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Federica D'Alessandra
University of Oxford, Blavatnik School of Government

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Conceptualizing Great Power Perpetrators

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Conceptualizing Great Power Perpetrators

Federica D'Alessandra

University of Oxford
Oxford, U.K.

Introduction

For some time now, international relations scholars and observers have lamented the existence of a crisis of multilateralism, and the erosion of the rules-based international order.¹ It is hard to pinpoint precisely when and how this crisis of global governance began; which factors contributed the most towards this state of global “dis-order;” or even if all items on the international cooperation’s agenda are equally affected.² Of all areas where this crisis is on display, none might be as meaningful and consequential as the gridlock that has characterized the United Nations Security Council (UNSC) for over a decade now.³ There, the breakdown in diplomacy has been clearly visible in the repeated use (or threat) of the veto by one or more of the Council’s Permanent Members (P5) to block action in response to a variety of crises from Syria to Myanmar, North Korea, Ukraine, and Israel/Palestine, just to name a few. Already, such repeated use of the veto (and, even more specifically, the 17 vetoes cast by the Russian Federation in the wake of the outbreak of the Syrian civil war) has exhausted diplomats and caused “veto fatigue” among UN member states.⁴ In the immediate aftermath of Russia’s 2022 full-scale invasion of Ukraine—considered by many to be an “era defining event”⁵—the end of diplomacy might have seemed even nearer. Ultimately, prospects turned out to be less stark, and international diplomacy—with all its flaws—did not entirely collapse.⁶

Even within the UNSC, diplomacy has continued on a wide range of issues;⁷ notwithstanding the additional setbacks to global cooperation caused by the outbreak of a new, polarizing war between Israel and Hamas (following the latter’s horrific attack), and the

¹ Stewart Patrick, “Rules of Order: Assessing the State of Global Governance,” *Carnegie Endowment for International Peace*, September 12, 2023, accessed August 6, 2024, <https://carnegieendowment.org/2023/09/12/rules-of-order-assessing-state-of-global-governance-pub-90517>.

² Michael Barnett, “Change in or of Global Governance?” *International Theory* 13, no. 1 (2021), 131–143, <https://doi.org/10.1017/S175297192000038X>; Rakhyn E. Kim, “Is Global Governance Fragmented, Polycentric, or Complex? The State of the Art of the Network Approach” *International Studies Review* 22, no. 4 (2020), 903–931, <https://doi.org/10.1093/isr/viz052>; Dominic Tierney, “Why Global Order Needs Disorder,” in *Survival: Global Politics and Strategy* 63, no. 2 (2021), 115–138.

³ Thomas Hale Jr. and David Held, *Beyond Gridlock* (Cambridge: Polity, 2017).

⁴ Jennifer M. Welsh, “The Security Council’s Role in Fulfilling the Responsibility to Protect,” *Ethics and International Affairs* 35, no. 2 (2021), 227–243, <https://doi.org/10.1017/S089267942100023X>. For an overview of vetoes cast, see “UN Security Council Meetings & Outcomes Tables,” *United Nations Dag Hammarskjöld Library* (n.d.), <https://research.un.org/en/docs/sc/quick>.

⁵ Michael Hirsch, “The Month That Changed a Century,” *Foreign Policy*, April 10, 2022, accessed August 6, 2024, <https://foreignpolicy.com/2022/04/10/russia-ukraine-war-postwar-global-order-civilization/>.

⁶ Richard Gowan, “The U.N. and Multilateralism Made it Through 2022 in Pretty Good Shape,” *World Politics Review*, December 1, 2022, accessed August 6, 2024, <https://www.worldpoliticsreview.com/un-ukraine-russia-diplomacy-war/>.

⁷ In 2022, the UNSC adopted 54 resolutions, only three fewer than in 2021. For a broader analysis, see: Rodrigo Saad, “The UN in Hindsight: The Security Council, One Year After Russia’s Invasion of Ukraine,” *Just Security*, January 31, 2023, accessed August 6, 2024, <https://www.justsecurity.org/84952/the-united-nations-in-hindsight-the-security-council-one-year-after-russias-invasion-of-ukraine/>.

the humanitarian catastrophe resulting from Israel's military response in Gaza.⁸ Yet, something *is* afoot indeed: in September 2024, the UN convened a "Summit of the Future," designed specifically to address the current crisis of multilateralism *inter alia* by "modernizing outdated institutions of global governance, [...] including those governing international peace and security."⁹ UN Secretary-General António Guterres has called the summit "a once-in-a-generation opportunity" to reinvigorate global action and recommit to the fundamental principles of multilateralism.¹⁰ Against this background, this article makes four contributions that, I hope, can inform ongoing debates on the current state of crisis, and how it can be overcome.

First, by scrutinizing more closely veto patterns through UN history, the article tests the assumption that we are, in fact, experiencing an unprecedented state of diplomatic crisis among the P5. *Second*, it endeavors to add nuance to the discussion, both by addressing the shifting geopolitics that explain (or at least underpin) current UNSC dynamics, and by drawing attention to one particular area of global cooperation (i.e. atrocity prevention and response) that appears to be squarely at the heart of current divisions among the P5. *Third*, the article will leverage this analysis to advance a crucial argument; that a key, yet overlooked, aspect of the current state of crisis is the emergence itself of a *new* international security challenge: the rise of the Great Power Perpetrator, as this article defines it. As its main contribution to scholarship, this article makes the first known attempt at conceptualizing and discussing this new challenge. It does so by both setting out the specific theoretical framework that, I believe, best captures the notion of a Great Power Perpetrator, and by leveraging empirical analysis to illustrate concretely its *modus operandi*. Through this approach, I hope to buttress my characterization of the Great Power Perpetrator as a system-level challenge to international cooperation—both generally, and with respect to the discrete issue at hand. In doing so, the article goes beyond merely assessing the Great Power Perpetrator's current impact on the prevailing multilateral system. Rather, as its *fourth* contribution, the article will conclude by discussing how the system itself seems to be morphing precisely in response to this challenge, and what I believe this means for global cooperation moving forward.

Contextualizing Gridlock Through Evolving Veto Patterns

It might be argued that the UNSC was "designed" for deadlock; or, alternatively, that it is working exactly as intended: after all, the ability to wield the veto when UNSC action would run counter to one of the P5s' interests is not only the rationale of the veto's existence, but a foundational aspect of the current architecture of international peace and security.¹¹ In other words, it is by reserving themselves the right to wield the veto to block action that contravenes their core interests that the P5 can agree to collaborate on most other issues. This is reflected in the fact that, in the whole of UN history, only about eight percent of resolutions have ever been vetoed.¹² Hence, while the veto is, of course, an imperfect proxy for UNSC cooperation, it might

⁸ At the time of writing, the casualty (death) toll of Palestinians within the Gaza strip arising from Israel's military operations have passed the 35,000 counts. These numbers do not distinguish between civilians and combatants. For an up-to-date toll and break-down of casualties, see United Nations Office for the Coordination of Humanitarian Affairs, "Data on Casualties," August 31, 2022, <https://www.ochaopt.org/data/casualties>.

⁹ Stewart Patrick et al., "Is This the Moment to Renew Global Governance? Prospects for the UN Summit of the Future," *Carnegie Endowment for International Peace*, February 28, 2024, accessed August 30, 2024, <https://carnegieendowment.org/events/2024/02/is-this-the-moment-to-renew-global-governance-prospects-for-the-un-summit-of-the-future?lang=en>.

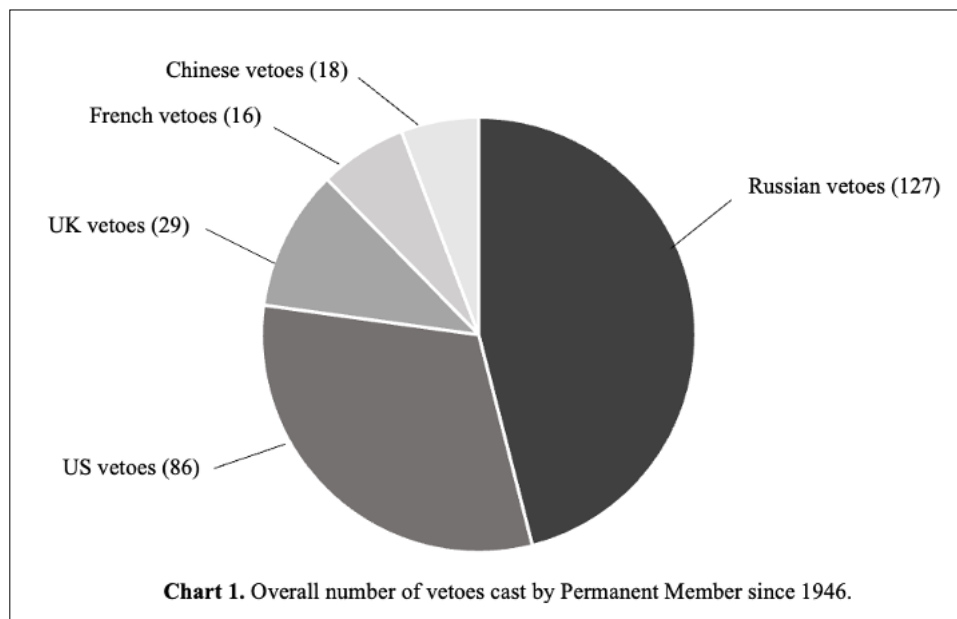
¹⁰ "New York, 2024: Summit of the Future," United Nations (n.d.), <https://www.un.org/en/common-agenda/summit-of-the-future>.

¹¹ Anjali Dayal and Caroline Dunton, "The U.N. Security Council Was Designed for Deadlock—Can it Change?" United States Institute of Peace, March 1, 2023, accessed August 6, 2024, <https://www.usip.org/publications/2023/03/un-security-council-was-designed-deadlock-can-it-change>; Dwight E. Lee, "The Genesis of the Veto," *International Organization* 1, no. 1 (1947), 33–42, <https://doi.org/10.1017/S0020818300006573>.

¹² As of February 2024, in the 78 years of the UN's history, the UNSC has passed 2,723 resolutions, with 221 vetoes, accounting to 8.11%.

indeed be instructive to briefly glean patterns in its use as the starting point for our analysis. After all, the use of veto intrinsically represents a failure of diplomacy. So, where has UNSC diplomacy been failing most visibly in recent times?

Let us start with some raw data,¹³ also visually represented in the charts and figures below: of the 221 vetoes cast in UN history, Russia's combined record (voting as either the Soviet Union or its successor, the Russian Federation) fully earns its my designation as *vetoer-in-chief* with the greatest absolute number of vetoes cast: that is, 127 in total, or about 57 percent of overall historical numbers (see Chart 1 below). The United States is next with 86 vetoes, accounting for about 38 percent of total vetoes cast; followed by the United Kingdom with 29 vetoes, or 13 percent in total; China with 18, or about eight percent of total numbers; and, finally, France, the P5 that has historically used the least vetoes, only 16, accounting for circa seven percent of the total.

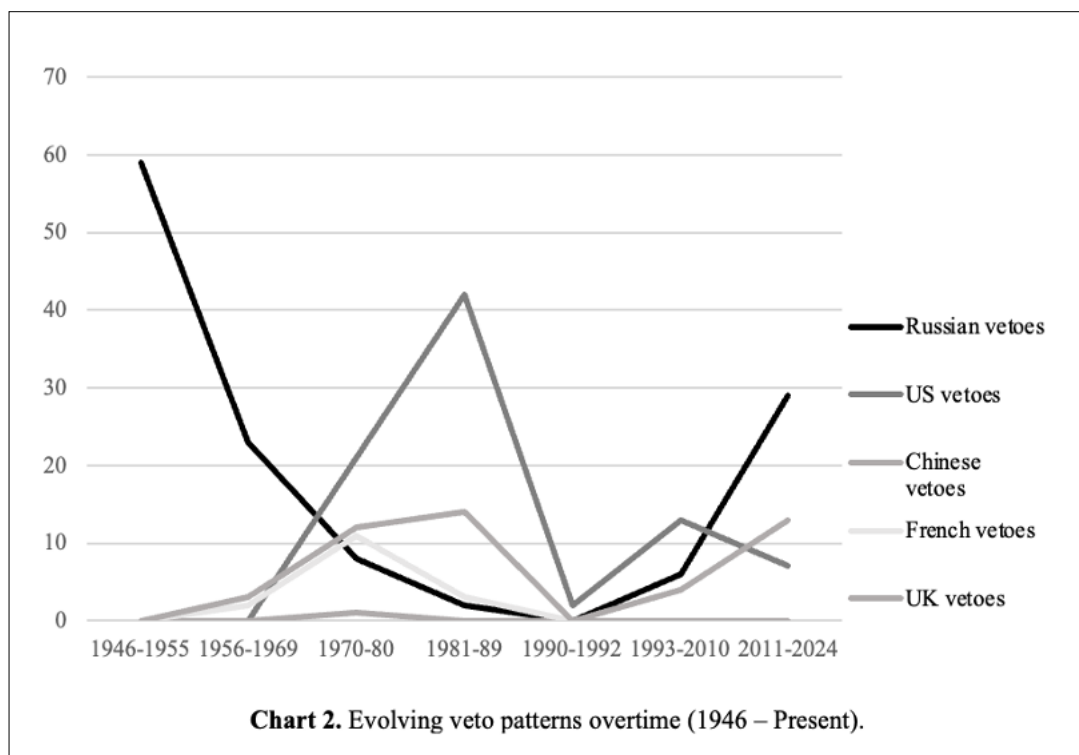


Interestingly, patterns in veto use have also changed significantly over time, allowing us to glean additional insight into the context and manner of the use of such powers. By looking at the visual representation of such changes overtime (Chart 2 below), few observations immediately jump out. The first is that, for most of the UN's history, China has (consistently) been *the least* obstructionist among the P5, followed by France. Russia, by contrast, has persistently proven itself to be the biggest spoiler of P5 consensus, followed by the US, and the UK. Second, throughout UN history, China has also rarely been the *sole* spoiler of P5 consensus: except for its first three vetoes, China has indeed never exercised its powers *alone*, but always alongside Russia. By contrast, the latter's record as vetoer-in-chief holds true whether we look at the *absolute* number of vetoes cast (as mentioned, 127 or about 57 percent of the total), or the numbers of *solo* vetoes it has cast (some 110 in total); compare this to the US, for example, the country with the second largest record of solo vetoes at 61, about 70 percent of the time it has cast one.

