

# China and Brazil in Global Norm Building: International Law and the International Criminal Court \*

## China y Brasil en la construcción de normas globales: Derecho Internacional y la Corte Penal Internacional

*Nele Noesselt\*\**

Recibido: 28/02/2013

Aprobado Evaluador Interno: 15/03/2013

Aprobado Evaluador Externo: 01/08/2013

### Abstract

This article analyzes the positions of China and Brazil vis-à-vis the International Criminal Court (ICC) and outlines convergences and divergences in their approach to issues of global justice. It discusses Chinese and Brazilian views on the responsibility to protect and sheds light on the joint positions of the BRICS in issues of global justice. It argues that systemic differences and divergent normative principles will impede policy coordination in the long run. Agreements are made on a case-by-case basis and are often influenced by third states or other regional organizations.

### Resumen

El presente artículo analiza las posiciones de China y Brasil en la Corte Penal Internacional (ICC) y esboza las convergencias y divergencias de sus enfoques en cuestiones de justicia global. Discute los puntos de vista de China y Brasil en cuanto a la Responsabilidad de Proteger, al mismo tiempo que evidencia las posturas comunes de los BRICS en asuntos de política global. El principal argumento es que las diferencias sistémicas y de los principios normativos van a impedir la coordinación política al largo plazo. En su mayor parte, los acuerdos han sido elaborados caso por caso, y además son influenciados frecuentemente por terceros países o por organizaciones regionales.

SICI: 0122-4409(201307)18:2<701:CYBCNG>2.0.TX;2-H

\* Artículo de Reflexión.

\*\* Dr. Nele Noesselt, research fellow at the GIGA Institute of Asian Studies (Germany, Hamburg) and lecturer at the University of Hamburg and the University of Duisburg-Essen. She holds a PhD in Political Science and a PhD in Modern Chinese Studies. Her research interests include Chinese IR theories, the role of regional powers in world politics, governance in China, transition processes of (post)socialist systems. Contact: noesselt@giga-hamburg.de.

**Key Words:**

Brazil, China, International Criminal Court, Policy Coordination, Responsibility to Protect (R2P)

**Palabras clave:**

Brasil, China, Corte Penal Internacional, Coordinación Política, Responsabilidad de Proteger (R2P)

**Keywords plus:**

Criminal jurisdiction, criminal procedure (International law), criminal law, international tribunals, China, Brazil, foreign relations, international humanitarian law.

**Palabras clave descriptor:**

Jurisdicción penal, procedimiento penal (derecho internacional), derecho penal, tribunales internacionales, China, Brasil, relaciones exteriores, derecho internacional humanitario.

## Introduction

The global financial crisis poses a severe challenge to the foundations of the “old” world order. The ongoing rise of new economic centers and regional powers has triggered a debate about a potential global power shift occurring. The BRIC(S)<sup>1</sup> member states, as part of an alliance that has come into formal existence in the shadow of the financial crisis, have constituted themselves as a new transregional network. But does this network really speak with one voice? And do they coordinate their approach to global issues? Given the differences between their sociopolitical constitutions, value systems, and geostrategic positions, one might actually be tempted to assume instead that this network of five rising economic powers is characterized by competition and geostrategic tensions.

With regard to these rising powers, most attention has been paid to the role of the People’s Republic of China (PRC), which is seen as potentially capable of challenging the United States’ hegemony in world politics. If the PRC really does have a special position inside the BRICS, bilateral relations between China and the other rising network powers are of extreme importance for global politics as well. By evaluating the bilateral dimension of the regional power network, one will soon discover that China’s relations to Russia and India are shaped by unsolved historical and geostrategic cleavages. Meanwhile, Latin America, and especially Brazil, is not perceived as an immediate threat to China’s regional or global interests. This suggests that the formation of a new Chinese–Brazilian axis in world politics, which would imply a strong policy and strategy coordination between these two representatives of the Global South, could likely sooner or later become a reality.

In 1993, Brazil and China established a new partnership, which, since 2012, has been upgraded to a strategic one. With the deepening of China–Latin America ties in the last few years this partnership is now no longer limited only to economic cooperation and trade relations at the bilateral level. It also targets global politics—as their bargaining positions in the context of multilateral frameworks such as the G20 and international institutions, for example the IMF and World Bank, clearly illustrate. Economic and financial power, especially in terms of foreign currency reserves, is directly linked to global status and political influence. China and Brazil have emerged as “regional powers,” and ones who exert a growing impact on international and global issues—both as individual states and via strategic networks (BRICS, IBSA)<sup>2</sup>.

<sup>1</sup> BRIC(S) = Brazil, Russia, India, China (and South Africa). The first BRIC meeting was held in 2009; South Africa joined the network later.

