

RESEARCH ARTICLE

# Constitutive mechanisms of UN Security Council practices: Precedent pressure, ratchet effect, and council action regarding intrastate conflicts

Thomas Gehring<sup>1\*</sup> and Thomas Dörfler<sup>2</sup>

<sup>1</sup>University of Bamberg – Germany and <sup>2</sup>Centre for Policy Research – Tokyo, Japan

\*Corresponding author. Email: Thomas.Gehring@uni-bamberg.de

(Received 15 December 2017; revised 20 July 2018; accepted 20 July 2018; first published online 8 October 2018)

## Abstract

Based upon the current debate on international practices with its focus on taken-for-granted everyday practices, we examine how Security Council practices may affect member state action and collective decisions on intrastate conflicts. We outline a concept that integrates the structuring effect of practices and their emergence from interaction among reflective actors. It promises to overcome the unresolved tension between understanding practices as a social regularity and as a fluid entity. We analyse the constitutive mechanisms of two Council practices that affect collective decisions on intrastate conflicts and elucidate how even reflective Council members become enmeshed with the constraining implications of evolving practices and their normative implications. (1) Previous Council decisions create precedent pressure and give rise to a virtually uncontested permissive Council practice that defines the purview for intervention into such conflicts. (2) A ratcheting practice forces opponents to choose between accepting steadily reinforced Council action, as occurred regarding Sudan/Darfur, and outright blockade, as in the case of Syria. We conclude that practices constitute a source of influence that is not captured by the traditional perspectives on Council activities as the consequence of geopolitical interests or of externally evolving international norms like the ‘responsibility to protect’ (R2P).

**Keywords:** Security Council; International Practices; Constitutive Mechanism; Responsibility to Protect; Precedent; Ratchet Effect

## Introduction

This article examines constitutive mechanisms and effects of United Nations Security Council practices that shape and structure member state action concerning Council decisions on intrastate conflicts. A constitutive mechanism elucidates why a practice evolves and how it may become a source of power. Building upon the ‘practice turn’ and responding to Iver B. Neumann’s call to recognise the role of practices in foreign policy and international politics,<sup>1</sup> international practices have increasingly attracted the attention of analysts of Council decision-making.<sup>2</sup>

The analysis of the origins and effects of Council practices promises to elucidate how the Council member states produce and reproduce, through their interaction, patterns of action

<sup>1</sup>Theodore R. Schatzki, Karin Knorr Cetina, and Eike von Savigny (eds), *The Practice Turn in Contemporary Theory* (London: Routledge, 2001); Iver B. Neumann, ‘Returning practice to the linguistic turn: the case of diplomacy’, *Millennium: Journal of International Studies*, 31:3 (2002), pp. 627–51.

<sup>2</sup>Rebecca Adler-Nissen and Vincent Pouliot, ‘Power in practice: Negotiating the international intervention in Libya’, *European Journal of International Relations*, 20:4 (2014), pp. 889–911; Ingvild Bode, ‘Reflective practices at the Security Council: Children and armed conflict and the three United Nations’, *European Journal of International Relations*, 24:2 (2018), pp. 293–318.

endowed with social meaning, and how these practices affect their behaviour within the Council.<sup>3</sup> Such practices constitute a separate source of influence with implications for the nature and content of Council decisions. A practice-based approach differs from two other prominent approaches to analysing Council activities. The standard realist and neoliberal account conceptualises the Council as a forum, particularly for the great powers, to deal with separate international crises, based upon their preferences and external power resources.<sup>4</sup> The literature on the ‘responsibility to protect’ (R2P) attributes increasing Council activities in intrastate conflicts to international norms that have largely evolved outside the Council.<sup>5</sup> External power resources and international norms may certainly influence Council practices, if they affect the intra-organisational action of Council members. Yet, these accounts miss the fact that the Council is a longstanding organisation, in which continuing interaction among its members produces patterns of action with normative implications for subsequent decisions.

Practice approaches do not rely on a single coherent theory, but they have a common focus on concrete life situations in which actors perform a common practice and thus create and maintain social orderliness.<sup>6</sup> Christian Bueger and Frank Gadinger identify six core commitments that distinguish practice approaches from both rational choice analyses and from norm-oriented constructivism: ‘Practice theory implies emphasising process, developing an account of knowledge as action, appreciating the collectivity of knowledge, recognizing the materiality of practice, embracing the multiplicity of orders, and working with a performative understanding.’<sup>7</sup> While most scholarship on international practices is rooted in the postmodern or constructivist paradigm, and partly relies on Bourdieuan sociology,<sup>8</sup> Emanuel Adler and Vincent Pouliot emphasise that the practices concept is not associated with one single method or theory and provides opportunities for an inter-paradigmatic conversation.<sup>9</sup> We start from their conception of international practices that seeks to identify a middle ground of practice theory.

Theoretically, we outline a concept of Council practices that promises to overcome some problematic issues of current practice theory, including the tension between stability and change, and reinforces the empirical relevance of studying international practices. *First*, we define a practice as repeated and patterned action endowed with collectively shared meaning. Practices may affect the actions of Council members and their collective decisions through their structuring effects. *Second*, we conceptualise the Council members as a community of practice.<sup>10</sup>

<sup>3</sup>Alec Stone Sweet and Wayne Sandholtz, ‘Law, politics, and international governance’, in Christian Reus-Smit (ed.), *The Politics of International Law* (Cambridge: Cambridge University Press 2004), pp. 238–71; David Ambrosetti, ‘The diplomatic lead in the United Nations Security Council and local actors’ violence: the changing terms of a social position’, *African Security*, 5:2 (2012), p. 66; Vincent Pouliot, *International Pecking Orders: The Politics and Practice of Multilateral Diplomacy* (Cambridge: Cambridge University Press, 2016).

<sup>4</sup>Erik Voeten, ‘The political origins of the UN Security Council’s ability to legitimize the use of force’, *International Organization*, 59:3 (2005), pp. 527–57; Alexander Thompson, ‘Coercion through IOs: the Security Council and the logic of information transmission’, *International Organization*, 60:1 (2006), pp. 1–34.

<sup>5</sup>Paul D. Williams and Alex J. Bellamy, ‘Principles, politics, and prudence: Libya, the Responsibility to Protect, and the use of military force’, *Global Governance*, 18:3 (2012), pp. 273–97.

<sup>6</sup>Christian Bueger and Frank Gadinger, ‘The play of international practice’, *International Studies Quarterly*, 59:3 (2015), p. 451.

<sup>7</sup>*Ibid.*, p. 449.

<sup>8</sup>Chris Brown, ‘The practice turn, phronesis and Classical Realism: Towards a phronetic international political theory?’, *Millennium*, 40:3 (2012), pp. 439–56; Mervyn Frost and Silviya Lechner, ‘Two conceptions of international practice: Aristotelian praxis or Wittgensteinian language-games?’, *Review of International Studies*, 42:2 (2016), pp. 334–50; Pierre Bourdieu, *The Logic of Practice* (Cambridge: Cambridge University Press, 1995).

<sup>9</sup>Emanuel Adler and Vincent Pouliot, ‘International practices: Introduction and framework’, in Emanuel Adler and Vincent Pouliot (eds), *International Practices* (Cambridge: Cambridge University Press, 2011), pp. 3–35; Emanuel Adler and Vincent Pouliot, ‘International practices’, *International Theory*, 3:1 (2011), pp. 1–36.

<sup>10</sup>Etienne Wenger, *Communities of Practice: Learning, Meaning and Identity* (Cambridge: Cambridge University Press, 1998); Emanuel Adler, *Communitarian International Relations: The Epistemic Foundations of International Relations* (London: Routledge 2005), pp. 2–27.

Despite their various opinions on specific issues, these actors share a domain of interest, which includes governing Council activities in international peace and security. They can rely on shared experiences, collectively adopted past decisions, and common practices.<sup>11</sup> *Third*, we investigate constitutive mechanisms of some important Council practices that elucidate why even reflective Council members may gradually become enmeshed with the constraining implications of evolving practices. Adler and Pouliot emphasise that ‘we need to map those practices that are constitutive of strategic interaction and uncover the constitutive mechanisms at work’.<sup>12</sup> The focus on reflective (strategic) actors enhances the relevance of studying Council practices because Council member states, with their extensive organisational capability, cannot be assumed to reproduce without reflection practices that significantly influence their opportunities for action. This concept helps to overcome an unresolved tension that has attracted the attention of practice theorists: Whether to understand practices as a social regularity or as a fluid entity.<sup>13</sup> If social practices evolve from strategic action within a community of practice, they are likely to be reproduced as long as the underlying configuration of actions is stable. However, they may change, if this configuration modifies.

Empirically, we show how two specific Council practices emerge from the need of Council members to continuously interact and how they influence their interaction in cases of intrastate conflict. We focus on Council practices that are likely to affect Council decisions and that matter for international politics beyond the internal process of Council decision-making. Since practices reflect patterned action, the empirical analysis adopts a comparative perspective on several related decision situations. With its focus on the normativity reflected in particular practices and their effects on Council decisions, it contrasts with studies exploring in detail the diplomatic moves of states and non-state actors within a negotiation round, or the activities of particular actors in the Council environment.<sup>14</sup> (1) Previous Council decisions in similar situations create precedent pressure and give rise to a permissive Council practice that shapes actors’ expectations about possible enforcement action under the UN Charter. We argue that this well-established practice connects otherwise unrelated cases and defines the purview for intervention into intrastate conflicts. It is based upon a constitutive mechanism that reflects insights from institutional theory. It has emerged long before the debate on R2P and produces normative implications that differ profoundly from those of R2P. (2) The staged approach of the Council on a particular conflict reflects a ratcheting practice that induces even reluctant members to gradually accept more far-reaching measures than originally preferred. The constitutive mechanism relies on the changing perception of appropriate action induced by successive Council decisions addressing an intrastate conflict. The practice forces opponents to choose between accepting steadily reinforced Council action, as occurred regarding Sudan/Darfur, and outright blockade, as in the Syrian case.