There are also observable temporal dimensions to such evolving veto patterns over time. For example, about half of Russian vetoes (59) were cast between 1946 and 1955, at the peak of the Cold War, up to which point the Soviet Union was the only P5 to have ever cast a veto. From there, Russian vetoes decline steadily, with a freeze (linked to the fall of the USSR)

¹³ All data in this analysis is from official UNSC voting records. See United Nations Dag Hammarskjöld Library, *UN Security Council Meeting & Outcomes Tables*; "United National Security Council: Resolutions," *United Nations Dag Hammarskjöld Library* (n.d.), accessed August 30, 2024, <https://www.un.org/securitycouncil/content/resolutions-0>.

until 1993, year of the first recorded veto by the Russian Federation (succeeding it on the Council), after which patterns begin increasing again—gradually until 2011, and there on sharply. By contrast, France and the UK did not cast their first vetoes until 1956 (in the context of the crisis of the Suez Canal), while the US cast its first veto only in 1970, when it sided with the UK (at the time still a colonial power) in Southern Rhodesia (modern Zimbabwe)'s independence struggle.



France's use of the veto also peaked in the 1970s (that is, the decade following the loss of most of its African colonies, and the shrinking of its geopolitical power); whereas both the US and the UK's use of the veto peaked in the 1980s (the decade in which the "special relationship" flourished under an alignment of priorities between the administrations of Ronald Reagan and Margaret Thatcher).¹⁴ The year 1989 appears to be somewhat of a watershed—perhaps intuitively so, given it was the year of the fall of the Berlin Wall—marking not only the last year a Soviet veto is on record, but also the year in which the last French and British vetoes were cast. Of all P5, however, the most fascinating patterns in veto use must be those of China: except for a lone veto cast on Bangladesh's UN accession in 1972, no other Chinese veto is on record until 1997, with only two Chinese vetoes cast *per decade* in both the 1990s and 2000s, and 14 vetoes (or 72 percent of its total numbers) cast instead since 2011—as mentioned, always alongside Russia.¹⁵

Already on their own, these numbers speak at length to the emergence of two voting blocs with opposing ideological connotation within the UNSC: the so-called P3—that is, the US, UK, and France; and the P2—Russia and China. However, it is when taking into account the contemporaneous geopolitical shifts anchoring the evolution of such patterns that the nexus between the use of the veto and its wielder's political fortunes becomes apparent: with patterns

¹⁴ Mark Kramer, "Introduction," *Journal of Cold War Studies* 5, no. 1 (2003), 3–16, <https://www.jstor.org/stable/26925259>.

¹⁵ France has a similar record: of 16 vetoes, the only "solo" veto it cast was a 1976 veto on the Comoros Islands; voting jointly with the UK only twice (both times in 1956, on the Suez Canal crisis), and 13 times with both the USA and the UK. The UK, too, has almost always exercised its veto powers with either both France and the US (13 joint vetoes), or at least one of them (9 joint vetoes with the US, and 2 with France; having vetoed alone only 5 times between 1963 and 1972, each time concerning South Rhodesia's decolonization struggle).

tracking closely not only the rise and fall of a country's global influence, but their very *status*—or at least ambitions—as a great power.¹⁶ This, at a minimum, reaffirms the centrality of the veto itself as an instrument of great power struggle. I will turn to discussing my definition of great power momentarily. Before I do, however, I wish to draw attention to another crucial aspect of the evolution of veto patterns: starting in 2011, we see a *marked* shift in the way vetoes are used by those who still cast it (only the US, Russia, and China).¹⁷ More precisely, of the 40 vetoes cast since at time of writing, 32 have been cast by Russia, which maintains its primacy as chief spoiler of consensus among the P5; whereas the US—until then the second biggest spoiler—slashes its number of vetoes down to eight (with seven of them cast specifically in relation to the situation in Israel/Palestine, speaking to the fact that, except for this one persistent issue, the US approach has generally shifted towards more consensus-building and diplomatic compromise, compared to Russia). Yet, the most fascinating and radical shift in veto patterns is, once again, that of China, which goes from being the historically least obstructionist P5 to becoming the second biggest spoiler in contemporary UNSC dynamics. What might explain this, and does it help us better understand the current crisis?

Atrocity Prevention as Great Powers' Battleground

In answering these questions, an instructive starting point might be to look at the scope and content of resolutions vetoed since 2011, and whether there are discernible patterns or similarities.¹⁸ Let us first take the five vetoes cast (thus far) in 2024: two were cast by the US (alone, both concerning the situation in Israel/Palestine); one was cast jointly by China and Russia (with respect to the same crisis); and two were cast solo by the Russian Federation—on April 24, against a US-sponsored resolution calling for a nuclear-free outer-space; and another one, on March 28, that put an end to the sanctions regime the UN imposed on North Korea to curb its ballistic missile program. Let us also look at the five vetoes cast in 2023: three of which were cast with respect to the ongoing war in Gaza (once jointly by Russia and China; and twice solely by the US, amidst widespread criticism);¹⁹ and the remaining two cast by Russia alone, once with respect to the situation in Syria, and once in regards to Mali. Similarly, four vetoes were cast in 2022: thrice by Russia alone, and once with China. Interestingly, only two of the four Russian vetoes were in reference to the situation in Ukraine, which Russia invaded at full-scale in February of that year. All four vetoes, however, were cast to block UNSC action in an ongoing mass atrocity scenario (with the crises in Syria and North Korea accounting for the remaining two vetoes cast).²⁰

The same is true for all vetoes cast in 2023 and (thus far) 2024—with the conceivable exception of the April 2024 Russian veto on the nuclear arms race in outer space.²¹ In fact, except for a handful more vetoes—that is, the March 2024 veto cast by Russia and China to end

¹⁶ It is noteworthy, for example, that Chinese veto patterns begin to shift around the time its current leader Xi Jinping rose to national power first as Vice-President (2009), and even more decisively since he became President in 2013; the same year in which he also gave a powerful speech widely credited for setting out its vision for the Belt and Road Initiative, and with-it China's global role. See "Excerpts: The Third Revolution," Council on Foreign Relations (n.d.), accessed September 30, 2024, <https://www.cfr.org/excerpt-third-revolution>. Excerpted from Elizabeth C. Economy, *The Third Revolution: Xi Jinping and the New Chinese State* (Oxford: Oxford University Press, 2018).

¹⁷ Even though, contrary to widespread perceptions, the overall incidence of vetoes cast since this period (37) actually diminishes slightly (from a historic 8% on average, down to 5%) compared to the number of resolutions passed (756 in total).

¹⁸ All data in this analysis also from UN official voting records. See footnote 13.

¹⁹ Vivian Nereim et al., "Pressure Rising on U.S. After Vetoing U.N. Call for a Cease-Fire in Gaza," *New York Times*, December 9, 2023, accessed August 6, 2024, <https://www.nytimes.com/2023/12/09/world/middleeast/us-cease-fire-gaza-criticism.html>.

²⁰ For an overview of vetoes cast, see footnote 13. In this article, I use expressions such as "mass atrocity situation" and "mass atrocity scenario" in reference to crises where core international crimes have been credibly alleged.

²¹ United Nations Security Council, *Draft Resolution*, April 24, 2024 (UN Doc. S/2024/302).

sanctions on North Korea's ballistic program; another joint veto cast in 2022 to block condemnation of a North Korean intercontinental ballistic missile launch; another veto cast by Russia the previous year to block the consideration of climate-related security risks on the Council's agenda;²² and an August 2020 US veto on foreign terrorist fighters²³—all vetoes cast since 2011 (and, in fact, dating back to before then), somehow concern a mass atrocity scenario. Patterns in the use of the veto, then, appear to indicate that (i) disagreement over the Council's appropriate course of action in situations involving mass atrocities is at the heart of the breakdown in P5 cooperation over the last decade, with (ii) Russia and China being the contemporary vetoers-in-chief and the US, the only other P5 to cast a veto over this period, blocking Council action nowhere as frequently in comparison.

Observers of the Responsibility to Protect (RtoP) norm often attribute the use of the veto over the past decade almost exclusively in situations of mass atrocity to the decline of RtoP.²⁴ Critics have referred to the norm's severe "loss of legitimacy"—if not its "death"—in the wake of a series of Western-led military interventions that, over the last two decades, resulted in regime change²⁵ such that today, RtoP is forsaken when seeking to mobilize international action.²⁶ Of course, there is no doubt that RtoP's "decay" or "normative backsliding"²⁷ has been pervasive over the past decade, and that norm contestation is a core component of this crisis of diplomacy among the P5.²⁸ RtoP, in fact, is not alone: normative backsliding has also affected sister agendas well beyond the UNSC. Accusations of bias and double-standards²⁹ have long plagued the field of international justice, for example.³⁰ Broadly speaking, the politicization of human rights discourse has had negative consequences on perceptions of legitimacy around response and accountability issues for gross human rights abuses,³¹ and frustrations with respect to both issues have only worsened with the intense response, particularly by Western countries, to Russia's aggression against Ukraine and their support of Israel during the latest

²² United Nations, Maintenance of International Peace and Security—Climate and Security, December 13, 2012 (UN Doc. S/PV.8926).

²³ "Explanation of a Vote on a UN Security Council Draft Resolution on Threats to International Peace and Security Caused by Terrorist Acts," United States Mission to the United Nations, August 31, 2020, accessed August 30, 2024, <https://usun.usmission.gov/explanation-of-vote-on-a-un-security-council-draft-resolution-on-threats-to-international-peace-and-security-caused-by-terrorist-acts/>.

²⁴ Thomas G. Weiss and Giovanna Kuele, "Whither R2P?," *E-International Relations* (blog), August 31, 2011, accessed August 7, 2024, <https://www.e-ir.info/2011/08/31/whither-r2p/>.

²⁵ Federica D'Alessandra and Ross James Gildea, "Technology, R2P, and the UN Framework of Analysis for Atrocity Crimes," *Global Responsibility to Protect*, March 26 2024, <https://brill.com/view/journals/gr2p/aop/article-10.1163-1875984X-20240002/article-10.1163-1875984X-20240002.xml?language=en>.

²⁶ Denver Journal of International Law & Policy, "The Death of R2P," October 24, 2011, accessed August 30, 2024, <http://djilp.org/the-death-of-r2p/>.

²⁷ By the term "backsliding," I refer to the (real or perceived) loss of normative strength and/or legitimacy—and consequently commitment to—a specific normative agenda or set of principles by a significant polity within the international community. As highlighted in this article, with respect to RtoP, the causes of normative backsliding can be many, including lack of conceptual clarity, halting institutional uptake and operationalization, and/or inconsistent implementation. Most importantly, however, normative "backsliding" is a product of normative contestation and the effective leveraging of productive power by the norm's detractors.

²⁸ Jennifer M. Welsh, "Norm Robustness and the Responsibility to Protect," *Journal of Global Security Studies* 4, no. 1 (2019), 53–72, <https://doi.org/10.1093/jogss/ogy045>; Phil Orchard, "Contestation, Norms and the Responsibility to Protect as a Regime," in *Constructing the Responsibility to Protect*, ed. Charles T. Hunt and Phil Orchard, (Abingdon: Routledge, 2020), 28–49.

²⁹ Sophie Eisentraut, "Standard Deviation: Views on Western Double Standards and the Value of International Rules," *Munich Security Brief* 1 (2024), accessed September 30, 2024, <https://securityconference.org/en/publications/munich-security-brief/standard-deviation/main/>.

³⁰ Reed Brody, "The ICC at 20: Elusive Success, Double Standards and the 'Ukraine Moment'," *JusticeInfo.net* (blog), June 30, 2022, accessed August 5, 2024, <https://www.justiceinfo.net/en/102866-icc-20-elusive-success-double-standards-ukraine-moment.html>.

³¹ Rochelle Terman and Joshua Byun, "Punishment and Politicization in the International Human Rights Regime," *American Political Science Review* 111, no. 2 (2021), 385–402, <https://doi.org/10.1017/S0003055421001167>.

war in Gaza.³² Yet, the *context* in which the use of the veto has increased matters equally to such heightened criticism, and the resulting polarization of RtoP and related human protection norms. I argue, in fact, that UNSC gridlock on mass atrocity situations cannot simply be ascribed to normative contestation and decline. The roots of such dynamics are deeper and, I posit, can be traced to a different phenomenon—one of which normative contestation is, nevertheless, part and parcel. That is, the rise of what I call the Great Power Perpetrator. I will return to the conceptualization of the Great Power Perpetrator and its implications for atrocity prevention and response in the following sections. First, however, it is necessary to appraise the geopolitical context that has enabled its rise.

Current Geopolitics and The Rise of the Great Power Perpetrator

Like many human-centered agendas, the emergence of the RtoP norm was enabled by a unique geopolitical environment: an era of unprecedented multilateral cooperation and progressive world politics made possible by the fall of the Soviet Union and the unipolar moment of the US.³³ Over the past two decades, however, a gradual transition has been occurring from a unipolar system to a multipolar distribution of power, which has been linked to increased geopolitical tensions, particularly between the US, China, and Russia.³⁴ I argue that this new distribution of power and the return of great power rivalry are affecting atrocity prevention and response in several ways. To begin with, as great powers vie for political, economic, technological, and military primacy, ethical concerns may be side-lined or subordinated to geostrategic considerations in foreign policy decision-making.³⁵ Indirectly, this may afford smaller states more leverage to themselves act without constraint—meaning that an increase in great power rivalry may create enabling conditions for the commission of atrocities by proxies or allies of powerful states.³⁶ It is for this reason, for example, that most US vetoes on the situation between Israel/Palestine (and, even more so, those cast since the outbreak of the current war in Gaza) have been met with criticism. Equally, data indicates that significant spikes in violence by pro-government forces allied with Syrian dictator Bashar al Assad followed each of the 17 vetoes cast by Russia since the civil war started.³⁷

At the same time, and perhaps most consequentially, the weakening of the constraining effects of multilateralism within a context of increased geopolitical rivalry may be having even more direct effects on the actions of great powers themselves. For example, a return to great power politics may be conducive to a more aggressive assertion, pursuit, or defense of national interests, especially but not exclusively among direct or near peer competitors.³⁸ In other words, great powers may feel both pressured and emboldened to deploy all instruments of power at their

³² Kai Ambos, “Ukraine and the Double Standards of the West,” *Journal of International Criminal Justice* 20, no. 4 (2022), 875–892, <https://doi.org/10.1093/jicj/mqac041>.

³³ Federica D’Alessandra and Gwendolyn Whidden, “Whither Atrocity Prevention at the UN? Look Beyond R2P and the Security Council,” *Stimson Center and the Oxford Programme on International Peace and Security*, November 6, 2023, accessed August 6, 2024, <https://www.stimson.org/2023/whither-atrocity-prevention-at-the-un-look-beyond-r2p-and-the-security-council/>.