<sup>2</sup> BRICS = Brazil, Russia, India, China, South Africa; IBSA = India, Brazil, South Africa. The existence of two, and even more networks reflects the key differences between the various rising regional powers. China and Russia are both relatively well situated, being veto powers in the UNSC. As a socialist and postsocialist state, respectively, they follow different ideas and principles from those

Even though China and Brazil have increased their bilateral cooperation, divergences and incompatibilities persist with regard to their political systems (socialist one-party state versus multiparty democracy). To evaluate normative convergence or divergence between these two BRICS member states, the empirical part of this essay will shed more light on the similarities and differences between China and Brazil in the context of international law—a domain of global politics that is directly related to the acceptance or contestation of international norms and standards. Instead of analyzing China's and Brazil's compliance with international law, this essay will primarily focus instead on their current renegotiation of norms in the global arena (Guzman, 2002, pp. 1823-1887; Kent, 2007; Mushkat, 2012, pp. 633-676; Potter, 2007, pp. 699-715; Prantl and Ryoko, 2011, pp. 204-222)<sup>3</sup>. What are China's and Brazil's positions in international law and international justice? Are they coordinating their policies and advancing joint positions in global governance?

### **Brazil and China: Normative Network Powers in the Global Realm?**

The BRIC(S) are generally perceived as potential challengers of the international system and its normative foundations. Whereas their joint declaration of their first meeting in Yekaterinburg (2009) primarily addressed the global financial system and the Bretton Woods institutions, the debates at the following annual summits document a shift to high global politics and security issues. The second summit (2010), hosted by Brazil, officially demanded a “transformation of global governance in all relevant areas” (BRICS, 2010). When South Africa joined the strategic network, the BRICS' agenda shifted to issues of international law and human rights issues. The BRICS' Sanya Declaration (2011) highlighted the role of the UN Security Council (UNSC) in safeguarding world peace, but also called for a reform of its basic fundamentals to strengthen the voice of the Global South, especially of those states cooperating through the BRICS dialogue network. The Sanya Declaration, issued in April 2011, presented a joint position of the BRICS vis-à-vis the unrests and conflicts in the Middle East, North and West Africa (BRICS, 2011). The Delhi Declaration (2012) reaffirmed these positions but also expressed the BRICS' concern that the international community's engagement in the current conflicts in the Arab region could cause a delay of other conflict settlements such as the Arab-Israeli conflict. Surprisingly, the 2012 declaration did not mention the Libyan issue, which had

---

that are upheld by Brazil, India, and South Africa, who, while not openly pushing for an overthrow of the existing system, at the same time reject being subject to the conditions of the West.

<sup>3</sup> Acceptance of, and compliance with, global norms is often described as a learning process, resulting from the integration of states who had formerly been deviants from these norms into international organizations and issue-related multilateral frameworks (WTO, UN). Compliant behavior, as the case of China illustrates, also includes, however, rational cost-benefit calculations, and thus should not be confused with a general acceptance of the normative canon.

been critically disputed throughout 2011, but added Syria, Iran and Afghanistan to the agenda of the BRICS (BRICS, 2012).

During 2011, all five BRICS states were represented at the UN. Only two of them, China and Russia, are permanent members of the UN Security Council and thus possess veto power. The other three are among the aspirants for a permanent position in a reformed UN Security Council. The rise of new powers on the global stage creates new threat perceptions. But one has to keep in mind that the BRICS do not represent an homogeneous group of rising powers. Though the BRICS have started to issue joint declarations, they do not form a political community. All of these states have remained independent players in global politics. If the BRICS are becoming a global political actor, a minimal normative consensus in global issues will be a necessary precondition.

### **China and Brazil in the United Nations Security Council 2011: New Approaches to Global Justice?**

With regard to the rise of regional powers, one heatedly discussed question is whether they will behave as authoritative stakeholders and thus agree to take on the burden of greater responsibilities and costs in the safeguarding and enforcing of global security and justice (Flemes, 2010; Nolte, 2011, pp. 49-67; 2010, pp. 881-901). Do the BRICS countries, as is indicated by their joint statements, really follow a coordinated approach to these issues?

Brazil and China both abstained from vetoing UN Resolution 1593, which proposed the transfer of the investigation of the situation in Darfur to the International Criminal Court (ICC), and even voted "yes" to UN Resolution 1970, which allowed the same action for the case of Libya. If the behind-the-scenes bargaining and formation of strategic alliances that exerted a certain impact on Brazil's and China's voting behavior were completely ignored, one might be tempted to interpret these two cases as an example of converging interests or even of policy coordination. But what role do these two rising regional powers really play in global norm-building and the enforcement of global justice? In general, there exists a huge imbalance between these two with regard to their formal status within the UNSC. China is one of the permanent members of the UNSC; it holds the power of veto and can thus prevent the adoption of any regulation or resolution, even in opposition to the positions and interests of the majority of states in the UN. Brazil, in contrast, is a non-permanent member, and thus only has a vote in the UNSC when elected to a two-year term (Ruiz Ferreira, 2012). Jointly with Germany, India, and Japan, Brazil is pushing for permanent representation in the UNSC. The Chinese, who regard India and Japan as regional competitors, do not support this package deal, although they do generally welcome a stronger position for Brazil in international institutions and global politics (Pereira and de Castro Neves, 2011, p. 8).

Power constellations are getting even more complex with regard to the ICC: Brazil is one of the Court's contracting states; China, in contrast, while having been quite active in the early stage of bargaining on the establishment of an international court, did not eventually sign the Rome Statute<sup>4</sup>. But China has stressed that it might join the group of contracting states at a later point in time<sup>5</sup>. Officially, China has recognized the need for a global regulatory institution. Only the UNSC has the right to transfer the investigation of human right violations perpetrated in a non-member state to the ICC. It should be noted, then, that by vetoing one of the abovementioned resolutions China would have been able to prevent the ICC from investigating these two cases.