We conclude that these Council practices are well established, reflect shared meaning, and affect the strategic choice of Council members as well as collective decisions. The analysis of constitutive mechanisms demonstrates why these practices evolve from interaction among

<sup>11</sup>Lise Morjé Howard and Anjali Kaushlesh Dayal, ‘The use of force in UN peacekeeping’, *International Organization*, 72:1 (2018), pp. 71–103.

<sup>12</sup>Adler and Pouliot, ‘International practices’, p. 24.

<sup>13</sup>Ted Hopf, ‘Change in international practices’, *European Journal of International Relations*, online first (2017), pp. 1–25.

<sup>14</sup>On levels of analysis of international practices, see Adler and Pouliot, ‘International practices’, p. 8. Some contributions focus on a single detailed decision process or country action, for example, Adler-Nissen and Pouliot, ‘Power in practice’; Bode, ‘Reflective practices at the Security Council’; and Niels Nagelhus Schia, ‘Being part of the parade – “going native” in the United Nations Security Council’, *Political and Legal Anthropology Review*, 36:1 (2013), pp. 138–56. Other practice analysts operate at a much higher level of aggregation, see, for example, Vincent Pouliot and Jean-Philippe Thérien, ‘The politics of inclusion: Changing patterns in the governance of international security’, *Review of International Studies*, 41:2 (2015), pp. 211–37; and Emanuel Adler, ‘The spread of security communities: Communities of practice, self-restraint, and NATO’s post-Cold War transformation’, *European Journal of International Relations*, 14:2 (2008), pp. 195–230.

reflective Council members and how they convey power to those members that can use them. Diplomats and observers should take them into account when preparing or analysing Council action on intrastate conflicts. This source of influence is not grasped by the traditional perspectives on Council activities as the consequence of externally generated interests and power resources, or the externally evolving R2P norm.

### International practices, their constitutive mechanisms, and the practice community of Council members

Our analytical concept relies on three key components, namely the patterned nature of international practices, a community of practice comprised of the Council members, and a focus on constitutive mechanisms of Council practices.

First, social practices reflect patterned action<sup>15</sup> that is the source of their structuring effects. Adler and Pouliot define practices as ‘socially meaningful patterns of action, which, in being performed more or less competently, simultaneously embody, act out, and possibly reify background knowledge and discourse in and on the material world’.<sup>16</sup> A practice ‘generally exhibits certain regularities over time and space’.<sup>17</sup> This allows us to distinguish ‘practice’ from ‘action’ (conceived of as behaviour endowed with social meaning): ‘Action is specific and located in time; practices are general classes of action, which, although situated in a social context, are not limited to any specific enacting’.<sup>18</sup> While not excluding change, the patterned nature of practices implies iteration and structuration. ‘The structured dimension of practice stems not only from repetition but also, and in fact primarily, from the fact that groups of individuals tend to interpret its performance along similar standards.’<sup>19</sup>

Agency-centered studies tend to disregard the patterned nature of Security Council practices. Adopting an ethnographic perspective and assuming reflective agents, they risk taking all action as practice. For example, in their extremely rich empirical account of how Western powers succeeded in persuading other Council members to authorise military action in Libya, Rebecca Adler-Nissen and Vincent Pouliot identify numerous actions, including involving regional Council members and non-governmental organisations, French pressure on a francophone African member, and twisting procedural rules.<sup>20</sup> However, it remains unclear whether and with which effects such actions were embedded in established practices. Adler and Pouliot remind us that practice is always based upon action, but action is not always part of a practice.<sup>21</sup> Hence, agency-focused analyses of single episodes risk conflating competent performance of a practice with a particular effect, namely the successful engagement of others in collective action,<sup>22</sup> as Jason Ralph and Jess Gifkins criticise.<sup>23</sup> They do not lead to generalisable knowledge about the role and nature of Security Council practices.

Second, we draw on the concept of the community of practice, which Adler has introduced to international relations.<sup>24</sup> A community of practice denotes the group of relevant actors whose actions produce and reproduce a social practice. It is characterised by a shared *domain of*

<sup>15</sup>Barry Barnes, ‘Practice as collective action’, in Schatzki, Cetina, and von Savigny (eds), *The Practice Turn in Contemporary Theory*, pp. 21–6; Bueger and Gadinger, ‘The play of international practice’; Bourdieu, *The Logic of Practice*.

<sup>16</sup>Adler and Pouliot, ‘International practices’, p. 4.

<sup>17</sup>Ibid., p. 6.

<sup>18</sup>Ibid., p. 5.

<sup>19</sup>Ibid., p. 6.

<sup>20</sup>Adler-Nissen and Pouliot, ‘Power in practice’, pp. 898–902.

<sup>21</sup>Adler and Pouliot, ‘International practices’, p. 5.

<sup>22</sup>Adler-Nissen and Pouliot, ‘Power in practice’, p. 895, similarly Bode, ‘Reflective practices at the Security Council’.

<sup>23</sup>Jason Ralph and Jess Gifkins, ‘The purpose of United Nations Security Council practice: Contesting competence claims in the normative context created by the Responsibility to Protect’, *European Journal of International Relations*, 23:3 (2016), pp. 630–53.

<sup>24</sup>Wenger, *Communities of Practice*; Adler, *Communitarian International Relations*.

*knowledge* to which members are committed, a *community of actors* that engage in joint activities, exchange information and, thus, learn from each other, and a *shared practice* (or shared practices) based upon a shared repertoire of resources, including shared experience and recognised ways of addressing recurring problems.<sup>25</sup> A community of practice is not necessarily harmonious, and disagreement may be part of the interaction.<sup>26</sup> However, it involves processes of social communication and identity formation through which practitioners struggle about and fix meanings, enact practices, and exercise political control.<sup>27</sup> Whereas shared knowledge, identity, and specific practices determine its boundaries, a community of practice may have relations with other communities, and actors may belong to different communities.

The Council member states and their representatives form a community of practice. Their shared domain of interest is the collective execution of the powers assigned to the Council under the UN Charter. This community engages in joint activities, namely struggling with resolutions that may impose sanctions on countries and other targets, or authorise military force. It is defined by Council membership and related privileges (voting rights) and clearly distinguished from other communities, such as UN civil servants or human rights NGOs.<sup>28</sup> Its members can rely on the common experience of past negotiations and decisions. This community has developed shared practices of how to organise decision processes and how to address issues that threaten international peace and security. The literature has identified some Council practices, including diplomatic leadership in peacekeeping operations, informal membership and selective engagement of non-member states in Council deliberations, ‘penholding’ (the chairing of the informal drafting process), the use of ‘agreed language’, and a specific ‘pecking order’.<sup>29</sup> Most of these practices are of a procedural nature, with possible effects on the internal decision process, but with unclear implications for Council decisions. For this reason, we focus on practices reflected in substantive Council decisions with effects for external addressees or in the behaviour of Council members related to the struggle over such decisions.

Third, constitutive mechanisms identify the configuration of actions of reflective actors that underpin the emergence and reproduction of social practices. They allow reconstructing the ‘founding moment’<sup>30</sup> that is difficult to assess if actors are ‘born into’ pre-existing practices.<sup>31</sup> Thus, they elucidate how social practices can emerge from, and are reproduced by, actions of reflective actors. They also show how interaction produces social meaning and gradually enmeshes even the five permanent members (P5) in practices that affect their action and convey power to those that can use them.<sup>32</sup> And they demonstrate how practices may gain normativity (that is, ‘a normative or rule-like dimension’)<sup>33</sup> that denotes collective expectations about appropriate behaviour prevailing within a community of practice. Analysing the constitutive mechanisms of Council practices follows Neumann’s observation that practices ‘remain stable not only because habit engrains standard ways of doing things, but the need to engage one another forces people to return to common structures. Indeed, antagonistic interchanges may reproduce common structures more precisely than friendly alliances do.’<sup>34</sup>

<sup>25</sup>Adler, *Communitarian International Relations*, p. 14; Wenger, *Communities of Practice*, pp. 72–85.

<sup>26</sup>Wenger, *Communities of Practice*, p. 77.

<sup>27</sup>Adler, ‘The spread of security communities’, p. 200.

<sup>28</sup>Howard and Dayal, ‘The use of force in UN peacekeeping’, pp. 79–81; Bode, ‘Reflective practices at the Security Council.

<sup>29</sup>Ambrosetti, ‘The diplomatic lead in the United Nations Security Council and local actors’; Ian Hurd, ‘Security Council reform: Informal membership and practice’, in Bruce M. Russett (ed.), *The Once and Future Security Council* (New York: St Martin’s Press, 1997), pp. 135–52; Ralph and Gifkins, ‘The purpose of United Nations Security Council practice’, pp. 642–7; Pouliot, *International Pecking Orders*; Jess Gifkins, ‘R2P in the UN Security Council: Darfur, Libya and beyond’, *Cooperation and Conflict*, 51:2 (2016), pp. 148–65.

<sup>30</sup>Pouliot, *International Pecking Orders*, p. 266.

<sup>31</sup>Ibid., p. 270.

<sup>32</sup>Adler and Pouliot, ‘International practices’, p. 6.

<sup>33</sup>Adler and Pouliot, ‘International practices: Introduction’, p. 15.

<sup>34</sup>Neumann, ‘Returning practice to the linguistic turn’, p. 631.