³⁴ Randall L. Schweller and Xiaoyu Pu, “After Unipolarity: China’s Visions of International Order in an Era of U.S. Decline,” *International Security* 36, no. 1 (2011), 41–72, <https://www.jstor.org/stable/41289688>; Barry Buzan, “China in International Society: Is ‘Peaceful Rise’ Possible?,” *Chinese Journal of International Politics* 3, no. 1 (2010), 14, <https://doi.org/10.1093/cjip/pop014>.

³⁵ For a general discussion, see William C. Wohlforth, “Realism,” in *The Oxford Handbook of International Relations*, ed. Christian Reus-Smit and Duncan Snidal (Oxford: Oxford University Press, 2009), 131–149.

³⁶ See, for example, Evaghoras J. Evaghorou and Nikolaos G. Mertzaniadis, “Great Power Politics in the Syrian Crisis: An International Relations Analysis of Empirical and Theoretical Implications,” *Eastern Mediterranean Geopolitical Review* 3 (2018), 98–124.

³⁷ Jennifer Trahan, *Existing Legal Limits to the Security Council Veto Power in the Face of Atrocity Crimes* (Cambridge: Cambridge University Press, 2020).

³⁸ G. John Ikenberry, “The Tragedy of Great Power Politics,” *Foreign Affairs*, November 1, 2001, accessed August 6, 2024, <https://www.foreignaffairs.com/reviews/capsule-review/2001-11-01/tragedy-great-power-politics>.

disposal in pursuit of their interests, including an increased willingness to flex their military or security muscle, whether abroad or domestically. Zero-sum competition among great powers may, in turn, increase the likelihood that states will violate international law where it is perceived to constrain or hinder their core national interests, and believe they may do so with impunity.³⁹

To be sure, great powers violating or shaping international norms to serve their interests is nothing new.⁴⁰ Great powers, in short, have long sought to influence international laws and norms that regulate and constrain state behavior in a way that serves their own interests—as do most states. Equally, all P5 have a track record of casting their veto to shield allies and proxies from international scrutiny and action.

This article argues, however, that we are witnessing the emergence of a qualitatively different phenomenon: the *direct* perpetration of gross and systemic human rights abuses by great powers themselves, precisely in their pursuit of hardline security or strategic interests. What is more, such gross and systematic violations of international laws appear to be taking place not in isolation, but within a specific context. That is, they appear to be enabled by a contested geopolitical environment in which great powers are leveraging their position of privilege within the multilateral system to (i) systematically contest the normative foundations of the international laws and principles that restrict or prohibit their conduct, and (ii) brazenly abuse their institutional prerogative—such as the power of veto—to grind international response to a halt. On this basis, this article argues that the rise of the Great Power Perpetrator amounts to a systemic-level challenge to multilateralism at the UN, for the system is anchored in the promise of P5 guardianship of the norms and architecture of international peace and security, not their abuse.

This, in turn, has important and immediate implications for atrocity prevention and response. At the theoretical level, analytical tools and frameworks for atrocity prevention developed in the past two decades have tended to assume that atrocities are perpetrated by authorities or non-state actors in weak, fragile, or failed states.⁴¹ By and large, they do not account for the unprecedented means and virtually unmatched capacity great powers possess to commit atrocity crimes unchallenged. As a result, atrocity prevention practice might be ill-equipped to effectively prevent and respond to certain atrocities today; that is, those committed by Great Power Perpetrators.

³⁹ Alejandro Rodiles, “The Global South and the Law and Governance of Global Security: Towards a Scholarship on the Global Ecology of Insecurities,” in *The Oxford Handbook of the International Law of Global Security*, ed. Robin Geiß and Nils Melzer (Oxford: Oxford University Press, 2021), 878–894.

⁴⁰ See Douglas Irvin-Erickson, *Raphaël Lemkin and the Concept of Genocide* (Philadelphia: University of Pennsylvania Press, 2017), 159, 175. It is notable, for example, that during the negotiation of the Genocide Convention itself, the US, China, and Russia—as well as France and the UK—actively tried to stymie the effort. And when this became impossible to do altogether, they attempted to mould the definition of genocide established in the Convention to further their interests and shield their own abuses. The French, for example, pushed to shape the international law definition of genocide in a way that would shield it from accusation of genocidal conduct in French colonies; the US campaigned to remove cultural genocide, which might encompass its treatment of Black Americans and policy of forced assimilation of Native Americans; and the Soviet Union demanded that political groups be removed so the Convention would not apply to Stalin’s dekulakization policies of the 1930s or ongoing Soviet political terror.

⁴¹ The UN Framework of Analysis for Atrocity Crimes, for example, cites “Weakness of State Structures” as a common risk factor in atrocities. Other key risk factors, such as the presence of armed conflict or instability, are also correlates of weak states. See United Nations, *Framework of Analysis for Atrocity Crimes: A Tool for Prevention*, 2014, accessed August 30, 2024, https://www.un.org/en/genocideprevention/documents/about-us/Doc.3_Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf. This focus of MAPR frameworks is unsurprising given that mass atrocities are “most likely to occur within weak states,” in part due to the increased likelihood of violence. See Jonas Claes, “Protecting Civilians from Mass Atrocities: Meeting the Challenge of R2P Rejectionism,” *Global Responsibility to Protect* 4, no. 1 (2012), 67–97, <https://doi.org/10.1163/187598412X619685>. See also Scott Straus, *Fundamentals of Genocide and Mass Atrocity Prevention*, (Washington, DC: United States Holocaust Memorial Museum, 2016).

To be sure, there is no shortage of scholarship over the past decade on the international community's *general* failure to consistently implement and operationalize RtoP.⁴² No study, however, has undertaken a nuanced analysis of the *specific* ways in which Great Power Perpetrators might undermine the atrocity prevention toolkit and challenge the operationalization of human protection objectives. This article seeks to begin filling this gap in the literature by making a first attempt at conceptualizing the notion of a Great Power Perpetrator, and the empirical ways in which it challenges current approaches to atrocity prevention and response at the UN. At the same time, and perhaps more encouragingly, this paper also argues that we are beginning to witness some *countertrends* precisely in response to this challenge. I believe these are reasons for hope, for they signal attempts by the multilateral system to find a new equilibrium, grounded in the resilience of the very norms Great Power Perpetrators are trying to undermine, and perhaps pointing toward a more sustainable, long-term approach to confront, curb, and counter great power abuse.

Defining Great Power Perpetrators

Having overviewed the broader geopolitical context relevant to this analysis, the next order of priority is to attempt a definition of what we might consider a Great Power Perpetrator. What are its defining characteristics? How do you know a Great Power Perpetrator when you see one? And is this new conceptual category even necessary? To answer these questions, we must address three distinct issues: first, what do we mean by “great power” for the purposes of this article; second, what do we mean by “perpetrator”; and third, how do these two categories in combination help us conceptualize the new challenge posed by Great Power Perpetrators? In short, what is it about the attributes, behaviors, and interactions of certain actors committing atrocities today that put them in an entirely separate league?

The Power of Great Powers

Power is a complex, nebulous, and contested concept, in large part because it takes multiple forms and works in various ways that cannot be captured by a single definition.⁴³ For this reason, there is a lack of consensus both within the academic literature and among policy circles on the most appropriate way to appraise and rank the power of states. This article does not seek to resolve such debates. In fact, for the purposes of this analysis, I adopt the view that scholars must work with multiple simultaneous conceptions of power. More precisely, I borrow from both the realist tradition, which conceptualizes “power-as-resources,”⁴⁴ and from the notion of “relational power.”⁴⁵ With respect to the realist notion of power, only states with the most capabilities—and, particularly, those able to advance their foreign policy, defense, and national security interests on a global scale, including though not exclusively through coercive means—may be considered *great* powers.⁴⁶ Another hallmark of a great power according to the realist tradition is that it seeks more power: power, in John Mearsheimer's words, is the “currency” of great power politics, such that states with significant resources and global reach constantly

⁴² See, for example: Martin Menneke and Ellen E. Strensdud, “The Failure of the International Community to Apply R2P and Atrocity Prevention in Myanmar,” *Global Responsibility to Protect* 13, no. 2 (2021), 111–130, <https://doi.org/10.1163/1875-984X-13020013>.

⁴³ Michael Barnett and Raymond Duvall, “Power in International Politics,” *International Organization* 59, no. 1 (2005), 41, <https://www.jstor.org/stable/3877878>.

⁴⁴ Nicholas J. Spykman, *America's Strategy in World Politics: The United States and the Balance of Power* (New York: Harcourt Brace & Company, 1942); Harold H. Sprout and Margaret Sprout, *Foundations of National Power: Readings on World Politics and American Security* (Princeton: Princeton University Press, 1945); Martin Wight, *Power Politics*, (New York: Holmes and Meier, 1978).

⁴⁵ David A. Baldwin, “Power and International Relations,” in *Handbook of International Relations*, ed. Walter Carlsnaes et al. (London: Sage, 2012), 274.

⁴⁶ See Kenneth N. Waltz, *Theory of International Politics* (Long Grove: Waveland Press, 1979); John Mearsheimer, *The Tragedy of Great Power Politics* (New York: W. W. Norton, 2001).

compete to maximize their relative power.⁴⁷ This understanding of power is fitting of the geopolitical context highlighted above, but it is not sufficient to understand the unique challenges Great Power Perpetrators pose.

Instead, this article's analysis requires integrating a realist understanding of power as great capabilities with a "relational" approach to power.⁴⁸ In this view, power is an "actual or potential relationship"⁴⁹ between different actors, rather than a possession or property of any one of them. In other words, power is not, in the classic formulation, simply the ability of states to use their material resources to get other actors to "do what they otherwise would not do,"⁵⁰ but a relationship in which the behavior of one actor to some degree changes the behavior of another. For the purposes of this analysis, I find Michael Barnett and Raymond Duvall's *taxonomy of power* to be particularly useful (Figure 1 below),⁵¹ in that it distinguishes between four types of relational power—institutional, productive, structural, and compulsory—all of which have bearing on my conceptualization of a Great Power Perpetrator, for they all affect atrocity prevention and response either directly or indirectly.

Institutional power manifests through privileged positioning within institutional relations and arrangements that allow those who wield it to indirectly control other actors, while at the same time *directly* controlling certain processes and outcomes. In this case, the best—but not the only—example of this form of power is the P5 veto. *Productive power* concerns, instead, the discourse and social processes through which meaning is produced.⁵² Put differently, it involves the construction of ideas about what is natural, normal, possible, and problematic through social processes and relations.⁵³ Examples in international relations might include states' participation in normative processes (i.e., their role vis-à-vis the emergence, diffusion, and/or contestation of specific norms), or their ability to shape narratives and advance certain propositions over others. *Compulsory power*, which aligns most closely with a realist conceptualization, focuses on the relations between actors that allow one actor to directly shape the actions or circumstances of another.⁵⁴ In short, it is the ability of one actor to "compel another actor to do what it otherwise would not do."⁵⁵ Underpinning this concept of power is the assumption that an actor can successfully wield power because it has material resources to compel another actor to alter its actions. In other words, tangible resources—such as economic resources and military capabilities—are what counts when thinking about an actor's compulsory power.

Finally, and related to this, *structural power* concerns the structures that determine the capacities and social positions of actors in relation to each other.⁵⁶ It might be considered a form of soft power which, however, and similarly to compulsory power, is used to leverage direct and indirect influence through material resources—relating less to the *nature* of resources and more to how these are used to shape power hierarchies. One way to conceptualize this in terms relevant for our discussion, is the various types of assistance that great powers provide to proxies and allies, which they leverage as part of a broader set of diplomatic tools to assert influence, and at times, control over recipients. Examples include development aid, military

⁴⁷ Mearsheimer, *The Tragedy of Great Power Politics*.

⁴⁸ This approach was developed in the second half of the twentieth century as a challenge to the "power-as-resources" or "elements of national power" approach to conceptualizing power. See: Baldwin, *Power and International Relations*, 274.

⁴⁹ Ibid.

⁵⁰ See Robert A. Dahl, "The Concept of Power," *Behavioral Science* 2, no. 3 (1957), 201–215, <https://doi.org/10.1002/bs.3830020303>.

⁵¹ Barnett and Duvall, *Power in International Politics*, 48.

⁵² Ibid., 55.

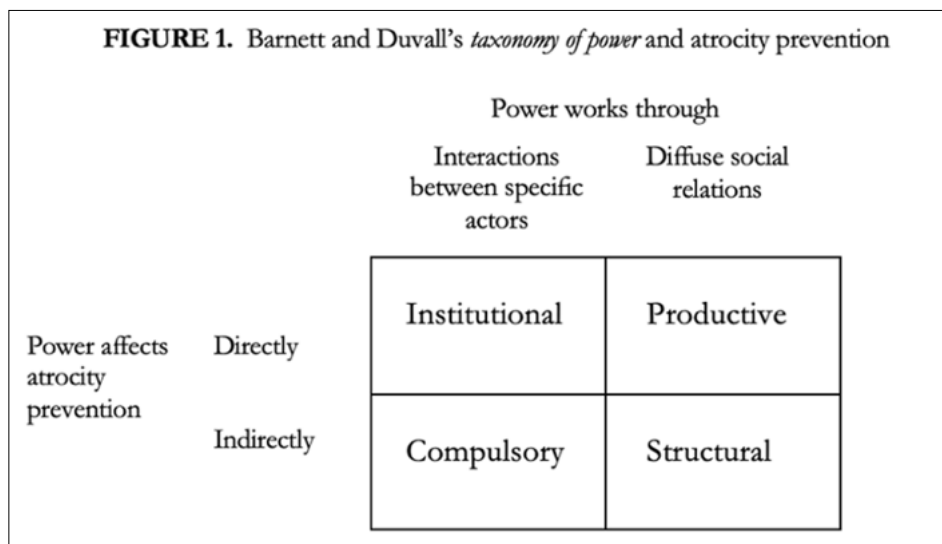
⁵³ Ibid. See also Clarissa Rile Hayward, *De-Facing Power* (Cambridge: Cambridge University Press, 2000).

⁵⁴ Barnett and Duvall, *Power in International Politics*, 49.

⁵⁵ Dahl, *The Concept of Power*.