### **China: Responsibility to Protect (R2P) Versus Non-Interference**

Responsibility to protect (R2P) is a normative concept, first discussed in 2001–02, officially introduced by the UN in 2005 (UN General Conference, 2005), and reaffirmed by the UN in 2009 (UN General Assembly Plenary Debate, 2009); it prescribes the general obligation to stop or prevent “mass atrocity crimes.” This responsibility to protect the rights of citizens is first ascribed to the state that they live in. Only if the local authorities are unwilling or unable to halt violence and crimes against humanity, protection of basic human rights becomes the shared responsibility of the international community.

Although China is often regarded as being reluctant to support norms and principles that infringe upon national sovereignty, it does seem to be generally accepting of the R2P norm (Foot, 2011, pp. 47-66). As a general rule, however, China repeatedly stresses that interventions justified on the grounds of R2P should always have to be first approved by the UNSC, and thus should also be decided on a case-to-case basis. China has participated in UN peacekeeping missions since 1981 (Seymour, 1998, p. 228) and, since the turn of the last century, the number of Chinese peacekeepers has increased steadily. Currently, China contributes more personnel to peacekeeping operations than any other UN Security Council member does. In 2007, for the first time in the history of UN peacekeeping, command over UN troops in Western Sahara was delegated to China (Foot and Walter, 2011, p. 46). China's involvement in UN peacekeeping missions does not, though, automatically imply that the PRC refrains from using its veto power in the Security Council.

However, two special cases —Darfur (2005) and Libya (2011)— illustrate a turn toward a more flexible foreign policy by China (Carlson, 2006, pp. 217-241). Between 2004 and 2006 China allowed a series of Chapter VII resolutions to be passed that authorized international intervention in Darfur (Kent, 2006, p. 30). China's abstention

---

<sup>4</sup> For more information concerning the ICC see: <http://www.icc-cpi.int>. The Rome Statute, the founding document of the ICC, is available online: <http://untreaty.un.org/cod/icc/index.html>.

<sup>5</sup> Expert interview, 2012.

from vetoing UN Resolution 1593 (2005) fits into this pattern—it was, nonetheless, rather unexpected. China did not sign the Rome Statute and is thus not a member state of the ICC, but has nevertheless always recognized the need to establish some kind of international regulatory court (Lu and Wang, 2005, pp. 608–620). Resolution 1593 was adopted as a result of 11 votes in favor and 4 abstentions (Algeria, Brazil, China, and the United States). Only later, when the ICC’s chief prosecutor, Luis Moreno Ocampo, announced that the Sudanese president would be prosecuted for crimes against humanity (March 2009), was this move met with severe opposition from the Arab League and the African Union, as well as from Russia and China—who argued that this step would destroy all peacekeeping efforts and attempts to stabilize the region<sup>6</sup>.

In the case of Libya, the UNSC unanimously adopted Resolution 1970—which imposed an arms embargo and arms restrictions on the country and transferred the case to the ICC (Resolution 1970/2011). Surprisingly, China, chair of the session, not only voted for this resolution but also did not even veto Resolution 1973, which endorsed a no-fly zone over Libya and authorized the UN member states to take all necessary measures to protect civilians there (Resolution 1973/2011). When the Western countries then commenced air strikes and openly pursued the overthrow of the Gaddafi regime, China officially criticized this development as being an overstretch of the original mandate (United Nations Security Council Meeting, 2011 March 17, p. 10).

Its support for the referral of the Libyan case to the ICC seemed an enigma for international observers of China, as it was the first time that the country had officially backed international interference in a local conflict on the side of an insurgent civil society. It appears, however, to have been a rational quid pro quo arrangement between China and the Arab and African states. As the Chinese ambassador to the UN, Li Baodong, stressed, China was not violating its axiomatic foreign policy principles, but was in fact reacting to the growing pressure coming from the Arab League and the African Union (United Nations Security Council Meeting, 2011 February 26). China is in direct contact with the latter through the BRICS framework, and has a strategic economic interest in close cooperation with the African region. China’s “yes” to Resolution 1970 thus in reality does not mark a turn towards compliance with international law as defined by the Western democratic states. Furthermore, in 2011, after the ICC had issued an arrest warrant for the Sudanese president, the Chinese side officially invited al-Bashir for a state visit, and opposed international pressure to arrest him as per the ICC’s demands. As it is not a signatory state of the ICC, China was not officially obliged to fulfill this request (*The Telegraph*, 2011 June 29). In addition, China strongly opposes any actions

---

<sup>6</sup> Expert interview, Peking University, 2012.

directed against the heads of states in other countries and only supports interventions that aim at reestablishing stability and peace<sup>7</sup>.