This concept of Council practices helps to overcome some theoretical issues that burden current practice theory. It allows bridging the tensions between agency and structure, and between stability and change of practices. Bueger and Gadinger distinguish between critical (often Bourdieuan) approaches that emphasise structure and repetition, and pragmatic approaches that focus on constantly changing action. They identify as ‘one of the most disputed questions posed by practice theories scholars: Can practice theory ... explain continuity as well as change?’<sup>35</sup> Our conception neither follows Adler-Nissen and Pouliot’s and Ingvilde Bode’s agency-based approach that does not capture the normativity and structuring effects of practices, nor Ralph and Gifkins’s suggestion to appraise Council practices according to external standards, such as R2P.<sup>36</sup> It emphasises that practices have structuring effects and imply the existence of an audience ‘able to appraise’ whether they are performed competently,<sup>37</sup> but allows exploring how these practices emerge and are reproduced. Hence, it locates normativity within a specific community of practice and identifies the Council members as both the producers of practices and the appraising audience. With its focus on strategic action, it also abandons the widespread assumption that practices are based upon unquestioned habitualisation,<sup>38</sup> without losing sight of their structuring effects. Habitual action implies that practices are continuously reproduced and begs the question of how and why they may change. Yet, theoretically, ‘habit’ does not reflect *social* practice, or shared background knowledge, but *individual* routine.<sup>39</sup> While actors may internalise a practice and act accordingly, they may also reflect on their action. Constitutive mechanisms elucidate why even then, they can hardly escape the structuring effects of social practices that emerge from their own interaction within a community of practice. Reflective actors may exploit the ‘wobble room for agency even in repetition’,<sup>40</sup> but they may also violate or contest an established practice.<sup>41</sup> Hence, their action may lead to reproduction, but also to the change (gradual or even sudden) of practices. What may appear as incompetent performance in light of an established practice may indicate the beginning of a process of change.<sup>42</sup> Stable practices, in turn, may result primarily from an unchanged configuration of the actions of reflective actors, not only from unquestioned reproduction.

### Precedent pressure provides the purview for council action

In this section, we assess how the Council members produce and reproduce, through their collective decisions and related behaviour, an evolving practice of Council enforcement action on intrastate conflicts that structures and affects their action in subsequent cases, despite the fact that the Council does not act coherently across cases.

As a community of practice, the Council members define the boundaries of their collective competence to override state sovereignty through Council enforcement action. As an exception to the principle of sovereignty, the Council may, under Chapter VII of the UN Charter, adopt enforcement measures, if it has determined ‘the existence of any threat to the peace, breach of the peace, or act of aggression’.<sup>43</sup> The precise meaning of this condition is neither specified in the UN Charter nor elsewhere. It emerges from practice as reflected in Council decisions. Hence, ‘every Council resolution that invokes a “threat to international peace and security” helps to define that

<sup>35</sup>Bueger and Gadinger, ‘The play of international practice’, p. 456.

<sup>36</sup>Adler-Nissen and Pouliot, ‘Power in practice’; Bode, ‘Reflective practices at the Security Council’; Ralph and Gifkins, ‘The purpose of United Nations Security Council practice’.

<sup>37</sup>Adler and Pouliot, ‘International practices: Introduction’, p. 8.

<sup>38</sup>Hopf, ‘Change in international practices’.

<sup>39</sup>Adler and Pouliot, ‘International practices: Introduction’, p. 8; Ted Hopf, ‘The logic of habit in International Relations’, *European Journal of International Relations*, 16:4 (2010), pp. 539–61.

<sup>40</sup>Adler and Pouliot, ‘International practices: Introduction’, p. 7.

<sup>41</sup>Raymond D. Duvall and Arjun Chowdhury, ‘Practices of theory’, in Emanuel Adler and Vincent Pouliot (eds), *International Practices* (Cambridge: Cambridge University Press, 2011), pp. 338–43, 347–50.

<sup>42</sup>Pouliot, *International Pecking Orders*, pp. 57–8.

<sup>43</sup>Charter of the United Nations, Art. 39, see also Arts. 2.1, 2.7, 41–2.

phrase' and 'acts as a kind of informal precedent'<sup>44</sup> for future cases. Despite its legal implications, this is not primarily a legal exercise, because every single Council decision reflects (at least tacitly) *political* agreement among Council members on a collective action. The Secretariat compiles the *Repertoire of the Practice of the Security Council* that 'provides comprehensive coverage of the Security Council's interpretation and application of the United Nations Charter'.<sup>45</sup>

We first outline a constitutive mechanism based upon dynamic institutional theory that shows how the process of interaction among reflective agents may produce an evolving practice that reflects normativity with implications for subsequent collective decisions. We then assess the development, normative content, and implications of the Council practice. We predominantly rely on collective decisions on intrastate conflicts and on thematic Council resolutions. They indicate (at least tacitly) collective agreement among Council member states, including all P5, on appropriate and legitimate action in particular cases, and reflect a collective interpretation of Charter rules. In addition, we draw upon official Council statements of member states and evaluations of close observers of Council activities, including legal scholars, some of which conceive of the Council members as an 'interpretative community'.<sup>46</sup>

### ***The constitutive mechanism: How precedent pressure produces social practice***

Despite diverging case-specific interests, Council members frequently prefer some Council decision to blunt blockade.<sup>47</sup> Proactive states employ the Council to legitimise their actions or gather relevant information. Reluctant states use the Council to delimit all too ambitious action.<sup>48</sup> Especially, the P5 may also have an interest in preserving Council reputation, and present themselves as responsible members, to retain their enhanced international status arising from their privileged standing in the Council.<sup>49</sup> Even in 2017, a year of increasing international tension with six formal vetoes, Council members unanimously adopted 59 out of 68 voted resolutions.

If the member states seek to avoid blockade, while pursuing divergent preferences on a decision's content, they need to collectively identify one out of several viable solutions. Due to their privileged status within the hierarchical Council pecking order, decisions depend primarily on agreement (at least tacit) among the P5.<sup>50</sup> Frequently, a group of proponents of decisive Council action on an intrastate conflict (often led by the Western permanent members) faces a group of opponents that advocates less decisive measures (often led by Russia and China), whereas the non-permanent members (E10) join either side or play the role of an audience that indicates prevailing group perception. Such coordination situations produce demand for a focal point<sup>51</sup> that represents an intersubjectively shared expectation of a likely point of agreement.<sup>52</sup>

<sup>44</sup>Ian Hurd, 'The UN Security Council and the international rule of law', *The Chinese Journal of International Politics*, 7:3 (2014), p. 365.

<sup>45</sup>See {<http://www.un.org/en/sc/repertoire/index.shtml>}.

<sup>46</sup>Ian Johnstone, 'Security council deliberations: the power of the better argument', *European Journal of International Law*, 14:3 (2003), pp. 437–80.

<sup>47</sup>Nico Krisch, 'The Security Council and great powers', in Vaughan Lowe, Adam Roberts, Jennifer Welsh, and Dominik Zaum (eds), *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945* (Oxford, New York: Oxford University Press, 2008), pp. 141–2.

<sup>48</sup>Voeten, 'The political origins of the UN Security Council's ability to legitimize the use of force'; Thompson, 'Coercion through IOs'; Ian Hurd, *After Anarchy: Legitimacy and Power in the United Nations Security Council* (Princeton, NJ: Princeton University Press, 2007); Nicola P. Contessi, 'Multilateralism, intervention and norm contestation: China's stance on Darfur in the UN Security Council', *Security Dialogue*, 41:3 (2010), pp. 323–44.

<sup>49</sup>Howard and Dayal, 'The use of force in UN peacekeeping', pp. 73–4.

<sup>50</sup>Kishore Mahbubani, 'The permanent and elected council members', in David Malone (ed.), *The UN Security Council: From the Cold War to the 21st Century* (Boulder, CO: Lynne Rienner, 2004), pp. 253–66.

<sup>51</sup>Thomas C. Schelling, *The Strategy of Conflict* (Cambridge, MA: Harvard University Press, 1960), pp. 57–8; Robert Sugden and Ignacio E. Zamarrón, 'Finding the key: The riddle of focal points', *Journal of Economic Psychology*, 27:5 (2006), pp. 615–17.

<sup>52</sup>See discussion of Schelling in Adler and Pouliot, 'International practices', pp. 10–11.

A previous decision in a situation that Council members collectively perceive as similar, lends itself as a focal point regardless of its content because it provides a solution that the members of this community of practice have accepted before.<sup>53</sup> Past experience, precedent or established tradition are widely believed to facilitate agreement in coordination situations.<sup>54</sup> While Council members are not formally bound to follow their previous decision, it will frequently be difficult to identify an equally salient solution. Hence, the normativity and precedential effect of past decisions emerges from their own collective action and reflects shared background knowledge.

An intersubjectively recognised precedent changes the rationale of Council members in a given situation, no matter why it has been adopted. It reduces the probability of collective agreement on non-compatible solutions, because it reflects converging expectations about the likely solution. Those advocating a compatible solution can more easily persuade indifferent Council members than their opponents.<sup>55</sup> As a result, it will be difficult to obtain sufficient support for a collective decision that ignores widely recognised precedent (although a veto power can always prevent an unwanted decision). While precedent-based analogies are never fully determinate, the analogical reasoning literature agrees that the persuasiveness of possible analogies differs starkly.<sup>56</sup> Skillful diplomats might underpin *their* positions with suitable cases, but this does not imply that these cases serve as *collectively recognised* points of agreement. When Russia invoked Kosovo as a precedent to justify its intervention in Crimea, this was not compelling for many other countries and did not provide a commonly recognised focal point.<sup>57</sup>

If Council members rely on a commonly recognised precedent, they trigger the gradual evolution of a practice. They relate one case to a previous one, iterate previous collective decisions, and implicitly define a class of like situations. The more often a solution is applied to similar cases, the more difficult it will be to resist its application to an additional case. Interested members will also confront opponents with ever new cases that fit the evolving practice. Hence, the practice carries the past solution into the present and the present solution into the future.<sup>58</sup> Despite its patterned nature, it may develop over time. Slightly different cases may push the actors collectively towards expanding or adjusting the practice, even if this development is contentious.