⁵⁶ Barnett and Duvall, *Power in International Politics*, 52.

assistance, technological, infrastructure, and foreign direct investments, preferential channels in economic, financial, and trade relations, and certain types of exports (such as natural resources or weapons sales) that cause dependency, all of which align the interests of proxies and allies—and, at times, even non-allies—with those of the great power.⁵⁷



I contend that all four forms of power are of immense importance to the Great Power Perpetrator, even those less associated with the realist tradition—particularly *productive* and *structural* power. In fact, as I discuss further below, in the context of atrocity prevention and response, it is these two forms of power that have the most far-reaching impact. Importantly, these different forms of power should not be seen as competing, but rather as complementary and even concomitant.⁵⁸ Thus, for example, institutional power might facilitate an actor's productive power which, in turn, might make some instances of compulsory power both possible and legitimate. On the basis of the above, then, and for the purposes of this article, great powers may be considered states that possess (i) significant resources and capabilities—which include *compulsory* power, by virtue of their military might; *structural* power, by virtue of their economic and diplomatic footprint; *institutional* power, by virtue of their P5 membership; and *productive* power, by virtue of their prominent role in the lifecycle of international norms; which they (ii) can and do project on a global scale; as they (iii) compete to maximize their own power (and hegemony) over that of direct adversaries. Thus, under this article's working

⁵⁷ Suffice it to so think of Europe's longstanding dependency on Russia's natural gas, and how this affected European nations' response to the invasion of Ukraine.

⁵⁸ Barnett and Duvall, *Power in International Politics*, 44.

definition—and consistently with most assessments⁵⁹—only the US, China, and Russia can be considered contemporary great powers.

Defining Perpetrator

Having defined which states I consider to be great powers, I will now turn to clarifying what I mean by perpetrator. What are the qualitative and substantive attributes of great power conduct that render it a perpetrator of abuse for the purposes of our discussion? After all, as mentioned above, and particularly in the context of power politics, it is not uncommon for great powers to violate—that is, abuse—international laws and norms, including by committing gross human rights violations in pursuit of their national interests. Indeed, history is littered with examples of egregious conduct by all P5s, from colonialism, to the Cold War, to the present moment and beyond. Even in restricting the analysis to the last 20 or so years—that is, since the rise of the RtoP norm and the atrocity prevention field—one can point to countless examples of great power misconduct, which I will analyze more closely in the sub-section below. Yet, this article submits that, to pose the sort of *systemic* challenge with which this analysis is concerned—and thus to be considered a Great Power Perpetrator—a great power's abuse must, at once, present specific attributes relating to its (i) scope, (ii) gravity, and (iii) context.

With respect to *scope*, conduct that directly challenges atrocity prevention and response is of relevance. Thus, credible allegations of the commission of war crimes, crimes against humanity, and genocide—the atrocity crimes recognized in the RtoP doctrine⁶⁰—would most clearly be eligible for qualification. It is worth underscoring, of course, that the prohibition against the commission of such atrocities is not only grounded in RtoP, but in hard legal obligations that are peremptory norms of international law.⁶¹ On this basis, I submit that the violation of other peremptory norms of international law will also be of relevance to our definition to the extent that—as it is often the case with the prohibition against aggression—they demonstrably pave the way for the commission of other atrocities.⁶² This approach departs from predominant atrocity prevention scholarship, which clearly distinguishes between the mass atrocities explicitly associated with the RtoP doctrine and aggression. This separation is also mirrored in international law, which recognizes the two sets of violations as fundamentally different.⁶³ To be sure, I am not suggesting the blurring of such conceptual distinctions.

⁵⁹ This classification is not intended to deny the power or status of other countries with great influence and capabilities. However, on account of my understanding of institutional power, only veto wielding P5s are eligible for classification as a great power. With respect to France and the UK, most international relation observers would agree that, although they might be considered great powers in certain respects, they are not direct competitors for either China or Russia in the same manner as the United States is, and the latter two are to the United States. Some might also question whether Russia can be considered a great power on par with the US and China. This is a fair observation, and I take the view that Russia is not an “equal” to either the US or China. In some respects, in fact, France and the UK are greater powers than Russia. However, most IR scholarship and foreign policy analysis would consider Russia to still be a great power competitor with respect to the US. Furthermore, Russia's inclusion is warranted precisely on account of the topic of our analysis. See, for example, Anthony H. Cordesman, “Ranking the World's Major Powers: A Graphic Comparison of the United States, Russia, China, and Other Selected Countries,” *Center for International and Strategic Studies (CSIS)*, May 16, 2022, accessed August 5, 2024, <https://www.csis.org/analysis/ranking-worlds-major-powers-graphic-comparison-united-states-russia-china-and-other>.

⁶⁰ Together with ethnic cleansing, which is, however, not a separate crime under international law. See United Nations General Assembly, “2005 Summit World Outcome,” October 24, 2005 (UN Doc. A/RES/60/1), 30, paras. 138–139.

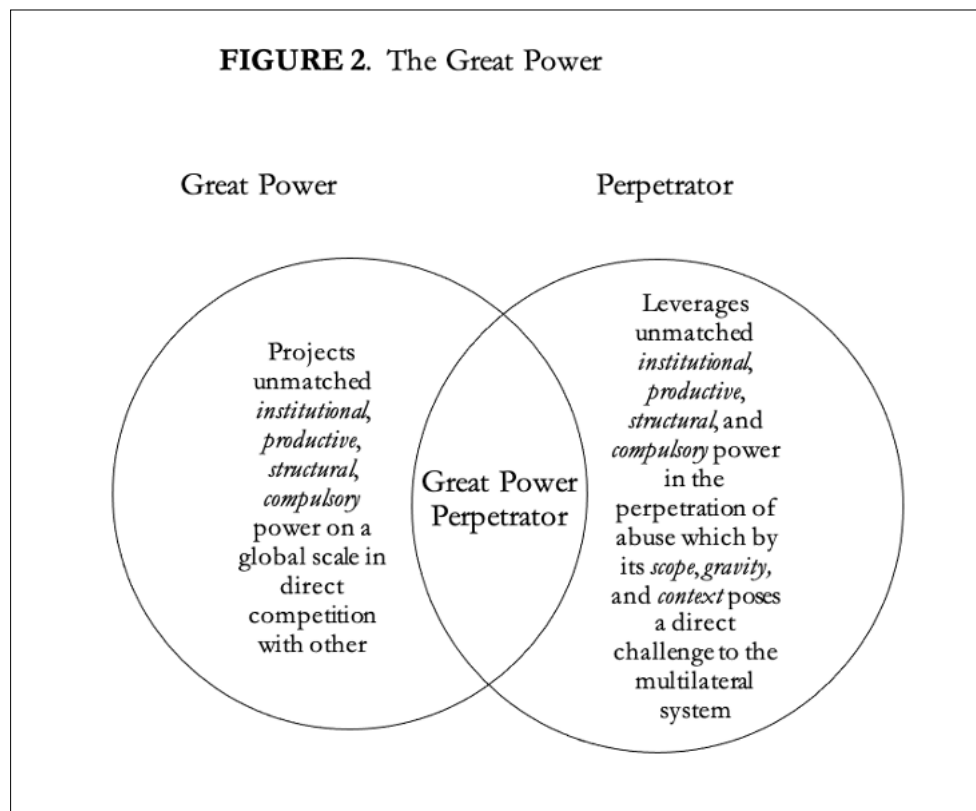
⁶¹ Federica D'Alessandra and Shannon Raj Singh, “Operationalising Obligations to Prevent Mass Atrocities: Proposing Atrocity Impact Assessments as Due Diligence Best Practice,” *Journal of Human Rights Practice* 14, no. 3 (July 2022), 769–793, <https://doi.org/10.1093/jhuman/huac041>.

⁶² See Risk Factor 1, United Nations, *Framework of Analysis for Atrocity Crimes*, 10.

⁶³ Claus Krefß and Stefan Barriga, eds., *The Crime of Aggression: A Commentary, Volumes 1 and 2* (Cambridge: Cambridge University Press, 2016). It is noteworthy, however, that opposing views have also been advanced both in scholarship and in findings by authoritative international bodies. See, for example, General Comment 36 by the UN Human Rights Committee: United Nations, *Human Rights Committee General Comment No. 36*, October 30, 2018 (UN Doc. CCPR/C/GC/36).

However, as the analysis below will demonstrate, I argue that both sets of violations are empirically relevant to an analysis of Great Power Perpetrators.

At the same time, for such violations to be of relevance to this analysis, they must cross a certain threshold of *gravity* to credibly amount to crimes under international law, meaning they must present a scale and level of systematicity that reveal the existence of a plan or policy for their commission. In other words, such conduct should not be understood as simply a negative externality of a great power's power pursuit, but as one of its core features. Finally, and relatedly, the conduct must occur within the broader *context* of a behavioral pattern by the great power in which the challenge they pose is not only sustained, but also itself grounded in the contestation of the very laws and norms that would, otherwise, restrict that conduct. As I will now discuss, it is at the *convergence* of these three attributes of a great power's conduct that it becomes a Great Power Perpetrator (Figure 2 below). As mentioned above, consistent with most assessments, only the United States, China, and Russia can currently be considered great powers under this article's working definition. For the purposes of this analysis, however, it is necessary to clarify whether any of the three *also* fit this article's definition of perpetrator.



A designation as a Great Power Perpetrator is, of course, not a permanent or static label, for it does not speak to characteristics, traits, or features that are intrinsic and immutable to the title-holder. Not even the status as great power captured in the definition is such: once-great powers may fall, while new ones might rise. Rather, such designation is earned strictly on the basis of *conduct*, something that, by definition, the great power *could* change if it no longer served its interests—that is, if disincentivized to the point where the price paid for said conduct is too great to sustain it—or, as it is more likely the case with democracies like the US, as prevailing political preferences and attitudes shift, and lessons learned from past mistakes are assimilated and enshrined into future policy. On this note, while the bulk of my empirical analysis in the next section will focus on the Russian Federation, which I easily consider to be the perfect illustration of the notion of a contemporary Great Power Perpetrator, it might be

helpful to dedicate the remainder of this section to consider, briefly, whether the (i) *scope*, (ii) *gravity*, and (iii) *context* of conduct—whether past or ongoing—by all *three* contemporary great powers—not just Russia but also the US, and China—indeed fits my framework of analysis. This is a foundational step before turning to discuss how each element in the above-mentioned taxonomy of power has featured in the commission of qualifying abuse, returning my focus to Russian conduct. And although, as also mentioned above, plenty of examples of egregious conduct by all P5 exist throughout history, given the focus of this article, I will restrict my considerations to conduct over the last 20 or so years; that is, since the rise of the RtoP norm and the atrocity prevention field.

Having clarified the temporal scope of the analysis, the first question to ask is whether credible (i.e. official) allegations or findings have surfaced against any of the three with respect to the commission of either atrocity crimes (war crimes, crimes against humanity, or genocide), or the breach of related peremptory norms of international law (such as the prohibition against aggression) grave enough to possibly amount to a different international crime. I shall also clarify that, of course, credible reports and allegations often do arise from groups in the civil society—through journalists' reporting, from those carrying out contemporaneous frontline documentation, or by those analyzing data and patterns from afar⁶⁴—that have both the capabilities and the competences to credibly evidence any such allegations, and that such work by the civil society is indeed often the backbone and propeller of official and institutional processes arriving at the same conclusions.⁶⁵ For the purposes of this article, however, I will rely exclusively on *official* findings or allegations made by an internationally-mandated investigative body (such as the UN, the International Criminal Court, or other international court or tribunal), or emanating directly from official government determinations (whether by the executive, legislative, or judiciary) of multiple third countries (three at least) that score above 0.68 and rank in the top 30 (of 142) countries assessed in the Rule of Law Index.⁶⁶ This is an admittedly high bar, but the gravity of the designation as a Great Power Perpetrator demands it. Indeed, all three great powers meet thresholds relating to both *scope* and *gravity* with which this article is concerned. It is, however, when we turn to the broader *context* within which such conduct has taken place that important qualitative differences become apparent, as we shall now turn to discussing.

The United States

When it comes to American conduct that meets the pertinent scope and gravity thresholds, there are at least two examples that come to mind:⁶⁷ allegations of prisoner abuse by US forces (specifically those allegedly amounting to war crimes) between 2001-2005 in either Afghanistan, Iraq, or at Guantanamo; and the 2003 US-led invasion of Iraq. Starting from the former, the UN has recognized that extremely serious human rights violations have taken place at Guantanamo, and has called on the US to finally close this “ugly” chapter of “unrelenting human suffering.”⁶⁸

⁶⁴ Federica D'Alessandra and Kirsty Sutherland, “The Promise and Challenges of New Actors and New Technologies in International Justice,” *Journal of International Criminal Justice* 19, no. 1 (2021), 9–34, <https://doi.org/10.1093/jicj/mqab034>.

⁶⁵ Federica D'Alessandra, “The Ten-Year Revolution: Civil Society Documentation in International Criminal Justice,” *Journal of International Criminal Justice* (forthcoming 2024), <https://doi.org/10.1093/jicj/mqae011>.

⁶⁶ “Rule of Law Index 2023,” *World Justice Project* (n.d.), accessed August 30, 2024, <https://worldjusticeproject.org/rule-of-law-index/global>.

⁶⁷ Others might take the view that my approach is too restrictive, and might want to include in their analysis other important human rights issues such as racial inequality, police brutality, and discrimination of Black Americans and other minorities. While I agree that these are pressing issues, I exclude them from my analysis because no official finding has ever characterized the nature and scale of such issues as raising to the level of atrocities (as understood in the RtoP doctrine).

⁶⁸ United Nations Human Rights Office of the High Commissioner, “Guantanamo Bay: ‘Ugly Chapter of Unrelenting Human Rights Violations’—UN Experts,” January 10, 2022, accessed April 3, 2023, <https://www.ohchr.org/en/press-releases/2022/01/guantanamo-bay-ugly-chapter-unrelenting-human-rights-violations-un-experts>.

The US government has also been criticized for distorting the Geneva Conventions in the immediate aftermath of its response to the 9/11 attacks, and for breaching its obligations under the UN Convention Against Torture, as well as other human rights treaties (even though these were never framed as “atrocities” as such).⁶⁹ As I have written elsewhere,⁷⁰ I firmly believe that the existence of Guantanamo (for what it has come to symbolize) is a stain on the US government’s reputation and track record. I also have called for accountability for anyone who abused prisoners, for due process and access to remedy for those who have been violated, and for the final closure of Guantanamo.⁷¹

Equally, on similar grounds as those outlined in the UK’s Iraq (Chilcot) Inquiry report, I believe the 2003 invasion was both unlawful⁷² and a colossal foreign policy disaster, which to this day continues to undermine US global standing, while offering fertile grounds to those engaging in “whataboutism”⁷³—generally as a strategy to deflect attention from their own wrongful conduct. I have also called for the US government to fully and transparently investigate the so-called “torture program,”⁷⁴ to specifically investigate the war crimes allegations surfaced by the International Criminal Court (ICC)’s Prosecutor as part of a broader war crimes probe in Afghanistan,⁷⁵ and to hold anyone deserving it criminally liable.⁷⁶ It is important to acknowledge, however, that the ICC Prosecutor also stated that the scale and gravity of allegations against US personnel did not match that of alleged crimes by other actors in the situation (such as the Taliban, Al Qaeda, Afghan security forces, and the Islamic State—Khorasan Province), reason why this aspect of the investigation has been deprioritized.⁷⁷

More generally, I acknowledge that the US’s ambivalence towards certain international laws and institutions (i.e., “American exceptionalism” in the context of international law⁷⁸ and

⁶⁹ “U.N. Criticizes U.S. On Torture and Array of Human Rights Issues,” *NBC News*, November 28, 2014, accessed August 30, 2024, <https://www.nbcnews.com/news/us-news/u-n-criticizes-u-s-torture-array-human-rights-issues-n257866>.

