. In my view, the significance of China's veto should not be overstated or read as reflecting a ‘new’ or more aggressive China. Rather, China's veto should be regarded as reflecting China's resistance to the norm of R2P. The development of R2P is simply beyond the limit of what

²³⁹ Huang, *supra* note 40.

²⁴⁰ Yong Deng, *International Status in Chinese Foreign Policy* in *CHINA RISING: POWER AND MOTIVATION IN CHINESE FOREIGN POLICY* 59 (Fei-Ling Wang, ed., 2005).

²⁴¹ United Nations Document, ‘Security Council Committee Established Pursuant to Resolution 1970 (2011) concerning the Libyan Arab Jamahiriya’, UN Doc S/AC.52/2011/27, (July 7, 2011), at 2.

²⁴² Wang, *supra* note 20, at 159.

China can view as acceptable, as it poses too great a threat to the principles of sovereignty and non-interference. Assuming that the norm of R2P can be contained, China will hope to return to its practice of abstention on Security Council resolutions.