An evolving practice based upon precedent pressure instantiates an emerging internal order that conveys collective expectations, and influences preference formation and collective decisions.<sup>59</sup> It generates legitimacy within a practice community, because it reflects a solution that has been collectively accepted before. Based upon shared expectations about how Council members *should* perform, it enables them to identify deviating behaviour.<sup>60</sup> Eventually, actors may internalise competent performance as an individual habit,<sup>61</sup> but this is not indispensable. The practice provides a source of power for Council members with compatible preferences, while it forces those with deviating preferences to fight an uphill battle.

<sup>53</sup>Wayne Sandholtz, 'Dynamics of international norm change: Rules against wartime plunder', *European Journal of International Relations*, 14:1 (2008), p. 107.

<sup>54</sup>Schelling, *The Strategy of Conflict*, p. 260.

<sup>55</sup>Stone Sweet and Sandholtz, 'Law, politics, and international governance', p. 259.

<sup>56</sup>Friedrich V. Kratochwil, *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989), pp. 223–7; Dedre Gentner and Linsey A. Smith, 'Analogical reasoning', in Vilayanur S. Ramachandran (ed.), *Encyclopedia of Human Behavior* (Oxford: Elsevier/Academic Press, 2012), pp. 131–2; Cass R. Sunstein, 'On analogical reasoning', *Harvard Law Review*, 106:3 (1993), pp. 741–91.

<sup>57</sup>Alisher Faizullaev and Jérémie Cornut, 'Narrative practice in international politics and diplomacy: the case of the Crimean Crisis', *Journal of International Relations and Development*, 20:3 (2017), pp. 578–604.

<sup>58</sup>Adler and Pouliot, 'International practices', p. 12.

<sup>59</sup>Adler-Nissen and Pouliot, 'Power in practice', p. 894.

<sup>60</sup>Adler and Pouliot, 'International practices', p. 7.

<sup>61</sup>Hopf, 'The logic of habit in International Relations'.



### The permissive council practice on intrastate conflicts

Starting in 1990, the Council gradually replaced its non-interventionist practice with a 'consistent practice' that allowed selective action on intrastate conflicts.<sup>62</sup> After the end of the Cold War, Western members successfully proposed a series of activities, while opponents acquiesced. Accordingly, the Council considered massive cross-border refugee flows from Northern Iraq as a threat to international peace and urged Iraq to end its repression of civilians.<sup>63</sup> It authorised member states to take 'all necessary measures' to enforce a no-fly zone over Bosnia-Herzegovina.<sup>64</sup> It authorised a UN military mission and member states 'to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations' in Somalia without consent of any local party.<sup>65</sup> It also authorised 'a multinational force ... to use all necessary means to facilitate the departure from Haiti of the military leadership'.<sup>66</sup> Occasionally, interested member states referred in Council deliberations to previous cases.<sup>67</sup> However, to limit the emerging practice, the Council avoided formal references to previous cases and repeatedly considered path-breaking cases as 'unique' and 'exceptional'.<sup>68</sup> China warned that authorising military measures in Haiti might set a dangerous precedent.<sup>69</sup> However, a UN ambassador observed that 'any unique situation and the unique solution adopted create of necessity a precedent against which future, similar situations will be measured'.<sup>70</sup>

By 2000, the Council had developed a firmly established practice on intrastate conflicts.<sup>71</sup> It had 'become more confident in its expanded definition of threats to international peace and security'.<sup>72</sup> It adopted non-military and military enforcement measures on numerous internal armed conflicts, including Liberia, Angola, Croatia, Zaire, East Timor, and Cote d'Ivoire,<sup>73</sup> whereas it did not act decisively in some other cases, such as Rwanda, Sri Lanka, or Syria (see below), partly because major powers lacked interest or because the Council was blocked.<sup>74</sup> It also generalised its case-specific decisions. In a presidential statement, it noted that 'large-scale human suffering is a *consequence and sometimes a contributing factor to instability and further conflict*, whether due to displacement, violent assault or other atrocities'.<sup>75</sup> In its resolution on the protection of civilians in armed conflict and in other thematic resolutions, it reaffirmed its 'readiness to consider such situations and, where necessary, to adopt appropriate steps'.<sup>76</sup>

<sup>62</sup>Nico Krisch, 'Article 39', in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte, Andreas Paulus, and Nikolai Wessendorf (eds), *The Charter of the United Nations: A Commentary* (Oxford: Oxford University Press, 2012), p. 1282; Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001), pp. 114–21.

<sup>63</sup>Resolution 688 (1991); N. J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), pp. 141–6, 165–70.

<sup>64</sup>Resolution 816 (1993), para. 4; N. Fenton, *Understanding the UN Security Council: Coercion or Consent?* (Aldershot: Ashgate, 2004), pp. 151–3.

<sup>65</sup>Resolution 794 (1992), para. 10; Fenton, *Understanding the UN Security Council*, pp. 76–81.

<sup>66</sup>Resolution 940 (1994), para. 4; Fenton, *Understanding the UN Security Council*, pp. 114–20.

<sup>67</sup>Stone Sweet and Sandholtz, 'Law, politics, and international governance', pp. 262–7.

<sup>68</sup>For example, resolutions 794 (1992) on Somalia and 841 (1993) on Haiti.

<sup>69</sup>S/PV.3413, p. 10. Security Council documents are referenced by official symbols. S/PV denotes Verbatim Records of meetings; S/PRST denotes presidential statements; SC/ and S/ denote other documents, including Council press statements or reports to the Council.

<sup>70</sup>S/PV.3145, p. 7.

<sup>71</sup>Alex J. Bellamy, 'The humanisation of security? Towards an international human protection regime', *European Journal of International Security*, 1:1 (2016), p. 118.

<sup>72</sup>Jennifer Welsh, 'The Security Council and humanitarian intervention', in Lowe et al. (eds), *The United Nations Security Council and War*, p. 538.

<sup>73</sup>Krisch, 'Article 39', pp. 1282–91.

<sup>74</sup>Michael N. Barnett, 'The UN Security Council, indifference, and genocide in Rwanda', *Cultural Anthropology*, 12:4 (1997), pp. 551–78; Ralph and Gifkins, 'The purpose of United Nations Security Council practice'.

<sup>75</sup>S/PRST/1999/6, emphasis added.

<sup>76</sup>Resolution 1296 (2000), para. 5.

The evolving Council practice instantiates an institution that permits, but does not prescribe enforcement measures in cases of intrastate conflict. Generally, a behavioural norm can permit, proscribe, or prescribe certain action.<sup>77</sup> The practice establishes a 'discretionary entitlement'<sup>78</sup> to act on intrastate conflicts and reverses the Cold War doctrine of non-intervention. However, it does not generally compel Council members to approve, or participate in, intervention into an intrastate conflict. As a result, it increases the flexibility of the Council and the necessity to deal with the specific circumstances of an intrastate conflict.<sup>79</sup> The permissive nature of the ensuing doctrine is reflected in several thematic resolutions. The Council emphasised 'the need, when considering ways to provide for the protection of civilians in armed conflict, to proceed on a case-by-case basis, taking into account the particular circumstances'.<sup>80</sup> And when cautiously recognising the R2P principle, it specifically recalled its right to decide about interventions 'on a case-by-case basis and in cooperation with relevant regional organizations, should peaceful means be inadequate and national authorities manifestly fail to protect their populations'.<sup>81</sup> While the precondition for Council enforcement action is a threat to international peace, not a humanitarian disaster per se, the Council employs humanitarian disasters as a threat indicator.<sup>82</sup> Before imposing enforcement measures, it also prefers to obtain support by relevant regional organisations and consent by a government in power or in exile or by local conflict parties.<sup>83</sup> Such consent is not formally required,<sup>84</sup> and has occasionally been absent (for example, Somalia, later Libya), but it indicates that the Council members are aware of operating at the boundary of their Chapter VII powers.

The practice is likely to convey power to those member states advocating decisive Council action regarding an intrastate conflict, because it facilitates the placing of new initiatives on the Council agenda. Due to their permanent membership and historical knowledge, proponents of Council action among the P5 are particularly well equipped to exploit the practice, better than the rotating E10 members.<sup>85</sup> In contrast, the practice deprives the opponents of enforcement action of the possibility to reject such action on principled (legal) grounds. Such claims would likely be perceived as incompetent performance within this community of practice. Accordingly, rejecting enforcement action in a particular conflict requires a case-specific justification.

Indeed, the general permission of the Council to adopt enforcement measures was never challenged in the cases analysed below, although some Council members strongly disapproved of decisive Council action. China gradually accepted increasingly tightened enforcement measures on Sudan/Darfur, although it was struggling to protect the Sudanese government. Russia persistently blocked any enforcement measures targeting the Syrian government, but never denied that the Council *was entitled* to adopt such measures. Hence, the practice provides common background knowledge. It is largely taken for granted even by those disadvantaged by its normative implications.

<sup>77</sup>Sue E. Crawford, and Elinor Ostrom, 'A grammar of institutions', *American Political Science Review*, 89:3 (1995), pp. 584–5.

<sup>78</sup>Aidan Hehir, 'The permanence of inconsistency: Libya, the Security Council, and the Responsibility to Protect', *International Security*, 38:1 (2013), pp. 151–2.

<sup>79</sup>There are similarities to the expansion of self-defence as a justification of war in state practice; see Ian Hurd, 'The permissive power of the ban on war', *European Journal of International Security*, 2:1 (2017), pp. 1–18.

<sup>80</sup>Resolution 1296 (2000), para 1.

<sup>81</sup>Resolution 1674 (2006), referring to General Assembly resolution 60/1 (2005), paras 138–9.

<sup>82</sup>Krisch, 'Article 39', pp. 1282–8; Chesterman, *Just War or Just Peace?*, pp. 127–62; E. de Wet, *The Chapter VII Powers of the United Nations Security Council* (Oxford: Hart, 2004), pp. 149–77; see also S/PRST/2014/3, 12 February 2014.

<sup>83</sup>Krisch, 'Article 39', pp. 1291–3; L. Glanville, 'Intervention in Libya: From sovereign consent to regional consent', *International Studies Perspectives*, 14:3 (2013), pp. 330–2.