⁷⁰ Federica D’Alessandra and Alberto Mora, “The Imperatives of Re-Opening (To Finally Close) the Ugly Chapter on US Torture,” in *Legacies of Perpetual Wars*, ed. Brianna Rosen (Oxford: Oxford University Press, forthcoming 2024).

⁷¹ *Ibid.*

⁷² The report found that in the run-up to the war, peaceful diplomatic options to avoid instability and the proliferation of weapons of mass destruction had not been exhausted, and that the war was therefore “not a last resort”; acknowledging that at the time of the 2003 invasion, Saddam Hussein did not pose an immediate threat, and that the majority of the UN Security Council supported the continuation of UN weapons inspections and monitoring. “Chilcot Report: Findings at a glance,” *BBC News*, July 6, 2016, accessed September 2, 2024, <https://www.bbc.com/news/uk-politics-36721645>.

⁷³ Federica D’Alessandra, “Pursuing Accountability for the Crime of Aggression Against Ukraine,” *Revue Européenne du Droit* 5, Spring 2023, accessed August 5, 2024, <https://geopolitique.eu/en/articles/pursuing-accountability-for-the-crime-of-aggression-against-ukraine/>. Also see Eliav Liebllich, “Whataboutism in International Law,” *Harvard International Law Journal* 65 (2024), <https://ssrn.com/abstract=4609679>.

⁷⁴ United States Senate Select Committee on Intelligence, “Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program together with Foreword by Chairman Feinstein and Additional and Minority Views,” December 9, 2014, accessed August 7, 2024, <https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>.

⁷⁵ 78 cases in total, of which 54 involve US armed forces, and 24 involve CIA personnel. See International Criminal Court, “ICC Judges Authorise Prosecution to Resume Investigation in Afghanistan,” October 31, 2022, accessed August 7, 2024, <https://www.icc-cpi.int/news/icc-judges-authorise-prosecution-resume-investigation-afghanistan>.

⁷⁶ D’Alessandra and Mora, *The Imperatives of Re-Opening*.

⁷⁷ International Criminal Court, “Statement of the Prosecutor of the International Criminal Court, Karim A. A. Khan QC, Following the Application for an Expedited Order Under Article 18(2) Seeking Authorisation to Resume Investigations in the Situation in Afghanistan,” September 27, 2021, accessed August 7, 2024, <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-khan-qc-following-application>.

⁷⁸ Malcolm Jorgensen, *American Foreign Policy Ideology and the International Rule of Law* (Cambridge: Cambridge University Press, 2020), 23–49.

US foreign policy⁷⁹) have, at times, been at odds with key normative commitments it has undertaken—including those concerning atrocity prevention and response, precisely as highlighted above. For example, I believe, as others do,⁸⁰ that the US-led “war on terror”⁸¹ “pushed international humanitarian law to a breaking point,” and is part of a “long series of wars [...] that have chipped away at protections for civilians.”⁸² And, certainly, the US has acted in ways that qualify it as a spoiler also with respect to certain international institutions in the past (such as the International Criminal Court, for example).⁸³ All of this, I believe, has contributed to oxygenating the belief, among many around the world, “that [the US] apply double standards.”⁸⁴

At the same time, however, the US has also been a consistent—if imperfect—champion on the international stage for a rules-based world order. As mentioned above, the evolution of its voting record also demonstrates that its approach to UNSC diplomacy is far more conciliatory and orientated towards consensus-building than can be currently said of either China or Russia. The US has also unquestionably been a vigorous normative advocate on issues of human rights and atrocity prevention; and, even though there are countless human rights issues it must seriously address (including domestically), the US ought to equally be recognized for having one of the strongest implementation track records on atrocity prevention and response issues, having pioneered the first-of-its-kind national, cross-government atrocity prevention strategy and an interagency body dedicated to its implementation,⁸⁵ evidencing real commitment to these norms.⁸⁶ This is true, by and large, on a bipartisan basis, and across all administrations that have held the White House over the period under scrutiny—even that of Donald Trump, who (many agree) was never the paladin for a rules-based international order; but, equally, never discontinued the US government’s commitment to atrocity prevention and response, even as he demoted the standing of key figures and structures that sustained the agenda from within the US government apparatus.⁸⁷

⁷⁹ United Nations, “US Attacks Against the International Criminal Court a Threat to Judicial Independence—UN Experts,” June 25, 2020, accessed April 3, 2023, <https://www.ohchr.org/en/press-releases/2020/06/us-attacks-against-international-criminal-court-threat-judicial-independence>.

⁸⁰ Oona A. Hathaway, “War Unbound: Gaza, Ukraine, and the Breakdown of International Law,” *Foreign Affairs*, April 23, 2024, accessed August 6, 2024, <https://www.foreignaffairs.com/ukraine/war-unbound-gaza-hathaway>.

⁸¹ “Global War on Terror,” *National Archives, George W. Bush Presidential Library* (n.d.), accessed August 7, 2024, <https://www.georgewbushlibrary.gov/research/topic-guides/global-war-terror>.

⁸² Hathaway, *War Unbound*.

⁸³ More precisely, with respect to its opposition to the International Criminal Court’s jurisdiction over the crime of aggression. See Harold Hongju Koh and Todd F. Buchwald, “The Crime of Aggression: The United States Perspective,” *American Journal of International Law* 109, no. 2 (2015), 257–295, <https://doi.org/10.5305/amerjintelaw.109.2.0257>.

⁸⁴ Harold Hongju Koh, “Testimony of Professor Harold Hongju Koh, January 6, 2005: Statement of Harold Hongju Koh Dean and Gerard C. and Bernice Latrobe Smith Professor of International Law Yale Law School before the Senate Judiciary Committee regarding The Nomination of the Honorable Alberto R. Gonzales as Attorney General of the United States, January 7, 2005,” January 7, 2005, accessed September 2, 2024, https://www.judiciary.senate.gov/imo/media/doc/koh_testimony_01_06_05.pdf; see also Figure 2 in Eisentraut, *Standard Deviation*, 8.

⁸⁵ Robert J. Faucher, “A New Strategy for U.S. Leadership on Atrocity Prevention,” United States Department of State, November 8, 2022, accessed April 3, 2023, <https://www.state.gov/a-new-strategy-for-u-s-leadership-on-atrocity-prevention/>.

⁸⁶ Federica D’Alessandra and Gwendolyn Whidden, *Developing a UK Atrocity Prevention Strategy: The Need for a Whole-of-Government Approach* (Oxford: Oxford Institute for Ethics, Law and Armed Conflict (ELAC), January 2023), accessed August 6, 2024, <https://www.elac.ox.ac.uk/wp-content/uploads/2023/01/ELAC-Policy-Brief-UK-AP-Strategy.pdf>.

⁸⁷ White House [or Trump White House] Elie Wiesel Genocide and Atrocities Prevention Report, September 2019, archived, accessed September 30, 2024, <https://trumpwhitehouse.archives.gov/wp-content/uploads/2019/09/ELIE-WIESEL-GENOCIDE-AND-ATROCITIES-PREVENTION-REPORT.pdf>; see also Figure 2 in Eisentraut, *Standard Deviation*, 8.

For this reason, the US is excluded from my analysis: not because the scope and gravity of its alleged abuses are not relevant to the classification, but because the broader *context* of such abuse is, in my assessment, not one to warrant inclusion. This, more precisely, is on account of its role as a champion and advocate, rather than spoiler, of the extant principles and normative frameworks that ground the international human rights regime, the atrocity prevention field, and the multilateral system more broadly.⁸⁸ As discussed below, this is what markedly sets it aside—at least in my opinion—from the other two contemporary great powers with respect to this article’s argument and analysis. That being said, I fully acknowledge that different views might exist on this matter: some may still accept the validity of the framework itself I have set out to conceptualize Great Power Perpetrators, but might disagree on whether the US (and / or China, as we will see below) are deserving of being labeled as such. I welcome scholarly engagement on these points, and look forward to learning from the insight and analysis of others.

China

China’s potential classification as a Great Power Perpetrator also presents its own set of challenges. Certainly, China—more so than Russia—does possess the full breath and scale of the elements of great power drawn up in the power taxonomy above. At a minimum, its status as P5 confers it definitive institutional power, at least over UNSC dynamics. With the third largest military in the world, ranking in the top five of global military powers,⁸⁹ China’s compulsory power is also without question; as is its structural power, by virtue of its colossal economic and diplomatic footprint. I also believe that China’s productive power is extremely significant, and—as I will further discuss below—in full display at the UNSC (and beyond). Ultimately, however, it is the ways in which such forms of power are used (rather than their possession) that render an actor deserving of classification as a Great Power Perpetrator.

In this sense, plenty of Chinese conduct does raise red flags under my framework of analysis. When it comes to its *productive* power, for example, China can act (and has acted) as a normative spoiler (well beyond the specific issue of atrocity prevention)⁹⁰ to the point that it has been said of Beijing that it is waging “normfare” against human rights⁹¹ and, more generally,

⁸⁸ Importantly, I do not suggest that the US is a “champion” because it occupies a moral high ground with respect to human rights and atrocity prevention issues per se. It is entirely possible, instead, that while the US does indeed violate and treat with ambivalence international norms, laws, and institutions relevant to human rights and atrocity prevention, it tends to do so far more selectively than China or Russia and in a way that attempts to bend the multilateral system to serve its interests rather than brashly undermine the system as a whole, given that its values and interests are, arguably, currently entrenched in the existing system to a greater degree than China or Russia. In other words, the US does not violate laws and norms so egregiously and consistently so as to undermine the system resting upon them that largely serves and protects its interests. (A telling example is that, unlike Russia, the US *does* invest effort in multilateral cooperation even where it does not have a direct and immediate interest at stake, such as on the issue of climate change).

⁸⁹ “2024 China Military Strength,” Global Firepower (n.d.), accessed September 2, 2024, https://www.globalfirepower.com/country-military-strength-detail.php?country_id=china.

⁹⁰ China’s approach to “sovereignty” has been troubling, and has led to accusations, that it is trying to re-write global rules. For example, its approach to what it maintains is “cyber sovereignty,” on account of which it rejects the applicability of human rights law to the cyber domain (and, more broadly, technology issues). Another area has been its militarization of the South China Sea.

⁹¹ Tanner Larkin, “How China Is Rewriting the Norms of Human Rights,” *Lawfare*, May 9, 2022, accessed August 6, 2024, <https://www.lawfareblog.com/how-china-rewriting-norms-human-rights>.

that it is trying to “re-write” the international legal rules.⁹² I am also concerned by some recent manifestations of its *coercive* power—that is, its militarization of the South China Sea; its militarized response to recent pro-democracy protests in Hong Kong (and political repression of protesters and leading activists); as well as the military threat it poses towards Taiwan.⁹³ I am equally concerned about the potential implications of certain manifestations of its *structural* power, such as developments in its dual-use tech and exports—of not only said tech, but of the “techno-authoritarian model” that accompanies it;⁹⁴ as I find troubling allegations of “economic blackmail” levied against China by many of the countries that have benefitted of its investments and infrastructure (particularly those participating in the Belt and Road Initiative).⁹⁵ As I will discuss below, this becomes particularly pertinent to our discussion when it comes to its apparent leveraging of such form of power to shield itself from international scrutiny into the international crimes being alleged in Xinjiang—with respect to conduct potentially amounting to crimes against humanity,⁹⁶ if not genocide.⁹⁷

I am indeed prepared to say that, by virtue of these combined factors, China can, in a sense, pose an even more difficult form of system-level challenge to global governance, and especially the pursuit of human protection and prevention objectives at the UN. At the same time, however, China also persists as the only P5 to have not cast a single *solo* veto in the period under scrutiny, meaning that its disruption of consensus on the global stage has not (thus far) been as overt and militant as that of the Russian Federation, for example. This holds true, in my opinion, even when taking into account Beijing’s practice of so-called “wolf-warrior” (i.e. coercive) diplomacy.⁹⁸ The latter, by contrast, is the perfect Great Power Perpetrator case study on account of a long track record of qualifying abuse, dating back to at least the war in

⁹² See Michael Schuman, “China Wants to Rule the World by Controlling the Rules,” *The Atlantic*, December 9, 2021, accessed September 2, 2024, <https://www.theatlantic.com/international/archive/2021/12/china-wants-rule-world-controlling-rules/620890/>; Daniel W. McLaughlin, “Rewriting the Rules: Analyzing the People’s Republic of China’s Efforts to Establish New International Norms,” *Journal of Indo-Pacific Affairs—Air University*, March 8, 2021, accessed August 6, 2024, <https://www.airuniversity.af.edu/JIPA/Display/Article/2528526/rewriting-the-rules-analyzing-the-peoples-republic-of-chinas-efforts-to-establi/>; Janka Oertel, “Games Changer: How China is Rewriting Global Rules and Russia is Playing Along,” *European Council on Foreign Relations*, February 23, 2022, accessed August 6, 2024, <https://ecfr.eu/article/games-changer-how-china-is-rewriting-global-rules-and-russia-is-playing-along/>.

⁹³ “China’s Xi Says ‘reunification’ with Taiwan is Inevitable,” *Reuters*, January 1, 2024, accessed September 2, 2024, <https://www.reuters.com/world/asia-pacific/china-calls-taiwan-president-frontrunner-destroyer-peace-2023-12-31/>.

⁹⁴ Ross James Gildea and Federica D’Alessandra, “We Need International Agreement on How to Handle These Dangerous Technologies,” *Slate* (media), March 7, 2022, accessed September 2, 2024, <https://slate.com/technology/2022/03/dual-use-surveillance-technology-export-controls.html>; also see Maya Wang, “China’s Techno-Authoritarianism Has Gone Global,” *Human Rights Watch*, April 8, 2021, accessed August 7, 2024, <https://www.hrw.org/news/2021/04/08/chinas-techno-authoritarianism-has-gone-global>.

⁹⁵ “China’s Economic Blackmail Backfires,” *Wall Street Journal* Editorial Board, April 25, 2021, accessed August 7, 2024, <https://www.wsj.com/articles/chinas-economic-blackmail-backfires-11619384564>.