A close reading of the official transcripts of the UNSC meetings reveals that China's position in the Libyan case is part of a rational and flexible approach to humanitarian intervention, one that is motivated by the ultimate aim of enhancing its own image and reputation. The Chinese side stressed that its vote for Resolution 1970 reflected the interests and positions of the Arab League and the African Union. No other motives or reasons are mentioned; China's statement is relatively short compared to those of the other UNSC participants (United Nations Security Council Meeting, 2011 February 26). The tone in subsequent meetings changes from active support to constructive criticism. China did not support Resolution 1973 at first, but, again, in officially accepting and respecting the interests of the Arab League and the African Union decided to abstain. The Chinese representative did not, however, refrain from outlining China's reservations. He stressed that the conflict in Libya should be resolved through peaceful means and be based on the UN Charter (United Nations Security Council Meeting, 2011 March 17, p. 10). Reacting to a briefing on the situation in Libya by the ICC's chief prosecutor, China reaffirmed that its "position on the International Criminal Court remains unchanged. We attach great importance to combating impunity and achieving justice" (United Nations Security Council Meeting, 2011 May 4, p. 9). After the air strikes against the Gaddafi regime, China took an even more critical position:

The international community must respect the sovereignty, independence, unity and territorial integrity of Libya. The internal affairs and fate of Libya must be left up to the Libyan people to decide. We are not in favour of any arbitrary interpretation of the Council's resolutions or of any actions going beyond those mandated by the council. (United Nations Security Council Meeting, 2011 May 4, p. 10)

Once again, China stressed the need for a diplomatic solution and proposed that regional actors and regional organizations such as the African Union should play a more central role in tackling the Libyan crisis. Aside from referring to these organizations and the central supervising role of the UN, the Chinese representative also expressed China's support for the work of the ICC (United Nations Security Council Meeting, 2011 May 4, p. 10). China summarized its blueprint for a solution of the crisis in four points: restoration of stability and order; respect for Libya's sovereignty, independence, unity, and territorial integrity, as well as the aspirations and choices of the Libyan people;

---

<sup>7</sup> Expert interview, CASS, 2012.



national reconciliation; and, assistance to be provided by the UN and the UNSC in Libya's reconstruction (United Nations Security Council Meeting, 2011 September 16, p. 4).

This statement illustrates once again the primacy of "national sovereignty" and "non-interference," as laid out in the "Five Principles of Peaceful Coexistence" that underpins China's approach to international politics. China's abstention from vetoing the resolutions that allowed intervention in the Libyan case does not imply a general paradigm shift in China's axiomatic foreign policy principles and normative views (CASS, 2011). China's ideal world order is best summarized by the "Harmonious World," a formulation presented by the Chinese president on the 60<sup>th</sup> anniversary of the UN (Hu, 2005). The "Harmonious World" is an alternative to the concept of global governance—it conceives of international politics as a dialogue between divergent civilizations but does not foresee their eventual convergence.

### **Brazil: Responsibility while Protecting (RwP)**

China is not the only rising power to promote "alternative" normative conceptualizations of the global order. Brazil has positioned itself as a vigorous critic of the current interpretation of the R2P norm and called for the theoretical widening of the concept so as to integrate mechanisms with which to monitor R2P actions, in order to prevent misuse and conceptual overstretch. At the UN General Conference in September 2011, the Brazilian president, Dilma Rousseff, presented the concept of "responsibility while protecting" (RwP) and thus pushed the R2P debate on Sudan, Libya, and Syria in a new direction. In November 2011, the Brazilian government issued a policy paper that summarized Brazil's RwP stance and presented a more precise definition of the concept. The Brazilian Government (2011) acknowledged that the adoption of the R2P norm had been a milestone in global politics; nonetheless, it also critically pointed out that actions undertaken to protect civilians and to reestablish peace often lead to collateral casualties and can frequently have destabilizing side effects.

On February 21, 2012, the UN organized an unofficial discussion round on the RwP concept<sup>8</sup>. Whereas the rising developing countries were generally in favor of it, most European representatives argued that any condition-based readjustment of the R2P norm would delay the decision-making process in the UN and give the green light to human rights violations in destabilized political systems. The backdrop to the Brazilian

---

<sup>8</sup> A collection of speeches and statements can be accessed online: <http://www.responsibilityto-protect.org/index.php/component/content/article/35-r2pcs-topics/4002-informal-discussion-on-brazils-concept-of-responsibility-while-protecting>, downloaded 11/08/2012. For a discussion of Brazil's view on R2P (*responsabilidade del proteger*) and RwP (*responsabilidade ao proteger*), see also Hamann, E. (2012), "A Responsabilidade de Proteger e ao Proteger: breve histórico e alguns esclarecimentos", CEBRI Dossier, pp. 25-28.

RwP paper was the UN's intervention in Libya, which to many non-Western powers represented a misuse and overstretch of the R2P norm. They felt that the initial mandate to protect citizens' rights and to prevent (further) crimes against humanity was used as an excuse to actually push for regime change in Libya.

The RwP concept appears to be an attempt by the Brazilian elites to position themselves as mediators between pro-interventionist voices in the US and Europe and the more reluctant rising powers China and Russia (*The Hindu*, 2012 March 12). In international and global affairs, Brazil has undertaken efforts to disentangle itself from the US; it has joined the BRICS network and is actively participating in and shaping the discourse on international law. At the same time, it develops and maintains partnerships with a variety of different networks and regional powers—while still struggling to find its own independent approach to regional and global politics.