<sup>84</sup>Simon Chesterman, 'Leading from behind: the Responsibility to Protect, the Obama Doctrine, and humanitarian intervention after Libya', *Ethics & International Affairs*, 25:3 (2011), p. 280.

<sup>85</sup>Krisch, 'The Security Council and great powers', p. 137.

The analysis of the Council practice on intrastate conflicts yields three insights. *First*, it demonstrates that cases of Council action in this area are indeed connected through a practice that reflects a continuing redefinition of the legal status of enforcement action, although the text of the UN Charter has remained stable.<sup>86</sup> Therefore, it is likely to affect the power relations among Council members. This contrasts with numerous analyses that treat Council action on intrastate conflicts as separate and unconnected. *Second*, the Council practice has evolved prior to the emergence of the R2P norm. The Council had been authorising measures for over a decade before R2P envisaged that it could authorise them.<sup>87</sup> Moreover, the Council avoids using R2P as a foundation for its enforcement action.<sup>88</sup> If it refers to R2P in its Chapter VII resolutions, it typically emphasises the responsibility of governments and local parties to protect civilians.<sup>89</sup> Hence, our analysis of the Council practice suggests that the literature on R2P seriously overstates the impact of this international norm on Council action in intrastate conflicts. *Third*, the practice does not imply any obligation of Council members to accept, or contribute to, decisive Council action in a particular case. This is in stark contrast to the normative implications that are frequently derived from R2P.<sup>90</sup>

The precedent-driven Council practice differs substantially from precedent-based legal doctrines of international courts.<sup>91</sup> It emerges from horizontally structured negotiations among Council members who pursue their own interests, whereas international courts are third parties to a litigated conflict. Its normative implications do not imply any automatism regarding enforcement measures under predefined circumstances, whereas a well-defined legal doctrine might come close to a strict standard. Moreover, legal action typically terminates with a court decision. In contrast, the precedent-driven Council practice merely defines the purview of such action and anchors<sup>92</sup> other practices related to intrastate conflicts.

### The ratchet effect pushes council members towards accepting enforcement action

In this section, we examine whether, how, and with which effects the widespread practice of stepwise upgrading of Council measures in intrastate conflicts produces normative implications that affect subsequent decisions related to the same conflict. What may appear as an immediate consequence of the UN Charter's 'toolbox' of consultative, non-military, and military measures is most frequently the result of the contentious interaction of Council members at each stage. Hence, the process of gradual escalation is not automatic, but depends on the actions of Council members and collective decisions.

Based upon the ratchet effect, we develop a constitutive mechanism and an ideal-typical process model that shows how interaction among reflective agents in a particular case may produce normative implications for subsequent action. This effect is well known from societal evolutionary processes and has been observed *inter alia* for European integration, welfare state expansion, and the development of administrative personnel in companies. Recently, it has been

<sup>86</sup>Hurd, 'The permissive power of the ban on war', p. 11.

<sup>87</sup>Chesterman, 'Leading from behind', p. 280.

<sup>88</sup>Jennifer Welsh, 'Norm contestation and the Responsibility to Protect', *Global Responsibility to Protect*, 5:4 (2013), pp. 375–89.

<sup>89</sup>See, for example, resolution 1564 (2004) on Sudan and resolutions 1970 (2011) and 1973 (2011) on Libya; and Gifkins, 'R2P in the UN Security Council'.

<sup>90</sup>Theresa Reinold, 'The "responsibility not to veto", secondary rules, and the rule of law', *Global Responsibility to Protect*, 6:3 (2014), pp. 269–94.

<sup>91</sup>Krzysztof Pelc, 'The politics of precedent in international law: a social network application', *American Political Science Review*, 108:3 (2014), pp. 547–64.

<sup>92</sup>Ann Swidler, 'What anchors cultural practices?', in Schatzki, Cetina, and von Savigny (eds), *The Practice Turn in Contemporary Theory*, p. 90.

introduced into the debate on international practices.<sup>93</sup> Subsequently, we examine the occurrence and implications of this practice regarding Sudan/Darfur (2004–07) and Syria (2011–14), two of the deadliest intrastate conflicts of this century. Both have been highly contentious among Council members and have received considerable international public attention. While Sudan demonstrates how the ratcheting practice unfolds, Syria illustrates its normative implications even in stalemate. Our aim is to assess whether the ratcheting practice is observable and how proponents and opponents deal with its implications. We do not intend to provide a complete account of negotiation processes and do not claim that other Council practices or driving factors are irrelevant. We rely primarily on Council documents, including resolutions and member states' statements of their voting behaviour that elucidate their perspectives on Council decisions and justifications of their action. We also draw upon (unconfirmed) United States (US) diplomatic cables available online (WikiLeaks). The analysis is bolstered by interviews with three Western Council diplomats, reports by 'Security Council Report' (a non-governmental observer of Council activities), news reports, and the existing expert literature.

### ***The constitutive mechanism: How the ratchet effect produces social practice***

Council decisions create a ratchet effect if a first decision regarding an intrastate conflict affects a subsequent decision on the same conflict in ways that facilitate the upgrading, and impede the downgrading, of previous action. A previous decision must represent background knowledge shared within the community of practice and provide a baseline for subsequent action. This baseline must be difficult to fall below, but not all actors need to support or internalise its ideas. It suffices that the previous decision confronts actors 'with a social configuration in which deviation from prevalent ways of doing things renders engaging with the world more difficult, if not outright impossible'.<sup>94</sup>

The ratcheting practice is likely to produce normative pressure to accept ever tighter enforcement measures even on members that dislike such measures. A Council decision on an intrastate conflict typically comprises a collective appraisal of the situation (for example, as a threat to international peace and security) and some action (for example, requesting local actors to end violence) that provides a baseline for appraising subsequent proposals. In the absence of improvement on the ground and based upon the collective appraisal of the situation, downgrading previous measures that have proven insufficient, and even mere repetition of the initial request is inappropriate.<sup>95</sup> Moreover, it would question the seriousness of previous collective decisions and jeopardise Council credibility, because it would imply that Council requests might be ignored without consequences. While proposals to downgrade or repeat previous action are not impossible, they will be recognised as incompetent performance. Accordingly, the proponents of stronger measures become persuasive,<sup>96</sup> indifferent member states are likely to rally around upgrading action, and opponents face pressure to accept at least some upgrading. Moreover, each additional step generates only limited political costs in addition to what has already been agreed upon. Because of the ratchet effect, sceptical actors have to negotiate ever-new proposals to upgrade existing action against an upward moving baseline. Short of a blunt use of their veto power, they are likely to settle somewhere between the proponents' demands and the floor established by previous collective decisions. A diplomat noted: 'While drafting resolutions,

<sup>93</sup>Philip G. Czerny, 'Paradoxes of the competition state: the dynamics of political globalization', *Government and Opposition*, 32:2 (1997), pp. 251–74; Mark A. Pollack, 'The new institutionalism and EC governance: the promise and limits of institutional analysis', *Governance*, 9:4 (1996), p. 439; John R. Montanari and Philip J. Adelman, 'The administrative component of organizations and the ratchet effect: a critique of cross-sectional studies', *Journal of Management Studies*, 24:2 (1987), pp. 113–23; Pouliot and Thérien, 'The politics of inclusion'.

<sup>94</sup>Pouliot and Thérien, 'The politics of inclusion', p. 234.

<sup>95</sup>Interview 1 with former diplomat of a Western member state, 8 February 2016.

<sup>96</sup>Ronald R. Krebs and Patrick T. Jackson, 'Twisting tongues and twisting arms: the power of political rhetoric', *European Journal of International Relations*, 13:1 (2007), pp. 35–66.

you start with the status quo and try to expand it, ... but it is generally difficult to go below what was previously agreed'.<sup>97</sup>

The ratcheting practice conveys power to proactive states that are prepared to enforce an embargo or intervene militarily. These actors may employ the practice by deliberately affecting the options of sceptical Council members as part of their diplomacy. Whenever deemed appropriate (for example, upon non-improvement on the ground, triggering events or a changing Council constellation), they may confront opponents with new proposals. Time and again, opponents are forced to choose between blocking additional measures and acquiescing in undesired decisions that require only limited additional commitment compared to previous decisions. If they block early stage decisions with limited direct implications to avoid these effects, they incur the political costs of incompetent performance and political isolation.

Ideally, the ratcheting practice will develop along five schematic stages:

1. *Agenda-setting*. An international crisis enters the Council agenda upon a proposal by interested actors. Instruments of low ambition and formality, such as an informal press statement or a presidential statement, are most suitable if some members, especially among the P5, hesitate to internationalise an intrastate conflict. An informal statement voicing Council concern and urging the parties to cooperate is difficult to resist if crisis is looming, because it does not envisage significant commitments. Yet, its adoption places a crisis firmly on the agenda ('you do not get it off the agenda any more')<sup>98</sup> and introduces a floor for subsequent decisions. Even in cases of rapid escalation, like Libya (2011),<sup>99</sup> Council involvement typically starts at this low level of formality.

2. *Reaffirming concern*. Having accepted that a crisis merits Council attention, adoption of a (second) informal presidential statement made on behalf of the Council members may be difficult to resist. It reinforces Council involvement, even if it merely repeats 'agreed language' from the preceding press statement. Alternatively, a non-binding but formal Chapter VI resolution implies agreement that the crisis *may* endanger international peace and security. It may include a threat of further measures, including enforcement action, if calls to cooperate or end violence fail.

3. *Initial non-military enforcement measures*. If non-mandatory calls are insufficient in improving the situation, an adoption of a first set of enforcement measures under Chapter VII may follow. This stage implies a collective agreement that the crisis indeed constitutes a threat to international peace and security. To minimise resistance, the initial set of enforcement measures can be limited to weak or symbolic sanctions, possibly combined with a threat of reinforcement in case of non-compliance.