⁹⁶ Office of the High Commissioner for Human Rights, *OHCHR Assessment of Human Rights Concerns in Xinjiang Uyghur Autonomous Region, People’s Republic of China* (Geneva: United Nations, August 31, 2022), <https://www.ohchr.org/en/documents/country-reports/ohchr-assessment-human-rights-concerns-xinjiang-uyghur-autonomous-region>.

⁹⁷ See, for example, Parliament of Canada, “The Human Rights Situation of Uyghurs in Xinjiang, China: Report of the Standing Committee on Foreign Affairs and International Development” (Ottawa: House of Commons, March 2021), accessed September 30, 2024, <https://www.ourcommons.ca/Content/Committee/432/FAAE/Reports/RP11164859/sdirrp04/sdirrp04-e.pdf>; Michael R. Pompeo, “Press Statement: Determination of the Secretary of State on Atrocities in Xinjiang,” United States Department of State, January 19, 2021, accessed August 7, 2024, <https://2017-2021.state.gov/determination-of-the-secretary-of-state-on-atrocities-in-xinjiang/index.html>; “Human Rights: Xinjiang—Volume 692: Debated on Thursday 22 April 2021,” Parliament of the United Kingdom, April 22, 2021, <https://hansard.parliament.uk/commons/2021-04-22/debates/6FA4F300-D244-443E-A48C-57378876DE54/HumanRightsXinjiang>.

⁹⁸ Duan Xiaolin and Liu Yitong, “The Rise and Fall of China’s Wolf Warrior Diplomacy” *The Diplomat*, September 22, 2023, accessed August 7, 2024, <https://thediplomat.com/2023/09/the-rise-and-fall-of-chinas-wolf-warrior-diplomacy/>.

Chechnya,⁹⁹ not to mention its ongoing aggression against Ukraine,¹⁰⁰ and the horrific war crimes,¹⁰¹ and crimes against humanity,¹⁰² if not potentially genocide,¹⁰³ of which it stands accused, among many other examples I shall further discuss. For this reason, while reserving for myself the right to revisit this conclusion, I am leaning against describing China as a Great Power Perpetrator at this particular time. That being said, as my analysis below shows, I do believe it often acts as an enabler, particularly for Russia, with troubling results.

Wielding Great Power as a Perpetrator: An Empirical Analysis

In what ways, then, does a great power leverage its great powers to perpetrate the type of abuse that amounts to crimes under international law, and by its scope, gravity, and context, poses a systemic challenge to the multilateral system? In other words, how does the Great Power Perpetrator wield its power with respect to other states and institutions on atrocity prevention issues? To answer this question, I will return to the taxonomy of power mentioned above in order to analyze in greater detail how each of the four elements of relational power feature in Great Power Perpetrator conduct. I will begin with the two forms of power that, I believe, most directly affect atrocity prevention and response and, in my view, are the true hallmarks of a Great Power Perpetrator (hereinafter GPP).

The first is its *institutional power*, most immediately visible in the GPP's ability to veto—or threaten to veto—any UNSC action that would directly challenge, whether materially or rhetorically, their wrongful conduct. As mentioned above, one might argue that the existence of veto powers is, in fact, an enabler of great powers' cooperation, if not its precondition. How, then, do we explain the prevalence of vetoes cast recently almost exclusively in mass atrocity situations? It could be tempting to answer this question by framing it in terms of power politics and geostrategy. With two exceptions, each veto cast by Russia in the period under analysis concerned either situations of its direct military involvement abroad (i.e., in Syria, Georgia, and Ukraine), or the protection of a strategically important embattled ally. If realpolitik is indeed part of the answer, I argue that it is only a partial explanation. To understand why, it is instructive to consider the two vetoes cast by Russia that stand apart: the veto it cast earlier this year to keep open the possibility of extending the nuclear arms-race to outer-space, and the 2021

⁹⁹ "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, Following Judicial Authorisation to Commence an Investigation into the Situation in Georgia," *International Criminal Court*, January 27, 2016, accessed August 7, 2024, <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-following-judicial>. The investigation, however, has now been closed. See "The Prosecutor of the International Criminal Court, Karim A.A. Khan KC, Announces Conclusion of the Investigation Phase in the Situation in Georgia," *International Criminal Court*, December 16, 2022, accessed August 7, 2024, <https://www.icc-cpi.int/news/prosecutor-international-criminal-court-karim-aa-khan-kc-announces-conclusion-investigation>.

¹⁰⁰ Council of Europe, "PACE Calls for the Setting Up of an Ad Hoc International Criminal Tribunal to Hold to Account Perpetrators of the Crime of Aggression in Ukraine," April 28, 2022, accessed September 2, 2024, <https://pace.coe.int/en/news/8699/pace-calls-for-the-setting-up-of-an-ad-hoc-international-criminal-tribunal-to-hold-to-account-perpetrators-of-the-crime-of-aggression-against-ukraine>; European Parliament, *European Parliament Resolution of 19 January 2023 on the Establishment of a Tribunal on the Crime of Aggression Against Ukraine*, January 19, 2023 (2022/3017(RSP)); United Nations, *Report of the Independent International Commission of Inquiry on Ukraine*, March 15, 2023 (UN Doc. A/HRC/52/62).

¹⁰¹ "Situation in Ukraine: ICC Judges Issue Arrest Warrants Against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova," *International Criminal Court*, March 17, 2023, accessed August 7, 2024, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>; United Nations, *Independent International Commission of Inquiry on Ukraine—Note by the Secretary General*, October 18, 2022 (UN Doc. A/77/533).

¹⁰² Ibid.

¹⁰³ Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), International Court of Justice, August 6, 2024, accessed September 2, 2024, <https://www.icj-cij.org/case/182>.

veto it cast to block UNSC consideration of climate-related security risks on the Council's agenda¹⁰⁴—the latter, in particular, being difficult to explain in realpolitik terms.

Or, for argument's sake, consider the vetoes cast by China—none of which concerned its direct military involvement abroad or the protection of a direct proxy, except for its vetoes on the Democratic People's Republic of Korea (DPRK) in May 2022 and in 2024. In fact, if geostrategy were the sole endgame, none of the 13 vetoes Beijing cast on Syria would even have been necessary, given that Russia—to whom Syria is the real proxy, and who stands to benefit the most from its dictator Bashar al Assad's hold on power—would have cast the veto itself.¹⁰⁵ Why, then, spend the political capital and face the reputational backlash associated with the veto? I posit that the answer lies in understanding these vetoes as *statements*. Of course, the significance of such statements could, at least in part, be geostrategic. In other words, China could be signaling to Russia that it can count on China as an ally. I believe, however, that adopting a normative lens is equally valuable, if not more, to understand their significance: China's vetoes on Syria—and, in fact, all of the vetoes it has cast in situations of atrocity—have been cast less on account of its opposition to the specific form of action the Council would have undertaken pursuant to the resolution in a particular country situation, and more as a way to *protest the normative rationale underpinning the intervention itself*.¹⁰⁶

Indeed, it is no secret that both China and Russia oppose the notion of “sovereignty as responsibility” at the core of RtoP in favor of a Westphalian conception of sovereignty, which both ascribes to the state exclusive competence over its domestic affairs and entitles it to an absolute right to non-interference therein.¹⁰⁷ It is on this basis that China and Russia have persistently objected to the validity of most international action pursuant to RtoP's third pillar. Notably, if their protestation undoubtedly intensified after the 2011 Libya intervention, their opposition to international action under Pillar 3 also pre-dates Libya, and has been staunch even where no military measures were concerned. Take, for example, their vetoing of resolutions on Zimbabwe (2008) and Myanmar (2007); of resolutions calling to refer the situation in Syria to the International Criminal Court (2014); or, most recently, their vetoing of additional sanctions against the DPRK (2022).¹⁰⁸ In short, the leveraging of its institutional power by the GPP (or, in the case of China, its ally) should be understood and evaluated not simply in terms of the direct effects it produces (i.e., blocking a specific course of action), but also, and perhaps more importantly, in terms of the ways in which it acts as a “force multiplier” for the GPP's *productive power*. That is, for its ability to contest the extant norms concerned with prohibiting and curbing the conduct under scrutiny.

In fact, the GPP's institutional position of power provides it with unique avenues to act as a “spoiler” in normative settings, which Russia and, admittedly, also China, have done extensively, if in different ways. China's role as a normative spoiler has most often consisted in its advancement of “alternative” interpretations of the norm at hand—that is, of what the norm requires and, consequently, what might be an appropriate standard of conduct arising from it—diluting its cogency as the result. This has clearly been the case with international action pursuant to Pillar 3 of RtoP. Another way in which the GPP leverages its institutional power in order to amplify its productive power is by re-directing resources away from structures and

¹⁰⁴ United Nations, UN Doc. S/PV.8926.

¹⁰⁵ Unlike the Chinese vetoes, the vetoes the US has cast in favor of Israel, which were cast solo, were not candidate for alternative exercise of power by another P5 (such as the UK or France).

¹⁰⁶ Andrew Garwood-Gowes, “China and the ‘Responsibility to Protect’ (R2P),” in *Handbook of Human Rights in China*, ed. Sarah Biddulph et al. (Cheltenham: Edward Elgar Publishing, 2019), 103–118.

¹⁰⁷ Sonia Cardenas, *Conflict and Compliance: State Responses to International Human Rights Pressure* (Philadelphia: University of Pennsylvania Press, 2007); Jennifer M. Welsh, “Norm Contestation and the Responsibility to Protect,” *Global Responsibility to Protect* 5, no. 1 (2013), 382–384, <https://doi.org/10.1163/1875984X-00504002>; Welsh, *Norm Robustness*, first mentioned in note 27.

¹⁰⁸ See note 13.

institutions dedicated to furthering certain norms,¹⁰⁹ and/or challenge the norm's pertinence to a given fora. Both China and Russia, for example, have maintained that human rights and accountability issues do not belong on the UNSC agenda, and have campaigned hard to defund the UN human rights system.¹¹⁰

Even more dangerously, however, the GPP explicitly uses its institutional and productive power to distort the reality surrounding its abuse; for example, by denying the facts, pushing forward counter-narratives and, at times, going as far as fabricating evidence to support its views.¹¹¹ Again, the Russian Federation's track record on this issue is most egregious: Moscow's weaponization of disinformation campaigns is well documented, and the Kremlin has even set up "information warfare units" within its Defence Ministry.¹¹² At the UNSC, its reliance on propaganda and the spreading of falsehoods has been on display on multiple occasions, perhaps most notably with respect to Syria and Ukraine. In the aftermath of Syrian dictator Bashar al Assad's use of chemical weapons in Douma, for example, Moscow claimed it had "irrefutable evidence" that the attack had been "staged" as part of a "Russophobic campaign"—presumably by the UK.¹¹³ And when the incident was jointly investigated by the UN and the Organization on the Prohibition of Chemical Weapons (OPCW), it also claimed that UN watchdogs from the Joint Investigative Mechanism (hereinafter JIM) had "manipulated" evidence about the incident intentionally to discredit Assad.¹¹⁴

Equally, Moscow's disinformation and "false-flag" campaigns have been on display in the lead up, and throughout, its assault on Ukraine's sovereignty—dating back to its 2014 illegal annexation of Crimea; its fomenting of a separatist rebellion in the Donbass; and its denial of any involvement in the downing of civilian flight MH17, just to name a few egregious and

¹⁰⁹ Louis Charbonneau, "China and Russia Fail to Defund UN Human Rights Work," *Human Rights Watch*, February 14, 2023, accessed August 5, 2024, <https://www.hrw.org/news/2023/02/14/china-and-russia-fail-defund-un-human-rights-work>. This, in contrast to the US, who is one of the biggest contributors to the UN human rights regime: "Funding the United Nations: How Much Does the U.S. Pay?," *Council on Foreign Relations*, March 13, 2023, accessed August 5, 2024, <https://www.cfr.org/article/funding-united-nations-what-impact-do-us-contributions-have-un-agencies-and-programs>.

¹¹⁰ Julian Borger, "China and Russia Accused of Waging 'War on Human Rights' at UN," *Guardian*, March 27, 2018, accessed September 2, 2024, <https://www.theguardian.com/world/2018/mar/27/china-and-russia-accused-of-waging-war-on-human-rights-at-un>.

¹¹¹ To be clear, the GPP is not alone in abusing the system in such ways. China, for example, has used its institutional seat on the UN Human Rights Council to systematically and categorically deny any wrongdoing with respect to its well-documented abuse of the Uyghurs and other minorities in Xinjiang, maintaining that any and all evidence of the contrary are "fabrications" levied against Beijing exclusively on political grounds. See Embassy of the People's Republic of China in the Commonwealth of the Bahamas, "Political Manipulation of Xinjiang-Related Issues Must be Rejected," September 3, 2022, accessed August 31, 2024, http://bs.china-embassy.gov.cn/eng/sgxw/202209/t20220903_10761703.htm. The most infamous example of similar behavior by the US is perhaps former Secretary of State Colin Powell's 2003 speech at the UNSC, in which it produced (soon-thereafter debunked) evidence of Iraq's possession of weapons of mass destruction as the *casus belli* for its invasion: "U.S. Secretary of State Colin Powell Addresses the U.N. Security Council," *The White House*, February 5, 2003, accessed August 7, 2024, <https://georgewbush-whitehouse.archives.gov/news/releases/2003/02/20030205-1.html>. However, as mentioned above, past wrongdoing by the US—which no doubt deserves condemnation—does not present the same contextual patterns as that of the GPP, at least in the view of this author.

¹¹² "Russia Sets up Information Warfare Units—Defence Minister," *Reuters*, February 22, 2017, accessed September 2, 2024, <https://www.reuters.com/article/uk-russia-military-propaganda-idAFKBN1611TF>. Equally, China's investment in online propaganda aimed at interfering with domestic electoral processes is well documented. See: Joshua Kurlantzick, "China's Growing Interference in Domestic Politics: Globally and in the United States," *Council on Foreign Relations*, November 1, 2022, accessed August 6, 2024, <https://www.cfr.org/blog/chinas-growing-interference-domestic-politics-globally-and-united-states>.

¹¹³ "Russia Said Syrian 'Chemical Attack' was Staged," *BBC News*, April 13, 2018, accessed September 2, 2024, <https://www.bbc.co.uk/news/world-middle-east-43747922>.