In contrast to China, India, and Russia, Brazil signed and ratified the founding statute of the ICC in 2002. Since then the ICC has launched investigations into seven matters; two of them—Darfur and Libya—were transferred to it by the UN Security Council. Brazil abstained from voting on Resolution 1593 (2005, Darfur), but actively supported Resolution 1970 (2011, Libya). This correlates with China's voting behavior. These similarities should not, however, be overemphasized—and cannot be generalized. In almost every comment made on the UN's Libya strategy, Brazil officially “condemned the use of violence by the Libyan authorities against unarmed demonstrators” (United Nations Security Council Meeting, 2011 March 17, p. 10), a type of statement that was never made by the Chinese. Furthermore, Brazil also stated that it stood “in solidarity with all movements in the region expressing legitimate demands for better governance, more political participation, economic opportunities and social justice” (United Nations Security Council Meeting, 2011 March 17, p. 10). This divergence of positions is certainly an outcome of the systemic differences between the PRC and Brazil, i.e. between a socialist one-party regime and a modern multiparty democracy. Nonetheless, like his Chinese counterpart, the Brazilian representative to the UN stated that Resolution 1973 would allow measures that went far beyond the original aims of reestablishing peace and security. Brazil repeatedly affirmed its support for an investigation of the situation in Libya by the ICC (United Nations Security Council Meeting, 2011 May 4, p. 8).

Apart from voting patterns, the primacy of national sovereignty is another shared principle of Chinese and Brazilian approaches to global politics. Until the late 1990s Brazil only supported Chapter VI UN interventions, which are based on the consent of the political authorities in the targeted country<sup>9</sup>. In the year 2004, for the first time in

---

<sup>9</sup> This position changed slightly when Brazil opposed the army's coup d'état in Paraguay and threatened in response to suspend its neighbor's membership of the Mercosur alliance.

its history, Brazil participated in a Chapter VII intervention in Haiti—this was a peace mission that allowed force to be used if deemed necessary. This military intervention did not, though, result in the conceptual reformulation of Brazil's national sovereignty principle. It was only after the outbreak of the Arab Spring that Brazil would take a more active position in the R2P controversy. Even though Brazil supported the UN intervention in Libya, which had been legitimized by the R2P principle, it did not, however, condone military actions aimed at the overthrow of Libya's political system.

The aforementioned perception of Western powers overstressing and misusing the UN mandate partly explains China's reluctance to support UN resolutions that would permit the imposition of sanctions on Syria, or that could even lead to a humanitarian intervention being launched there. Interestingly, it was China and Russia that openly opposed—by drawing on their veto power—any kind of resolution being passed vis-à-vis Syria. However, the Chinese side has distanced itself from Russia—whose position it sees as related to economic interests—by stressing that

China exercised its veto power in the Security Council because the draft resolutions contained contents that violated the purposes and principles of the UN Charter (...) these contents may be employed as the foundation for waging an interventionist war, making political dialogue over Syria completely at sea while further escalating the Middle East turmoil and posing negative consequences on global rescue supply and economic development. (Qu, 2012)

Brazil and other rising powers, meanwhile, chose to take a relatively cooperative position and did not generally reject the idea of a UN decision being reached (Garwood-Gowers, 2012, pp. 388-391). In the Syrian case, Brazil also participated in a peace mission to stop the conflict and to prevent a Libyan-style intervention from happening (Spektor, 2012, pp. 54-59). Despite Brazil's new role in peacekeeping missions, not all observers evaluate Brazil's recent engagement in global issues positively. Assuming the growing reluctance of Brazil to engage in global politics in accordance with international standards, Brazil has been categorized as an "irresponsible stakeholder" (Stewart, 2010) and as a "rising spoiler" (Schweller, 2011, pp. 285-297).

From the statements outlined above it is more than obvious that convergences of positions are found in those issue areas where Brazil and China act as representatives of the states of the so-called "Third World." Due to the historical experiences of colonization and suppression, these two states highlight and uphold the principles of the Westphalian order that is based on sovereign nation states, clearly defined borders, and territorial integrity. Divergences result from different modes of governance and ideas of state-society interactions. China, due to the nature of its own political system, does not support any kind of civilian insurgency that might lead to an overthrow of the system in place.

The explanation for this is more than self-evident: similar developments could occur in China and thus challenge the authority of the CCP. Immediately after the outbreak of the various Arab rebellions, China initiated measures to restabilize its system and to avoid any spillover from these movements to the PRC. The systemic differences between Brazil and China thus limit the likeliness of significant joint positioning occurring on global issues. For any consensus to be reached would require that Brazil refrains from formulations that would threaten or even violate the ideological foundations of the Chinese party-state.