4. *Intensifying non-military enforcement measures*. If the original set of measures fails, stronger action may follow that puts more tangible (for example, economic) pressure on addressees.

5. *Military enforcement measures*. If the Council has indicated and reaffirmed its concern about a crisis, urged parties to cooperate, imposed non-military enforcement measures, and if all these steps have remained fruitless, authorising military measures constitutes the logical last step of escalation, even if some Council members doubt their suitability.

The ratcheting practice matters most in the absence of a well-designed escalation strategy regarding a particular conflict. Whereas its implications were modest, if the Council members collectively agreed on, and implemented, such a strategy, there is frequently no such agreement. Typically, each successive decision reflects a compromise resulting from contentious negotiations between proponents and opponents of Council action. Under these circumstances, any compromise is likely to unfold the normative implications outlined above. Opponents cannot easily reject an upgrade, if they intend to perform as responsible Council members, because such action is likely to be perceived as incompetent performance. However, they may delay decisions or limit

<sup>97</sup>Interview 2 with former diplomat of a Western member state, 10 February 2016.

<sup>98</sup>Interview 3 with former diplomat of a Western member state, 19 February 2016.

<sup>99</sup>SC/10180, 22 February 2011, not mentioned by Adler-Nissen and Pouliot, 'Power in practice'.

the magnitude of subsequent steps, thus reducing the speed of escalation, whereas the absence of strongly articulated resistance is likely to accelerate escalation,<sup>100</sup> as in the Libya (2011) case.

### ***The ratcheting practice and the authorisation of military force in Sudan (Darfur)***

Council action regarding Sudan's Darfur province elucidates how the ratcheting practice drives reluctant member states slowly but gradually towards authorising military force in an intrastate conflict. Western members pressed for action short of a non-consensual military campaign, in response to increasing violence among the local population, rebel groups tacitly backed by the Sudanese government, and resulting cross-border refugee flows especially to Chad. In contrast, China pursued a firm policy of non-intervention, had close relations with Sudan, and struggled to shield the Sudanese government from international action.<sup>101</sup>

Stage 1: The Council recognised at the lowest possible level of formality that the Darfur crisis deserved its attention. Upon a Western initiative, the Council president issued a short press statement<sup>102</sup> that expressed deep concern about the humanitarian crisis in Darfur. It called upon all parties to protect civilians and to conclude a humanitarian ceasefire and a political settlement. Although it lacked formal weight and was unlikely to change the situation on the ground, this initial decision placed the crisis firmly on the Council agenda and provided a floor for subsequent action.

Stage 2: Under US leadership, Western proponents of Council action immediately drew on the ratchet effect and pushed for the next stage. They advocated 'a very strong presidential statement',<sup>103</sup> which would pave the way for coercive measures. Opponents of collective action on Darfur, in particular China and Russia, struggled to soften its language.<sup>104</sup> The consensually agreed upon presidential statement 'on behalf of the Council'<sup>105</sup> mainly repeated the language from the press statement. Yet, it reinforced the floor for further action due to its higher formal level.

Stage 3: Subsequently, the US, with United Kingdom (UK) backing, pushed for non-military enforcement measures. Sanctions opponents had to negotiate these measures, when the Council intended to provide support for the African Union (AU) observer mission in Darfur<sup>106</sup> and the three African member states supported the initiative.<sup>107</sup> While not denying that the Council was entitled to adopt enforcement measures,<sup>108</sup> they struggled to prevent sanctions on the Sudanese government.<sup>109</sup> Hence, in July 2004, the Council adopted resolution 1556.<sup>110</sup> References to existing decisions on Sudan, including the presidential statement, reflect the Council's collective awareness to act in light of its previous action. Sanctions opponents accepted that the Council classified the situation as 'a threat to international peace and security and to stability in the region'; that it acted 'under Chapter VII'; and that it imposed a mandatory arms embargo on militias in Darfur (but not on the government). They also accepted that the Secretary-General

<sup>100</sup>Bourdieu, *The Logic of Practice*, p. 7 emphasises that timing provides important wiggle room in the (competent) performance of practices.

<sup>101</sup>Rebecca Hamilton, *Fighting for Darfur: Public Action and the Struggle to Stop Genocide* (New York: Palgrave Macmillan, 2011), pp. 199–200; Contessi, 'Multilateralism, intervention and norm contestation'.

<sup>102</sup>SC/8050, April 2004.

<sup>103</sup>Associated Foreign Press (AFP), 'US Willing to Call for UN Sanctions against Sudan' (22 May 2004).

<sup>104</sup>James Traub, *Unwilling and Unable: The Failed Response to the Atrocities in Darfur* (New York: Global Centre for the Responsibility to Protect, 2010), pp. 7–8.

<sup>105</sup>S/PRST/2004/18, May 2004.

<sup>106</sup>Traub, *Unwilling and Unable*, p. 10.

<sup>107</sup>See Algerian statement on their behalf, S/PV.5015, pp. 5–6.

<sup>108</sup>See ambiguous statements by China, Brazil, and Pakistan, S/PV.5015, pp. 2–3, 8–10.

<sup>109</sup>On China, see J. Wuthnow, 'China and the processes of cooperation in UN Security Council deliberations', *The Chinese Journal of International Politics*, 3:1 (2010), p. 71; J. Holslag, 'China's diplomatic manoeuvring on the question of Darfur', *Journal of Contemporary China*, 17:54 (2008), p. 82.

<sup>110</sup>China and Pakistan abstained; see S/PV.5015.

should regularly report on compliance, thus preparing the next escalation stage if Sudan did not comply. Western member states emphasised that ‘failing ... implementation, the Council will have no other choice but to plan for other actions, including measures provided for in Article 41 of the Charter’.<sup>111</sup> Opposing Pakistan implicitly agreed with this implication, but hoped ‘that the Council will not need to take further measures’.<sup>112</sup>

Resolution 1564 (2004) illustrates that the ratcheting practice renders downgrading difficult even in highly contentious situations. The Western members invoked Sudan’s failure to fulfill earlier Council requests, when the Council intended to express support for a strengthened AU mission and the Secretary-General had reported, under Resolution 1556 (2004), that the Sudanese Government had not met key commitments and that the humanitarian situation remained bleak.<sup>113</sup> A US draft resolution, co-sponsored by the UK, Spain and Romania, envisaged stronger measures.<sup>114</sup> China was again compelled to negotiate additional measures, because it supported the AU mission.<sup>115</sup> It prevented sanctions against the Sudanese government,<sup>116</sup> but reluctantly agreed on stronger sanctions threats. Attempts to reduce previous commitments were considered as incompetent performance: ‘Going back behind resolution 1556 (2004) ... would have undermined the Council’s credibility.’<sup>117</sup> Despite considerable disagreement reflected in four abstentions by Algeria, China, Pakistan, and Russia, opponents tacitly accepted, under resolution 1564 of September 2004, that the Council declared its ‘grave concern that the Government of Sudan has not fully met its obligations noted in resolution 1556’ and announced that it ‘in the event the Government of Sudan fails to comply fully with resolution 1556 (2004) or this resolution, ... shall consider taking additional measures’. They further accepted to ‘rapidly establish an international commission of inquiry in order immediately to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties’.<sup>118</sup> Hence, resolution 1564 (2004) reinforced threats of sanctions and was thus once more designed to shape the next round.

Stage 4: Next, Western states drew on the previously agreed upon conditions for sanctions and advocated intensified enforcement measures. The Secretary-General had repeatedly pointed at Sudanese non-compliance<sup>119</sup> and the commission established under resolution 1564 (2004) had recommended to refer the situation to the International Criminal Court (ICC).<sup>120</sup> When a ceasefire had remained partially unimplemented, a US draft envisaged tightened measures and forced opponents once again to struggle against the proposals. Whereas China precluded an oil boycott,<sup>121</sup> sanctions opponents accepted, under resolution 1591 (2005), that the Council established an (unenforced) no-fly zone, expanded the arms embargo ‘to all the parties’<sup>122</sup> (including the Sudanese government), and imposed targeted sanctions on those impeding the peace process. Three abstentions (China, Russia, and Algeria) indicated considerable disagreement with its content and China immediately announced its opposition to UN sanctions on Sudan.<sup>123</sup> Through resolution 1593 (2005), led by France (Algeria, Brazil, China, and the US abstained), opponents accepted referring Darfur atrocities to the ICC. US ambassador Bolton

<sup>111</sup>France, S/PV.5015, p. 9, similar UK, US, and others.

<sup>112</sup>Ibid., 10.

<sup>113</sup>S/PV.5027, pp. 2–5.

<sup>114</sup>See US statement in S/PV.5040, p. 5.

<sup>115</sup>S/PV.5040, p. 5.

<sup>116</sup>Traub, *Unwilling and Unable*, pp. 10–11.

<sup>117</sup>Germany, S/PV.5040, p. 7.

<sup>118</sup>Resolution 1564, paras 1, 14, and 12.

<sup>119</sup>S/PV.5050, pp. 2–5; S/PV.5071, pp. 2–5; S/PV.5094, pp. 2–4.

<sup>120</sup>S/2005/60, para. 584.

<sup>121</sup>AFP, ‘UN Security Council Approves Sudan Sanctions’ (30 March 2005); Traub, *Unwilling and Unable*, p. 15.

<sup>122</sup>Resolution 1591 (2005), para. 7.