¹¹⁴ Patrick Wintour and Bethan McKernan, "Inquiry Strikes Blow to Russian Denials of Syria Chemical Attack," *Guardian*, February 7, 2020, accessed September 2, 2024, <https://www.theguardian.com/world/2020/feb/07/inquiry-strikes-blow-to-russian-denials-of-syria-chemical-attack>.

refuted examples.¹¹⁵ In fact, the very *casus belli* Moscow advanced to justify its 2022 invasion and occupation of eastern Ukraine was grounded on a presumed—and completely false—accusation of genocide perpetrated against ethnic Russians by Ukraine in the region,¹¹⁶ a proposition the Kremlin advanced both to muddy the empirical truth of its aggression, and to impugn the very concept of RtoP. Similarly, Moscow has cited Ukraine's possession and alleged use¹¹⁷ of chemical and biological weapons as a justification for a potential pre-emptive tactical nuclear strike—precisely, again, to undermine the cogency of this normative prohibition, and to ridicule the US justification for illegally invading Iraq in 2003.¹¹⁸ Compounding it all has been Moscow's abuse of its P5 privilege throughout 2022 and 2023 to call for countless UNSC meetings on Ukraine, not to propose any specific, concrete, or good faith actionable measure, but, again, to advance its war propaganda, forcing other UNSC members to convene “tit-for-tat” meetings simply in order to dispel its falsehoods.¹¹⁹ Indeed, it is worthy of note that it was *during* one of such Council meetings—which had been urgently convened by the US and Ukraine precisely to sound the alarm about the imminent invasion—that, from Moscow, Vladimir Putin announced the beginning of his “special military operation,” just as his Ambassador in New York dismissed the possibility of a Russia invasion as “nonsense.”¹²⁰

Such behavior by a P5 is both pernicious and dangerous. And yet, the GPP understands well that raising doubts on the factual reality of misconduct is foundational to its ability to evade sanction, and strategically crucial for its normative contestation. It is for this reason that the Russian Federation (and, in some respect also China) have vehemently opposed genuine forms of international scrutiny into any allegations of misconduct, and—in the case of the Russian Federation—gone as far as proving itself willing to deploy any means necessary to block or discredit impartial investigations when these did happen.¹²¹ Take, for example, China's continued stalling of all UN efforts aimed to determine the nature of the detention facilities that satellite imagery clearly shows in Xinjiang, where over a million Uyghurs are interned as part of Beijing's policy of persecution and repression.¹²² First came the denial of the camps' existence, then the claim that the camps were aimed at “professional skill training”—claims that could not be verified, however, as Beijing would not grant the UN access. And once, finally, the former

¹¹⁵ Verity Bowman, “Four Russian False Flags that are Comically Easy to Debunk,” *Telegraph*, February 21, 2022, accessed September 2, 2024, <https://www.telegraph.co.uk/world-news/2022/02/21/five-russian-false-flags-comically-easy-debunk/>.

¹¹⁶ Jon Greenberg, “Vladimir Putin Repeats False Claim of Genocide in Ukraine,” *PolitiFact*, February 25, 2022, accessed September 2, 2024, <https://www.politifact.com/factchecks/2022/feb/25/vladimir-putin/putin-repeats-long-running-claim-genocide-ukraine/>.

¹¹⁷ Andrew Buncombe, “Putin Accused of ‘Insane Delirium’ over Claim Ukraine Trying to Spread Biological Weapons via Migratory Birds and Insects,” *Independent*, March 11, 2022, accessed September 2, 2024, <https://www.independent.co.uk/news/world/europe/putin-ukraine-biological-weapons-un-b2034121.html>.

¹¹⁸ D'Alessandra and Mora, *The Imperatives of Re-Opening*.

¹¹⁹ See note 7.

¹²⁰ Melissa Quinn, “Russian Ambassador Insists Kremlin Has ‘No Such Plans’ for Invading Ukraine Despite Troop Build-Up,” *CBS News*, February 20, 2022, accessed September 2, 2024, <https://www.cbsnews.com/news/russia-ukraine-ambassador-anatoly-antonov-no-such-plans-invasion-face-the-nation/>; “Russian Federation Announces ‘Special Military Operation’ in Ukraine as Security Council Meets in Eleventh-Hour Effort to Avoid Full-Scale Conflict,” *United Nations*, February 23, 2022, accessed September 2, 2024, <https://press.un.org/en/2022/sc14803.doc.htm>.

¹²¹ The same can also be said of some past examples of US conduct, and particularly the sanctions the Trump White House imposed on the then ICC Prosecutor and two of her top aides (all from African countries) to intimidate the office into backing away from its war crimes probe in Afghanistan. See: American Civil Liberties Union, “Sadat v. Trump—Challenge to Trump's International Criminal Court's Sanctions Regime,” last updated May 24 2021, accessed August 5, 2024, <https://www.aclu.org/cases/sadat-v-trump-challenge-trumps-international-criminal-courts-sanctions-regime>.

¹²² Austin Ramzy and Chris Buckley “‘Absolutely No Mercy’: Leaked Files Expose How China Organized Mass Detentions of Muslims,” *New York Times*, November 16, 2019, accessed September 2, 2024, <https://www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html>.

UN Human Rights High Commissioner was allowed to visit, China wholly rejected the findings of the report—which the High Commissioner published right before ending her term raising “serious concerns” that crimes against humanity might be taking place and calling for an investigation¹²³—which the Human Rights Council (UNHRC) duly failed to appoint.¹²⁴ Or, even more pertinently, take Russia’s approach to the joint UN-OPCW investigation (JIM) into the Douma chemical attacks: in this case, Moscow had to agree to the UNSC appointment of the investigation, if only because a military intervention might have been the alternative.¹²⁵ Yet, throughout the course of the investigation, the Kremlin did whatever it could to undermine the JIM’s ability to make authoritative findings, and when this failed, it simply vetoed its mandate’s renewal.¹²⁶

It should be clarified that leveraging institutional and productive power to mount contestation is, alone, not sufficient to produce the GPP’s desired outcome: productive power, to be power as such, requires other states to buy into it, or at least question the alternative proposition at hand. Here, it is worth reflecting on whether inconsistent behavior and the incongruous application of the opposing normative view by its champions might, in fact, be as valuable—if not more¹²⁷—to the GPP’s productive power than the cogency of its proposed alternative: for it supports “whataboutism” and *tu quoque* (you did so too) arguments, and fuels perceptions of politicization and double-standards, thus directly undermining the universalist case grounding the normative proposition in favor of a *revisionist* approach to the rules-based order.¹²⁸ With respect to RtoP specifically, the lack of clarity surrounding the nature and scope of the legal duties arising under each of its three pillars;¹²⁹ past emphasis on military measures with respect to action undertaken under Pillar 3;¹³⁰ the political outcomes of the same; and the failure of the P3—that is, the US, France, and the UK—to hold themselves accountable when their own conduct has been egregious, have all been factors oxygenating the productive power of the GPP.

At the same time, and of equal importance, the GPP might leverage its productive power in combination with its *structural power* to challenge atrocity prevention and response in more indirect ways—precisely to compensate for areas where its institutional power is limited, or does not reach as effectively. Even though, as mentioned, I do not at this time consider China to be a GPP; take (for argument’s sake), the above-mentioned failure to appoint an investigation into Xinjiang following the High Commissioner’s report. The report was itself fairly controversial among independent human rights lawyers who believed it was too “soft” and did not go far enough in describing the true nature of the violations occurring in the camps.¹³¹ The High Commissioner, too, was criticized during her investigation for being too deferential to

¹²³ OHCHR, *Assessment of Human Rights Concerns*.

¹²⁴ Emma Farge, “U.N. Body Rejects Debate on China’s Treatment of Uyghur Muslims in Blow to West,” *Reuters*, October 7, 2022, accessed September 2, 2024, <https://www.reuters.com/world/china/un-body-rejects-historic-debate-chinas-human-rights-record-2022-10-06/>.

¹²⁵ Derek Chollet, “Obama’s Red Line, Revisited,” *Politico Magazine*, July 19, 2016, accessed September 2, 2024, <https://www.politico.com/magazine/story/2016/07/obama-syria-foreign-policy-red-line-revisited-214059/>.

¹²⁶ “In Hindsight: The Demise of the JIM,” *Security Council Report*, December 28, 2017, accessed September 2, 2024, <https://www.securitycouncilreport.org/monthly-forecast/2018-01/in-hindsight-the-demise-of-the-jim.php>.

¹²⁷ Eisentraut, *Standard Deviation*, 11–18.

¹²⁸ *Ibid.*, 11.

¹²⁹ D’Alessandra and Singh, *Operationalising Obligations to Prevent Mass Atrocities*, first mentioned in note 59.

¹³⁰ Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2017), 272–300.

¹³¹ Geneva Abdul, “Lawyer Criticises UN Report’s Failure to Call Uyghur Oppression ‘Genocide,’” *Guardian*, September 1, 2022, accessed September 2, 2024, <https://www.theguardian.com/world/2022/sep/01/lawyer-criticises-un-reports-failure-to-call-uyghur-oppression-genocide>.

Beijing.¹³² Equally, many have expressed frustration at the lack of even condemnation by countries with some relation of kinship with the persecuted minority, such as Muslim countries,¹³³ particularly given that they have previously invoked kinship as the rationale for taking action with respect to other situations in which a group that might similarly be considered kin was being persecuted by another actor.¹³⁴ Of course, at the UNHRC, in contrast to the UNSC, China cannot rely on its institutional power to impede international action: there is no veto prerogative, and decisions are taken by vote by the 47 members elected to the body. What, then, explains the failure to condemn China's actions more forcefully, or recommend further action by 47 states?

One might, of course, point to the presence on the Council of a number of states that would act as spoilers on issues of accountability, for they too have horrific human rights records (Russia before its expulsion, and Cuba and Sudan just to name a few).¹³⁵ Yet, this has not stopped the Council from taking action on other situations—including, for example, with respect to Ukraine.¹³⁶ It is also true that—because China has persistently denied any allegation of abuse, and because UN human rights findings are, indeed, often dismissed as being “politicized”¹³⁷—some element of productive power might also have been at play. I argue, however, that it is China's *structural power* that most satisfactorily explains the Council's persistent and protracted failure to take action on Xinjiang, even as the composition of its membership has changed over time.¹³⁸ China has a colossal global footprint, which it has achieved through the strategic provision of a mix of military and development assistance and of trade and direct investment, as well as its Belt and Road Initiative. And, importantly, it knows how to use this power to bring its beneficiaries into compliance with its preferences.¹³⁹ To be sure, there is nothing intrinsically nefarious to having structural or any other form of power: it is the way in which it is used—that is, to violate and contest core international norms, and shield itself from the consequences—that is of concern.

Finally, it is worth briefly reflecting on the role of *compulsory power* within the context of our discussion. Compulsory power can, of course, be wielded by the Great Power Perpetrator directly, precisely as an instrument of perpetration: the clearest example of this being, of course, Russia's brutal military aggression against Ukraine. Equally, the direct use of such power as an instrument of perpetration can be pursued domestically, as China's repression in Xinjiang, or its

¹³² Tamara Taraciuk Broner, “Bachelet Should Fix Disastrous China Visit by Standing with Victims,” *Human Rights Watch*, July 12, 2022, accessed August 6, 2024, <https://www.hrw.org/news/2022/07/12/bachelet-should-fix-disastrous-china-visit-standing-victims>.

¹³³ Tamara Qiblawi, “Muslim Nations are Defending China as it Cracks Down on Muslims, Shattering Any Myths of Islamic Solidarity,” *CNN*, July 17, 2019, accessed September 2, 2024, <https://edition.cnn.com/2019/07/17/asia/uyghurs-muslim-countries-china-intl/index.html>.

¹³⁴ Gambia bringing a case to the UN International Court of Justice against Myanmar on behalf of the Organization of Islamic Cooperation (OIC): “Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar),” *International Court of Justice*, November 11, 2019, accessed August 7, 2024, <https://www.icj-cij.org/public/files/case-related/178/178-20191111-APP-01-00-EN.pdf>.

¹³⁵ For the full list, see “Membership of the Human Rights Council for the 17th Cycle, 1 January—31 December 2023,” United Nations Human Rights Council (n.d.), accessed September 2, 2024, <https://www.ohchr.org/en/hr-bodies/hrc/current-members>.

¹³⁶ United Nations, “Human Rights Council to Establish Commission of Inquiry on Ukraine,” March 4, 2022, accessed September 2, 2024, <https://news.un.org/en/story/2022/03/1113292>.

¹³⁷ Wang Qi, “China Opposes Politicizing Human Rights as Bachelet Steps Down as UN Human Rights Chief,” *Global Times*, August 31, 2022, accessed September 2, 2024, <https://www.globaltimes.cn/page/202208/1274333.shtml>; more generally, see Amy Knop-Narbutis, “The U.N. Human Rights Council: Politicized or Political?,” *Global Policy Studies & International Security*, November 10, 2010, accessed August 6, 2024, <https://sites.utexas.edu/bainesreport/2010/11/10/un-human-rights-council-politicized-or/>.

¹³⁸ D'Alessandra, *Pursuing Accountability*.

¹³⁹ Yang Yao, “China's Approach to Economic Diplomacy,” in *America, China, and the Struggle for World Order: Ideas, Traditions, Historical Legacies, and Global Visions*, ed. John Ikenberry et al. (London: Palgrave Macmillan, 2015), 161–186.

military's intervention to quash pro-democracy protests in Hong Kong, demonstrate.¹⁴⁰ Yet, an equally consequential implication of the GPP's possession of such power—even when this is non-actualized in the most immediate sense—is that it will act as a constraining factor. In other words, because compulsory power intrinsically carries the risk of confrontation, the mere potentiality of this outcome can either wholly deter certain courses of action from being undertaken—say, for example, a humanitarian intervention through military means¹⁴¹—or significantly restrict room for maneuver around which actions can be taken to avoid escalatory dynamics. Again, a pertinent example has been the constant re-calibration and ever-present posture of risk assessment in the provision of military assistance to Ukraine by its partners—to the point that assistance has often fallen short of what Ukraine's stated needs were, precisely to avoid the risk of a direct confrontation with its military adversary.¹⁴²

Confronting Great Power Abuse: A System-Level Challenge

The analysis in this article does not intend to single out or draw equivalences between Russia's and China's actions necessarily, nor to absolve any other great powers who might at some future point or might have previously behaved similarly. What I do hope this analysis demonstrates, however, are the *qualitative* and *relational* attributes that warrant GPP classification and, I believe, render the challenge of any GPP (and its enablers on the UNSC) to be "systemic" in nature. This is precisely because of the GPP's ability to simultaneously leverage immense levels of different types of power—more specifically, institutional, productive, structural, and compulsory—both to perpetrate deviant conduct, to mount direct and indirect challenges to the normative and empirical basis of condemnation of such conduct, and to attempt to neutralize meaningful international action in response.