### **China, Brazil, and Latin America in Global Politics: The Bilateral Dimension**

Most overviews made of the interactions between China and Latin America refer to the economic dimension of the emerging strategic partnerships, and thus regard political issues as being of only secondary importance. A look at the history of bilateral interactions leads to a slightly different evaluation. During the 1950s and 1960s Latin America, together with Asia and Africa, had been one of the regions where the PRC officially supported national liberation movements. Later, the region would become an ideological battlefield between the CCP government in Beijing and the GMD in Taiwan. The “One China Principle” is still one of the driving forces behind China’s active engagement with Latin America. Economic support and investment in local infrastructure are condition-based: China requires its cooperation partners in Latin America to adhere to Beijing’s “One China Principle,” according to which the CCP government in Beijing is the only legitimate diplomatic representation of China—with Taiwan accorded the status of a Chinese province. The Dominican Republic and Grenada have as a result since switched their allegiance to the PRC, as have other Latin American countries that had previously chosen to recognize the Republic of China (on Taiwan) (Erikson and Chen, 2007, p. 71).

In the last few years Latin America has become both a new market for Chinese products and a supplier of energy to China’s ever-growing economy. Keeping in mind, though, that trade relations only began to flourish in the first decade of the twenty-first century, it becomes more than obvious that strategic alliance-building has also been part of China’s Latin America strategy. Partnerships were expanded during a time of US neglect for its regional backyard; after 9/11 the Middle East and Arab states were regarded as representing the main challenge to US interests. China–Latin America relations began to intensify from 2001, after the official two-week visit made to the region by Jiang Zemin (who served as Chinese president until 2003). In 2004, his successor, Hu Jintao, travelled to Argentina, Brazil, Chile, and Cuba, signing more than 400 bilateral agreements in the process. Zeng Qinghong’s visit to Latin America in 2005 was the third such trip made by a leading member of the Chinese government. On this occasion, security concerns were added to the highly economy and trade-focused agenda (Bunck,

2009, p. 193). Following the last Rio+20 meeting, Chinese Prime Minister Wen Jiabao also visited four Latin American countries: Brazil, Uruguay, Argentina, and Chile. In bilateral statements, China and its Latin American counterparts reaffirmed their commitment to mutual consultation in international and global affairs (*Xinhua*, 2012, June 28). China is trying to diversify its foreign relations and strengthens its contacts with individual states, regional powers, and regional cooperation frameworks simultaneously. The supply of raw materials and energy resources is one dominant factor in Chinese foreign policy, as these are the necessary basis for maintaining sustainable economic growth. At the same time, the intensification of China–Latin America relations is part of China’s South–South cooperation strategy. In sum, China’s increased presence in Latin America might pose a challenge to Brazil’s regional powerhood. In addition to already existing conceptual and normative divergences, this might all too easily result in growing competition with regard to both regional and global issues.

Cooperation and coordination on bilateral issues as well as on global challenges between Brazil and China have been intensified significantly. In March 2006, Hu Jintao and Lula da Silva launched the First Chinese–Brazilian High Level Coordination and Cooperation Meeting. The Chinese Ministry of Foreign Affairs (2006) identified policy coordination as an integral part of the relationship between the two countries: “China and Brazil have also been working closely at international forums, making similar or identical decisions in favor of developing countries’ interests, as well as supporting each other at international organizations.” The Joint Action Plan 2010–2014, signed in 2009 between the PRC and the Federal Republic of Brazil, declared that its intention was to “strengthen political consultations on bilateral and multilateral issues of mutual interest”. It also prescribed high-level visits and exchange between their Foreign Ministries: “the strategic dialogue will focus on the exchanging of views on strategic planning of bilateral relations and on major international and regional issues of mutual interest” (Joint Action Plan 2010-2014, 2009). Both sides also agreed to form a High Level Coordination and Cooperation Committee: on February 13, 2012, Brazil and China agreed to strengthen their cooperation in 19 issue areas, most of them related to the coordination of trade, finance, and the sharing of technological innovation.

Given the systemic differences between China and Brazil, the latter is generally expected to comply with internationally agreed norms and values—even though Brazil’s voting behavior in the UN has so far consisted of a categorical reluctance to support interventions and has thus been indirectly supportive of authoritarian systems. As long as Brazil is not given a permanent position in the Security Council, though, its impact on agenda setting and norm formulation in global justice will continue to be rather limited.

Since the first BRIC meeting in 2009, consultation and exchange between Brazil and China have been strengthened, even though both of them are at the same time also

integrated in other exclusive regional networks such as IBSA or the SCO (Shanghai Cooperation Organization: China, Russia, Central Asia). Nonetheless, after proclaiming the launch of a comprehensive partnership, coordination on global issues between China and Brazil has been raised to a higher level. In August 2011 the Chinese and Brazilian prime ministers exchanged their views on the situation in Libya over the telephone (*Xinhua*, 2011 August 24). Half a year later, they held similar talks on the Syrian issue and agreed that conflicts should be solved via dialogue and by peaceful means (*Xinhua*, 2012 March 14). Networking on issues of global concern has brought and continues to bring these two distant neighbors closer together. Coordination on global financial governance—through the BRICS framework, via the G20 mechanism, or from within the Bretton Woods institutions—benefits both Chinese and Brazilian development interests and motivates them to engage in mutual dialogue and cooperation. In June 2012 China and Brazil finalized a bilateral currency swap agreement—worth 60 billion reais or 190 billion yuan—as a way to reduce their dependency on the dollar and global financial markets (*BBC*, 2012 June 22).