<sup>123</sup>AFP, ‘China Opposes U.N. Sanctions Against Sudan’ (31 March 2005).

noted that the US acquiesced in this decision, although it generally disapproved ICC involvement, because previous agreement to resolution 1564 had put it in an 'impossible situation'.<sup>124</sup>

Stage 5: Against this backdrop, Western powers made the first attempt to reach agreement on military enforcement action, whereas China tenaciously refused a peace enforcement operation without Sudanese consent.<sup>125</sup> Western members pressed for an effective UN mission with a robust mandate when the Council members unanimously supported transforming the overburdened AU mission into a UN mission.<sup>126</sup> Likewise, the AU, the UN, and key Western Council members had brokered the Darfur Peace Agreement, fulfilling a Chinese precondition for military action.<sup>127</sup> Hence, opponents were once again pressed to negotiate undesired measures. Eventually, they agreed that resolution 1679, unanimously adopted in May 2006, mandated the preparation of a UN military mission in Darfur. The resolution was adopted 'under Chapter VII', thus keeping the bottom line of previous agreement, although this implicitly pointed at non-consensual military enforcement. Their statements reflected the uneasiness of opponents with this decision. Russia noted that the Chapter VII reference did not predetermine the mission's mandate and China insisted that 'if the United Nations is to deploy a peacekeeping operation in Darfur, the agreement and cooperation of the Sudanese Government must be obtained'.<sup>128</sup>

Next, the Council agreed on a UN peace operation in Sudan with a robust mandate authorising non-consensual military enforcement action. The US and the UK advocated a robust mandate, but faced 'considerable challenges in securing a resolution ... [from] China, Russia and Qatar'.<sup>129</sup> The drafters followed the model of resolution 1590 (2005) mandating the UNMIS mission in South Sudan. 'The pattern ... could be applied; Chapter VII would be invoked only with the task of protecting civilians, not with the overall mission', because 'repeating this formula would have the virtue of a good precedent in securing Chinese support'.<sup>130</sup> China and Russia admitted that Sudanese consent 'was not technically necessary for passage of the resolution',<sup>131</sup> while 'all three African members urged the Council to adopt the resolution as soon as possible'.<sup>132</sup> Despite China's insistence that Sudanese consent was inevitable,<sup>133</sup> opponents (tacitly) accepted a Chapter VII mandate, although limited to a particular task. Resolution 1706 (2006), adopted in August, authorised the UN mission to 'use all necessary means ... to prevent disruption of the implementation of the Darfur Peace Agreement by armed groups, without prejudice to the responsibility of the Government of the Sudan, to protect civilians'. As a compromise, it 'invited' Sudanese consent. China, Russia, and Qatar abstained.<sup>134</sup> China's attempts to persuade the Sudanese government to accept the mission reflect the difficulty of bringing its acquiescence in line with its policy of rejecting non-consensual military action.<sup>135</sup>

<sup>124</sup>John R. Bolton, *Surrender is not an Option: Defending America at the United Nations and Abroad* (New York: Threshold Editions, 2007), p. 349.

<sup>125</sup>Holslag, 'China's diplomatic manoeuvring on the question of Darfur', p. 74.

<sup>126</sup>See S/PRST/2006/21 and statements in S/PV. 5434.

<sup>127</sup>Contessi, 'Multilateralism, intervention and norm contestation', pp. 330–1.

<sup>128</sup>S/PV.5434, p. 3; on Russia, *ibid.*, p. 2.

<sup>129</sup>US Permanent Mission to the UN, *UNSC/Sudan: Proposed Way Forward in Securing Resolution for UN PKO in Darfur* (06USUNNEWYORK1349\_a) (New York, 2006).

<sup>130</sup>US Embassy Khartoum, *UN Peacekeeping USYG Guehenno Sees AU Faltering in Darfur* (06KHARTOUM1459\_a) (Khartoum, 2006).

<sup>131</sup>US Permanent Mission to the UN, *UNSC/Sudan: So Close Yet Still So Far Away from Darfur Resolution* (06USUNNEWYORK1538\_a) (New York, 2006).

<sup>132</sup>US Permanent Mission to the UN, *UNSC/Sudan: Council Meeting Will Proceed Despite Bashir's Refusal to Participate* (06USUNNEWYORK1621\_a) (New York, 2006), also Security Council Report (SCR), 'Monthly Forecast Sudan (Darfur)' (31 August 2006).

<sup>133</sup>S/PV.5519, p. 5.

<sup>134</sup>S/PV.5519, pp. 4–5, 8–9; Bolton, *Surrender is not an Option*, p. 355.

<sup>135</sup>Holslag, 'China's diplomatic manoeuvring on the question of Darfur', pp. 78–80.



Finally, the Council authorised an AU-UN hybrid operation with a robust mandate because resolution 1706 was difficult to implement. Previous collective commitments again provided the baseline for UK-drafted resolution 1769 (2007). The initial draft included the same Chapter VII provisions as resolution 1706. Their diplomats skillfully lobbied AU support and heavily involved Ghana to ‘make it all the more difficult for traditional obstructionists like China, Qatar and South Africa to override [AU] positions’.<sup>136</sup>

In conclusion, the ratcheting practice facilitated the acceptance of military action in a highly contentious case. What might appear as a shared comprehensive Council strategy was in fact the result of difficult agreement at every single stage. However, each decision was connected to previous ones and prepared the stage for subsequent ones through social meaning produced during the process. Proactive states skillfully exploited the ratcheting practice. They started with suggesting Council action at the lowest possible level of formality and proposed additional measures whenever new opportunities emerged. Blunt rejection of additional measures might have been perceived as incompetent action, incompatible with behaviour of responsible Council members. Hence, opponents became entrapped in previous collective commitments, including sanctions threats linked to particular conditions. They were repeatedly forced to negotiate about undesired additional measures tabled by the Western powers and supported by the regional member states. Despite their intent to shield Sudan from mandatory action, opponents successively accepted that the situation raised the Council’s concern, that it posed a threat to international peace and security, that sanctions were imposed on militias and subsequently also on Sudanese authorities, that a military mission was prepared ‘under Chapter VII’, and that the mission was invested with a robust mandate.

The constellation of interests and international norms alone cannot explain the outcome. China and other states consistently rejected enforcement measures on Sudan. Throughout, these countries sought to mitigate the scope of proposed measures and delayed decisions. Repeatedly, China threatened to veto decisions and frequently abstained, thus indicating substantive disagreement. Occasionally, it even attempted to reinterpret Council decisions immediately after it had acquiesced in them. Council decisions on Sudan also did not result from the emerging R2P principle, which constituted an obstacle to, rather than a catalyst of agreement.<sup>137</sup>

### ***The implications of the ratcheting practice in a constellation of stalemate: Syria***

Negotiations on Council action over Syria demonstrate that the ratcheting practice affects the behaviour of member states even in light of a prevailing stalemate. Upon increasing violence in Syria, Western member states continuously called for enforcement measures and sought to exploit the ratcheting practice, although frequently in vain. In contrast, Russia and China repeatedly blocked even informal Council decisions and moderate enforcement action with the intention of avoiding the undesired implications that they believed would lead to another Libyan-type regime change<sup>138</sup>

Stage 1: Western powers sought to place the emerging Syrian crisis on the Council agenda at the lowest possible level of formality, a presidential press statement, but Russia precluded consensus. The statement, submitted by France, Germany, Portugal, and the UK in April 2011, envisaged condemning violence in Syria and supporting the Secretary-General’s call for an

<sup>136</sup>US Permanent Mission to the UN, *AU/UN Hybrid in Darfur: Narrowing Differences* (07USUNNEWYORK563\_a) (New York, 2007).

<sup>137</sup>Paul D. Williams and Alex J. Bellamy, ‘The UN Security Council and the question of humanitarian intervention in Darfur’, *Journal of Military Ethics*, 5:2 (2006), pp. 144–60; Gifkins, ‘R2P in the UN Security Council’, p. 156.

<sup>138</sup>A. Garwood-Gowers, ‘China and the “Responsibility to Protect”: the implications of the Libyan intervention’, *Asian Journal of International Law*, 2:2 (2012), pp. 375–93; S. Charap, ‘Russia, Syria and the doctrine of intervention’, *Survival*, 55:1 (2013), pp. 35–7.

independent investigation.<sup>139</sup> The struggle over an informal press statement with few immediate consequences for the situation in Syria is difficult to understand in the absence of the ratcheting practice. Western countries regarded the statement as a first step towards sanctions and considered ‘a range of options, including targeted sanctions’,<sup>140</sup> while Russia, accompanied by India, Brazil, and South Africa, feared just that. Russia insisted that ‘the current situation in Syria ... [did] not present a threat to international peace and security’<sup>141</sup> and should be treated as a domestic matter. A subsequent European attempt to place the crisis on the Council agenda through a formal resolution also failed, because several dissenting states were ‘uncomfortable with what they saw as possible action-oriented language which might lead to more robust follow-up by the Council’.<sup>142</sup> Yet, this failure was less surprising, as the initiative would have moved the crisis immediately to escalation stage 2.

The crisis eventually entered the Council agenda through a presidential statement. In summer 2011, when it had become difficult to deny that surging violence caused cross-border effects, some Council action seemed unavoidable and resistance threatened to raise the political costs of blockade.<sup>143</sup> Accordingly, the Council consensually adopted the Brazilian compromise text for a presidential statement<sup>144</sup> that requested all sides to end violence and called the Syrian authorities to respect human rights. This decision established the first collective baseline for further action.

Stage 2: With some follow-up measures, the Council reconfirmed its concern, but Russia struggled to contain the undesired implications of the ratcheting practice. In March and April 2012, the Council adopted two presidential statements<sup>145</sup> that referred to the earlier decision, endorsed the six-point Annan plan, and called upon the Syrian government to cooperate and to cease military activities in population centers. Russia rejected any reporting deadline and threat of further measures,<sup>146</sup> thus thwarting the Western attempt to create clear commitments on which further proposals could be based. In April 2012, the Council unanimously adopted, under Chapter VI, resolutions 2042 and 2043 that established the small and short-lived United Nations Supervision Mission in Syria (UNSMIS). Again, Western states proposed threats of consequences, which Russia insisted on deleting to avoid ‘defining too clearly what Syria’s commitments are in a binding resolution which could lead to further steps by the Council in case of non-compliance’.<sup>147</sup> Hence, both the proponents and the opponents of further action were well aware of the ratchet effect.

The battle over stage 3: Russia blocked the move to the next escalation stage and explicitly justified its resistance with the ratchet effect. It consistently rejected adoption of even moderate non-military enforcement measures. In October 2011, Russia and China vetoed a European draft<sup>148</sup> that envisaged a threat of sanctions.<sup>149</sup> Russia noted that ‘it is easy to see that Libya’s “Unified Protector”

<sup>139</sup>SCR, ‘Insights on Syria’ (28 April 2011); AFP, ‘UN Fails to Agree on Condemning Syria’ (28 April 2011).

<sup>140</sup>US, S/PV.6524, p. 4.

<sup>141</sup>S/PV.6524; SCR, ‘Insights on Syria’ (28 April 2011); ‘Push in U.N. for criticism of Syria is rejected’, *New York Times* (28 April 2011), A12; J. Gifkins, ‘The UN Security Council divided: Syria in crisis’, *Global Responsibility to Protect*, 4:3 (2012), p. 381.

<sup>142</sup>Gifkins, ‘The UN Security Council divided’, p. 382; SCR, ‘Draft Resolution on Syria’ (8 June 2011) and SCR, ‘Middle East Debate and Syria Developments’ (25 July 2011).

<sup>143</sup>SCR, ‘Update Report No. 2’ (26 May 2011); SCR, ‘Draft Resolution on Syria’ (1 August 2011); SCR, ‘Draft Resolution on Syria’ (2 August 2011).

<sup>144</sup>S/PRST/2011/16 of 3 August.

<sup>145</sup>S/PRST/2012/6 and 10.

<sup>146</sup>SCR, ‘Syria Presidential Statement and Press Statement’ (20 March 2012).

<sup>147</sup>SCR, ‘Continuing Negotiations on a Syria Draft Resolutions’ (13 April 2012).

<sup>148</sup>S/2011/612, S/PV/6627; SCR, ‘Syria Sanctions Resolution’ (25 August 2011); SCR, ‘Vote on a Syria Resolution’ (3 October 2011).

<sup>149</sup>SCR, ‘Syria Sanctions Resolution’ (25 August 2011); SCR, ‘Vote on a Syria Resolution’ (3 October 2011).

model could happen in Syria'.<sup>150</sup> Abstentions by Brazil, India, Lebanon, and South Africa indicated more widespread reluctance to envisage enforcement measures. In February 2012, Russia and China vetoed another resolution drafted by France, Germany, Morocco, and the UK, and supported by all other Council members. It called upon the Syrian government to cease human rights violations and military activities in cities and threatened to impose unspecified 'further measures', but expressly excluded military action.<sup>151</sup> In July 2012, Russia and China vetoed a third resolution drafted by France, Germany, Portugal, the US, and the UK that linked the UNSMIS extension to a Chapter VII sanctions threat if the Syrian government failed to withdraw heavy weapons from civilian areas.<sup>152</sup> While most sceptics voted in favor, partly to support the Annan plan, Russia justified its veto: 'We simply cannot accept a document, under Chapter VII, ... that would open the way for the pressure of sanctions and later for external military involvement in Syrian domestic affairs.'<sup>153</sup> In May 2014, Russia and China blocked another draft envisaging an ICC referral, initiated by France, sponsored by 65 states, and supported by 13 Council members.<sup>154</sup> Russia complained that even this decision might provide a 'pretext for armed intervention in the Syrian conflict'.<sup>155</sup> Hence, Russia explicitly referred to the pressure arising from (threats of) moderate enforcement measures towards authorising military measures.

Subsequent Council decisions on the Syrian intrastate conflict remained at stage 2; well below mandatory enforcement measures. On the *political track*, Russia and China continued to preempt any ratcheting pressure and sought to ensure that Council action did not reach beyond expressing support for ongoing political negotiations.<sup>156</sup> On the *humanitarian track*, non-permanent members succeeded in adopting several decisions, including resolutions, on humanitarian access that avoided the issue of consequences for non-compliance.<sup>157</sup> On the partially successful *chemical weapons track*, several resolutions were adopted under Chapter VII, despite remaining tension.<sup>158</sup> However, this track is closely related to the Council's policy on weapons of mass destruction and largely dissociated from its practice on intrastate conflicts.

The Syrian case demonstrates that the ratcheting practice shapes member states' behaviour even in the absence of collective agreement. Western proponents of Council action repeatedly sought to exploit the ratchet effect. They struggled with placing the crisis on the agenda through an informal press statement as a basis for stronger follow-up measures. Later, they advocated clear requests addressed at the Syrian government to reinforce pressure towards subsequent action. The opponents, led by Russia, endeavoured to thwart the undesired effects of the practice. Initially, they struggled to keep the Syrian crisis completely off the Council agenda. Later, they repeatedly rejected or watered-down decisions that might have supported further steps. Russia expressly justified its repeated veto even of moderate enforcement resolutions with the anticipated ratchet effect. Although motivated by Russian foreign policy preferences, these moves show that Russia saw itself struggling against the slippery slope of gradually strengthened measures. However, the increasing isolation of Russia and China indicates that most Council members regard the frequent use of the veto as incompetent performance.

---

<sup>150</sup>S/PV.6627.

<sup>151</sup>S/2012/77, S/PV.6711; SCR, 'Syria Draft Resolution' (3 February 2012).

<sup>152</sup>S/2012/538, SCR, 'Possible Vote on Syria Resolution' (18 July 2012).

<sup>153</sup>S/PV.6810.

<sup>154</sup>S/2014/348.

<sup>155</sup>S/PV.7180.

<sup>156</sup>Resolutions 2254 (2015) and 2268 (2016).

<sup>157</sup>SC/11028; S/PRST/2013/15; resolutions 2139 (2014), 2165 (2014), 2258 (2015), 2401 (2018); Ralph and Gifkins, 'The purpose of United Nations Security Council practice', pp. 643–7.

<sup>158</sup>Including resolutions 2118 (2013), 2209 (2015), 2314 (2016), and 2319 (2016).

## Conclusion

The concept of Security Council practices outlined here elucidates the power conveying effects of international practices even within a group of reflective members, and promises to overcome some issues of contemporary practice theory. The analysis of the constitutive mechanisms of Council practices demonstrates how even reflective actors may become gradually enmeshed with the effects of socially produced meaning, reflected in patterned action within a community of practice. The concept abandons the widespread assumption that practices rely predominantly on internalisation and uncontested reproduction. It integrates the observation that patterned action endowed with meaning may emerge from interaction among reflective actors and structure the action of these actors. It allows for change through adjusted action within the community of practice and for reproducing social practices even by action of those disadvantaged by their power-conveying effects.

Well-established Council practices affect the action of Council members and their collective decisions. Strong constitutive mechanisms underpin the two practices examined. They elucidate why these practices are constantly reproduced and how they convey power. (1) Precedent pressure supports a firmly established Council practice that has evolved from numerous collective decisions after the end of the Cold War. It permits, but does not prescribe, the adoption of non-military and military enforcement measures in intrastate conflicts. Thus, it defines the purview of Council action and anchors other practices related to decision-making in specific cases. It is not even challenged by those Council members that are disadvantaged by its normative implications. (2) The ratcheting practice supports the dynamic upgrading of initially moderate Council action beyond what sceptical veto powers might find acceptable. In the examined cases, initiators of Council action consistently sought to obtain initial consensus at the lowest level of formality with the goal to subsequently upgrade measures. While the Darfur case shows that such upgrading is difficult to resist, Russian action on Syria, intended to preclude the ratcheting up of Council measures, demonstrates that opponents cannot escape the structuring effects of the practice simply by avoiding competent performance.

The analysis of Council practices contrasts with traditional perspectives on Council activities and reveals a powerful internal logic of Council decision-making. Certainly, Council practices may accommodate the geopolitical interests of Council members based upon external power resources and externally evolving international norms, such as R2P, if Council members act accordingly. However, they also reflect a component of normativity that emerges from previous action and modifies the distribution of power among Council members. Based on their previous commitment, even great powers may be driven towards accepting ever more undesired enforcement action, like China in the Sudan/Darfur case. Alternatively, they are forced to choose between competent performance as a responsible Council member, and incurring the political costs of isolation, like Russia and China in the Syrian case. And the analysis of the precedent-based practice on intrastate conflicts demonstrates that Council activity developed largely before the R2P norm emerged, and challenges the claim according to which R2P has had a major effect on Council action. It suggests the opposite: The firmly established Council practice on intrastate conflicts may have provided the practice-based foundation for the subsequent development of the R2P norm, reflecting what Council members have previously accepted as legitimate action in intrastate conflicts.

**Acknowledgements.** We thank the German Peace Foundation (grant no. PA 003/13- Nr. 02/12-2012) and the German Research Foundation (DFG) (grant no. GE 1164/10-1) for their generous financial support of this study. Further, Thomas Dörfler kindly acknowledges the financial support of the Japan Society for the Promotion of Science.

**Thomas Gehring** is Professor of International Politics at the Faculty of Social Sciences, Economics, and Business Administration of Otto-Friedrich-University Bamberg, Germany. His research interests include international institutions and organisations, interaction among international institutions and regime complexes, and European Union external relations.

He has published in journals such as *International Studies Quarterly*; *European Journal of International Relations*; *Review of International Organizations*; *Global Environmental Politics*; and *Journal of Common Market Studies*.

**Thomas Dörfler** is a JSPS-UNU Postdoctoral Fellow at the United Nations University in Tokyo, Japan. His research interests focus on patterns of decision-making in international organisations and on the activities of the United Nations, in particular the United Nations Security Council. He has published in journals such as *International Journal of Public Administration*; *Global Governance*; *Journal of International Relations and Development*; and *Regulation and Governance*.

---

Cite this article: Gehring, T. and Dorfler, T. 2018. Constitutive mechanisms of UN Security Council practices: Precedent pressure, ratchet effect, and council action regarding intrastate conflicts. *Review of International Studies* 45: 120–140. doi: 10.1017/S0260210518000268