## Outlook

International law (and global jurisdiction) remains a double-edged sword. China categorically rejects interference in the internal politics of independent states and upholds the Westphalian principle of national sovereignty. The “Five Principles of Peaceful Coexistence” as a code of conduct for international politics, the “Harmonious World” as China’s normative interpretation of global governance, and the idea of a “multipolar” world order are all key elements of the Chinese vision of global politics. China is not pushing for the overthrow of the current international system, but rather demands the renegotiation of its underlying principles. Brazil, on the other hand, has chosen a middle-way between norm compliance and norm setting: with the RWP concept, Brazil is proposing a reform of the R2P norm while at the same time no longer generally opposing actions taken under Chapter VII of the UN Charter.

Similarities in voting behavior or the shared priority of national sovereignty indicate that a general consensus regarding global norm-building might eventually be possible between the two countries. New dialogue frameworks function as catalysts for coordination between the rising powers, but do not guarantee that they will finally agree on a new common set of normative principles for global politics. Nonetheless, as voting behavior might also be, as the cases discussed above exemplify, a rational tit-for-tat agreement with third party states or organizations, the potential for convergence should not be overestimated.

The current financial crisis has opened a window of opportunity for rising powers to bring in their own norms and values. In political theory, a global order is only justified and perceived as legitimate if it is aligned with the normative convictions of a plurality of actors, including the states located in the old periphery of world politics. The recent

positions that China and Brazil have taken in matters of international law and international justice reveal that global politics cannot be reduced to one single and unified set of fixed values. A multitude of normative principles coexist, also within the BRICS network itself (Sharma, 2012, pp. 2-7), and China and Brazil are not the only states to question the legitimacy of the global order and the R2P principle.

### Works Cited

- BBC (2012 June 22). "China and Brazil in \$30bn currency swap agreement" Online: <http://www.bbc.co.uk/news/business-18545978>. Retrieved: July 20, 2012.
- Bellamy, A. J. and P. D. Williams (2011). "The new politics of protection? Côte d'Ivoire, Libya and the responsibility to protect". *International Affairs* 4: 825-850.
- BRICS (2012). "Delhi Declaration". Online: <http://www.brics.utoronto.ca/docs/120329-delhi-declaration.html>. Retrieved: August 8, 2012.
- BRICS (2011). "Sanya Declaration". Online: <http://www.brics.utoronto.ca/docs/110414-leaders.html>. Retrieved: August 8, 2012.
- BRICS (2010). "Second BRIC summit of heads of states and governments: Joint statement". Online: <http://www.brics.utoronto.ca/docs/100415-leaders.html>. Retrieved: August 8, 2012.
- Bunck, J. M. (2009). "China and Latin America: An Evolving Military Dynamic". In E. Kavalski (ed.). *China and the Global Politics of Regionalization*: 191-204. Farnham: Ashgate.
- Carlson, A. (2006). "More than just saying no: China's evolving approach to sovereignty and intervention since Tiananmen" In A.I. Johnston and R.S. Ross (ed.). *New directions in the study of China's foreign policy*: 217-241. Stanford: Stanford UP.
- CASS (Chinese Academy of Social Sciences) (2011). *Xifang guoji ganyu lilun yu xianshi* [Theory and practice of Western interventionism]. Beijing: CASS.
- Erikson, D. P. and J. Chen (2007). "China, Taiwan, and the Battle for Latin America". *The Fletcher Forum of World Affairs* 2: 69-89.
- Flemes, D. (ed.) (2010). *Regional Leadership in the Global System: Ideas, Interests and Strategies of Regional Powers*. Farnham: Ashgate.
- Foot, R. (2011). "The responsibility to protect (R2P) and its evolution: Beijing's influence on norm creation in humanitarian areas". *St Antony's International Review* 2: 47-66.
- Foot, R. and A. Walter (2011). *China, the United States, and Global Order*, New York, Cambridge UP.

- Garwood-Gowers, A. (2012). "China and the Responsibility to Protect: The Implications of the Libyan Intervention". *Asia Journal of International Law* 2: 375-393.
- GOV.cn (2006 August 29). "China, Brazil strengthen relations". Online: [www.gov.cn/misc/2006-08/29/content\\_372510.htm](http://www.gov.cn/misc/2006-08/29/content_372510.htm). Retrieved: July 10, 2012.
- Guzman, A. T. (2002). "A compliance-based theory of international law". *California Law Review* 6: 1823-1887.
- Hamann, E. (2012). "A Responsabilidade de Proteger e ao Proteger: breve histórico e alguns esclarecimentos". *CEBRI Dossie*: 25-28.
- Hu, J. (2005). "Nuli jianshe chijiu heping gongtong fanrong de hexie shijie" [Strive to Build a Harmonious World Where There are Permanent Peace and Common Prosperity]. *Renmin Ribao*, 16 September 2005.
- Jia, B. B. (2006). "China and the International Criminal Court: Current Situation". *Singapore Yearbook of International Law 2010*. Online: <http://www.commonlii.org/sg/journals/SGYrBkIntLaw/2006/6.html>. Retrieved: March 10, 2012.
- Kent, A. (2007). *Beyond compliance: China, international organizations, and global security*. Stanford: Stanford UP.
- Kent, A. (2006). "Compliance v cooperation: China and international law". *Australian International Law Journal* 13: 19-32.
- Liu, T. (2012). "China and the Responsibility to Protect: Maintenance and Change in its Policy for Intervention". *The Pacific Review* 1: 153-173.
- Lu, J. and Z. Wang (2005). "China's attitude towards the ICC". *Journal of International Criminal Justice* 3: 608-620.
- Mushkat, R. (2012). "International legal compliance as a rational act: Theoretical extensions and Chinese realities". *Transnational Law & Contemporary Problems* 3: 633-676.
- Nolte, D. (2011). "Regional Powers and Regional Governance". In N. Godehardt and D. Nabers (ed.). *Regional Powers and Regional Orders*: 49-67. London: Routledge.
- Nolte, D. (2010). "How to Compare Regional Powers: Analytical Concepts and Research Topics". *Review of International Studies* 4: 881-901.
- Paal, D. H. (2011). "China: Mugged by reality in Libya, again". *Asia Pacific Brief*. Online: <http://www.carnegieendowment.org/2011/04/11/china-mugged-by-reality-in-libya-again/2h4>. Retrieved: August 12, 2012.



- Pereira, C. and J.A. de Castro Neves (2011). *Brazil and China: South-South Partnership or North-South Competition?*. Washington: Brookings.
- Potter, P. B. (2007). "China and the international legal system: challenges of participation". *China Quarterly* 191: 699-715.
- Prantl, J. and N. Ryoko (2011). "Global norm diffusion in East Asia: How China and Japan implement the responsibility to protect". *International Relations* 2: 204-222.
- Qu, X. (2012). "The UN Charter, the Responsibility to Protect, and the Syria Issue". Online: [www.ciis.org.cn/english/2012-04/16/content\\_4943041.htm](http://www.ciis.org.cn/english/2012-04/16/content_4943041.htm). Retrieved: January 10, 2013.
- Resolution 1970 (2011). Online: [http://www.un.org/Docs/sc/unsc\\_resolutions11.htm](http://www.un.org/Docs/sc/unsc_resolutions11.htm). Retrieved: August 12, 2012.
- Ruiz Ferreira, C. E. (2012). *Brasil como miembro non permanente del Consejo de Seguridad de las Naciones Unidas en el periodo 2010-2011*. Bogota: FES.
- Schweller, R. (2011). "Emerging powers in the age of disorder". *Global Governance* 3: 285-297.
- Seymour, J. D. (1998). "Human Rights in Chinese Foreign Relations". In S.S. Kim (ed.). *China and the World*: 217-238. Boulder: Westview Press.
- Sharma, R. (2012). "Broken BRICs. Why the Rest Stopped Rising". *Foreign Affairs* 91: 2-7.
- Spektor, M. (2012). "Humanitarian interventionism Brazilian style". *Americas Quarterly*: 54-59.
- Stewart, P. M. (2010). "Irresponsible stakeholders". *Foreign Affairs*. Online: <http://www.foreignaffairs.com/articles/66793/stewart-patrick/irresponsible-stakeholders>. Retrieved: October 10, 2012.
- The Hindu (2012 March 12). "BRICS and the 'responsibility while protecting' concept". Online: <http://www.thehindu.com/opinion/op-ed/article2985190.ece>. Retrieved: August 8, 2012.
- The Telegraph (2011 June 29). "Sudan's al Bashir given red carpet treatment by China". Online: <http://www.telegraph.co.uk/news/worldnews/asia/china/8605319/Sudans-al-Bashir-given-red-carpet-treatment-by-China.html>. Retrieved: August 10, 2012.
- United Nations Security Council Meeting (2011 February 26). *S/PV 6491: Transcript of the United Nations Security Council Meeting*.
- United Nations Security Council Meeting (2011 March 17). *S/PV 6498: Transcript of the United Nations Security Council Meeting*.

United Nations Security Council Meeting (2011 May 4). *S/PV 6528: Transcript of the United Nations Security Council Meeting.*

United Nations Security Council Meeting (2011 September 16). *S/PV 6620: Transcript of the United Nations Security Council Meeting.*

United Nations Security Council Meeting (2011 November 2). *S/PV 6647: Transcript of the United Nations Security Council Meeting.*

Xinhua (2011 August 24). "Chinese, Brazilian FMs discuss Libyan situation on phone". Online: [http://news.xinhuanet.com/english2010/china/2011-08/24/c\\_131071013.htm](http://news.xinhuanet.com/english2010/china/2011-08/24/c_131071013.htm). Retrieved: July 10, 2012.

Xinhua (2012 March 14). "Chinese, Brazilian FMs discuss ties, Syria". Online: [http://www.china.org.cn/world/2012-03/14/content\\_24889574.htm](http://www.china.org.cn/world/2012-03/14/content_24889574.htm). Retrieved: July 10, 2012.

Xinhua (2012 June 28). "Chinese premier's visit enhances China-Latin American ties". Online: [http://news.xinhuanet.com/english/china/2012-06/28/c\\_131681905.htm](http://news.xinhuanet.com/english/china/2012-06/28/c_131681905.htm). Retrieved: August 20, 2012.