The specific ways in which a GPP might do so will vary, and rarely, if ever, will the GPP be able to leverage all four dimensions of power with equal strength. This, I maintain, should be instructive to the identification of tools and strategies that target elements of power where a GPP might be weaker. Of course, within this broader context, the scale and perceived gravity of the GPP's conduct will also matter to the strength of the systemic shock that will be felt, and to how quickly and effectively the system can mobilize in response. Here, miscalculation might cost the GPP greatly, as has been most visibly demonstrated by the remarkable response to Russia's invasion of Ukraine, and widespread outrage for its callous disregard of even the most basic principles of humane warfare. Importantly, I believe this was prompted by egregiously brazen conduct by a repeat offender in violation of a norm (i.e., the prohibition of aggression) against which no productive power on Russia's part could have been effective, for there never was room for contestation over the prohibited nature of its actions.

This, however, is fairly exceptional. In the vast majority of cases, the GPP's challenge will be more subtle, though no less systemic, and its effects will be felt cumulatively and over time. It is for this reason that only close observation can reveal the frequent, though not always equally subtle ways in which the system itself has been reacting to GPP abuse. Indeed, I submit that over the last ten or so years, the rise of the GPP—for the first time, truly, in decades—has

¹⁴⁰ Weizhen Tan, "China Sends Fresh Troops into Hong Kong as Military Pledges to Protect 'National Sovereignty'," *CNBC*, August 29, 2019, accessed September 7, 2024, <https://www.cnbc.com/2019/08/29/hong-kong-protests-chinese-pla-sends-new-military-troops-into-sar.html>.

¹⁴¹ Helen Ray, "What is a No-Fly Zone, and Why Won't the U.S. Enforce One Over Ukraine?," *CBS News*, March 28, 2022, accessed September 7, 2024, <https://www.cbsnews.com/news/what-is-a-no-fly-zone-and-why-wont-us-nato-enforce-one-over-ukraine/>.

¹⁴² Dan Altman, "The West Worries Too Much About Escalation in Ukraine: NATO Can Do More Without Provoking Moscow," *Foreign Policy*, July 12, 2022, accessed August 5, 2024, <https://www.foreignaffairs.com/articles/ukraine/2022-07-12/west-worries-too-much-about-escalation-ukraine>. By contrast, at the time of writing, there are strong reasons to believe that China is considering providing Russia with lethal military aid to refuel its now depleted military capabilities, precisely to allow it to continue its assault on Ukraine. See: Patrick Wintour, "China May be on the Brink of Supplying Arms to Russia, Says Blinken," *Guardian*, February 19, 2023, accessed September 7, 2024, <https://www.theguardian.com/world/2023/feb/19/china-may-be-on-brink-of-supplying-arms-to-russia-says-blinken>.

forced the multilateral system, including the UN, to innovate when it comes to atrocity prevention matters,¹⁴³ precisely to find alternatives to an untenable *status quo*. I will now dedicate this article's last section to providing few examples of how this evolution has taken shape, as a way of drawing out potential implications for the road ahead.

Mobilizing the Prevailing System "As a Whole" to Confront Great Power Abuse

Countering abuse by Great Power Perpetrators is immensely difficult and can, at times, feel like a hopeless pursuit—for the GPP knows how to hold the system hostage. And yet, increasingly often, we are beginning to see that less diplomacy at the UNSC leads to more diplomacy outside of it. Within the UN system, it is precisely in response to the GPP's obstruction that we are beginning to witness other bodies more forcefully assert their own responsibilities under the Charter, including any residual responsibilities for international peace and security. One example of this has been the "migration" of justice and accountability mandates from the UNSC—where they have historically originated—to the UNHRC, where veto prerogatives are irrelevant. Faced with the repeated use or threat of the veto, UN diplomats seeking to appoint investigations into a variety of mass atrocity situations have taken the issue to Geneva where, since 2011 at least, we have begun to see the seizing of alternative probes—such as Commissions of Inquiries, Fact-Finding Missions, and Groups of Eminent Experts—to investigate mass atrocities incidents and—where these are found to amount to international crimes—identify perpetrators and preserve evidence of their culpability, specifically with the aim to support accountability.¹⁴⁴

Although it has thus far failed Xinjiang, this "accountability turn" in Geneva has been no small matter: all but four of the mandates conferred by the UNHRC since 2011 in mass atrocity situations have had such "accountability" requirements. Some, though not all, of these mandates have been created precisely in response to veto use (or its anticipation) by a GPP, including the mandates created for Syria, Myanmar, the DPRK, Venezuela, the Central African Republic, Ukraine, and Belarus, just to name a few.¹⁴⁵ Importantly, the increased investigative capacity required for their fulfillment might be spurring a "new wave of institutional growth"¹⁴⁶ within the broader international justice ecosystem—only the third since Nuremberg, and the second since the field's revival over the last three decades. By 2016, some of these mandates had become so sophisticated as to be considered *quasi-* (or, more accurately, *pre-*) prosecutorial—with the independent investigative mechanisms created for Syria and Myanmar, by the UN General Assembly (UNGA) and the HRC respectively, being perhaps the clearest examples of this.¹⁴⁷

The groundbreaking Independent Impartial Investigative Mechanism for Syria, in particular, was created by the UNGA precisely in response to Russia's vetoing the renewal of the UN-OPWC JIM.¹⁴⁸ Such mandates can be understood as steps taken by the international community to circumvent, as best as it can, the GPP's abuse of its institutional power through the veto. At the same time, by virtue of the independent and impartial nature of these investigations, to the extent that their findings are received as authoritative—as it is generally the case by the vast majority of the international community—they can be also understood as

¹⁴³ D'Alessandra and Whidden, *Whither Atrocity Prevention at the UN?*, first mentioned in note 31.

¹⁴⁴ Federica D'Alessandra, "The Accountability Turn in Third Wave Human Rights Fact-Finding," *Utrecht Journal of International and European Law* 33, no. 84 (2017), 59–76, <http://doi.org/10.5334/ujiel.369>.

¹⁴⁵ "International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding Missions and Other Investigations," *United Nations Human Rights Council* (n.d.), accessed September 7, 2024, <https://www.ohchr.org/en/hr-bodies/hrc/co-is>.

¹⁴⁶ Federica D'Alessandra, "UN Accountability Mandates and International Justice," *Journal of International Criminal Justice* 21, no. 3 (2023), 551–578, <https://doi.org/10.1093/jicj/mqad038>.

¹⁴⁷ Federica D'Alessandra et al., "Anchoring Accountability for Mass Atrocities: The Permanent Support Needed to Fulfil UN Investigative Mandates," *Oxford Institute for Ethics, Law and Armed Conflict (ELAC)*, May 2022, accessed August 6, 2024, <https://www.elac.ox.ac.uk/wp-content/uploads/2022/10/Oxford-ELAC-Anchoring-Accountability-for-Mass-Atrocities.pdf>.

¹⁴⁸ "The Demise of the JIM," *Security Council Report*, December 28, 2017, accessed September 7, 2024, https://www.securitycouncilreport.org/monthly-forecast/2018-01/in_hindsight_the_demise_of_the_jim.php.

crucial tools to counter the GPP's productive power, which it expresses, in part, through its denial of the empirical truth. To the extent that these mandates are understood as mechanisms to operationalize certain aspects of RtoP, their creation is also evidence of pushback against the GPP's assertion of productive power through normative contestation.

Equally, the repeated abuse of veto power has also forced a shift of the conversation on veto use and abuse from the political to the legal level,¹⁴⁹ revived debate on institutional and procedural reform of the Council,¹⁵⁰ and breathed new life into the willingness of other UN entities, particularly the UNGA, to counter through any means at its disposal the institutional and productive power of the GPP. One example of this is the adoption of the "Veto Initiative," which mandates a UNGA meeting in the wake of any UNSC veto, precisely to force the P5 casting the veto to publicly defend its conduct and explain why its veto did not constitute an abuse of its institutional privilege. If the veto is indefensible, the GPP is then forced to directly face condemnation before the entire UN membership.¹⁵¹ In fact, the UNSC has itself taken unprecedented steps to confront and curb the GPP's abuse of institutional privilege. More precisely, following Russia's veto in the immediate aftermath of its February 2022 invasion of Ukraine, the UNSC took the unusual step (by majority vote) of calling an Emergency Special Session under its "Uniting for Peace" mechanism through which diplomats joined together to express their condemnation of Russia's aggression in a resolution adopted by a large majority (141 vote in favor, with only five against and 35 abstentions).¹⁵²

The same mechanism was used again, shortly thereafter, to call for the establishment of an international mechanism for war reparations to be paid by Russia to Ukraine for any "damage, loss, or injury" resulting from its aggression.¹⁵³ Debates are also ongoing about the potential establishment of a Special Tribunal to hold Russian leaders personally accountable for their crime of aggression;¹⁵⁴ and, in an unprecedented move, the Prosecutor of the International Criminal Court has already moved to issue an arrest warrant against Vladimir Putin for war crimes in Ukraine.¹⁵⁵ Another important step taken by Ukraine as a way of leveraging alternative mechanisms available within the prevailing UN system has been the initiation of proceedings against Russia before the International Court of Justice for violations of the UN Genocide Convention.¹⁵⁶ This latter move can be chiefly understood as intended to target Russia's productive power by asking the Court to deny both its *casus belli* and its conflict narrative.¹⁵⁷ And although it will take time for the effects of any of these mechanisms to actually materialize, to the

¹⁴⁹ Trahan, *Existing Legal Limits*, first mentioned in note 35.

¹⁵⁰ Bjarke Zinck Winther, "Reforming the United Nations Security Council: Increasing Equality in the International Arena," *Georgetown Journal of International Affairs*, September 9, 2022, accessed August 7, 2024, <https://gija.georgetown.edu/2022/09/09/reforming-the-united-nations-security-council-increasing-equality-in-the-international-arena/>.

¹⁵¹ Ben Donaldson, "Liechtenstein's 'Veto Initiative' Wins Wide Approval at the UN. Will It Deter the Major Powers?," *PassBlue* (media), April 28, 2022, accessed September 7, 2024, <https://www.passblue.com/2022/04/26/liechtensteins-veto-initiative-wins-wide-approval-at-the-un-will-it-deter-the-major-powers/>.

¹⁵² United Nations, *General Assembly Resolution, Aggression against Ukraine*, March 2, 2022 (UN Doc. A/RES/ES-11/1).

¹⁵³ Chiara Giorgetti et al., "Historic UNGA Resolution Calls for Ukraine Reparations," *Just Security* (media), November 16, 2022, accessed August 6, 2024, <https://www.justsecurity.org/84146/historic-unga-resolution-calls-for-ukraine-reparations/>.

¹⁵⁴ D'Alessandra, *Pursuing Accountability*.

¹⁵⁵ International Criminal Court, *Situation in Ukraine*, first mentioned in note 99.

¹⁵⁶ *Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, International Court of Justice, February 26, 2022, accessed September 7, 2024, <https://www.icj-cij.org/public/files/case-related/182/182-20220227-APP-01-00-EN.pdf>.

¹⁵⁷ Russia alleged a "genocide" of ethnic Russian in eastern Ukraine as (one of the many) pretexts for its invasion. See: "Disinformation About Russia's Invasion of Ukraine – Debunking Seven Myths Spread by Russia," *Delegation of the European Union to the People's Republic of China*, March 18, 2023, accessed August 6, 2024, https://www.eeas.europa.eu/delegations/china/disinformation-about-russias-invasion-ukraine-debunking-seven-myths-spread-russia_en?s=166.

extent that they will, these will also become instrumental in tackling Russia's structural power. For its leaders will be turned into pariahs unable to travel, even if they are not criminally convicted; its human and financial resources will be immensely depleted; and its political influence and diplomatic status on the world stage will be further isolated and diminished.

Importantly, attempts have also taken shape outside of the UN system to counter Russia's aggression, particularly through regional institutions. Following Russia's 2014 illegal annexation of Crimea and its support of armed separatist groups in Donetsk and Lugansk, for example, the Organization for Security Cooperation in Europe (OSCE) deployed a Special Monitoring Mission to Ukraine to monitor the implementation of the package of measures Russia and Ukraine agreed to (which Russia apparently violated¹⁵⁸) under the Minsk II agreement.¹⁵⁹ At the transatlantic level, US leadership has also been instrumental in rallying European allies in defense of the transatlantic values Ukrainians are defending on the frontlines. Together, US and European allies have led the imposition of a sweeping and unprecedented sanctions regime; curtailed Russia's export of natural resources; supplied direct military assistance to Ukraine; taken in Ukrainian refugees; and supported international investigations by Ukraine's own judicial system.¹⁶⁰ In the immediate aftermath of the invasion, Ukraine applied for membership to both NATO and the European Union (EU), with Sweden and Finland following suit in applying for NATO membership.¹⁶¹ While Ukraine's NATO membership remains a distant prospect—at least while the war continues—NATO has played an important, if indirect, role in supporting Ukraine's military.¹⁶²

At the diplomatic level, both the EU and the Council of Europe (CoE) have also been instrumental in supporting broader prospects for criminal accountability. The EU Agency for Criminal Justice Cooperation (Eurojust), for example, set up a Joint Investigative Team (JIT) on Ukraine; European countries, jointly with allies from other regions, took the unprecedented step of “collectively” referring the situation in Ukraine to the International Criminal Court—which swiftly issued indictments, including against Putin himself; and, after both the Parliamentary Assembly of the CoE and the EU Parliament passed resolutions calling for the establishment of a special aggression tribunal, the President of the European Commission announced the creation of a Center for the Prosecution of Russia's Crime of Aggression, to be embedded within

¹⁵⁸ John E. Herbst, “Russia, Not Ukraine, Is Serial Violator of Ceasefire Agreement,” *Atlantic Council* (media), June 21, 2017, accessed August 6, 2024, <https://www.atlanticcouncil.org/blogs/ukrainealert/russia-not-ukraine-is-serial-violator-of-ceasefire-agreement/>; Kurt Volker, “Don't Let Russia Fool You About the Minsk Agreements,” *Center for European Policy Analysis (CEPA)*, December 16, 2021, accessed August 7, 2024, <https://cepa.org/article/dont-let-russia-fool-you-about-the-minsk-agreements/>.

¹⁵⁹ “Full Text of the Minsk Agreement,” *Financial Times*, February 12, 2015, accessed September 30, 2024, <https://www.ft.com/content/21b8f98e-b2a5-11e4-b234-00144feab7de>.

¹⁶⁰ On this latter point, see the creation of the Atrocity Crimes Advisory Board jointly by the US, the UK, and the EU: “Atrocity Crimes Advisory Group (ACA) for Ukraine,” *United States Embassy in Ukraine*, May 26, 2022, accessed September 7, 2024, <https://ua.usembassy.gov/tag/atrocity-crimes-advisory-group-aca-for-ukraine>.

¹⁶¹ “Volodymyr Zelenskyy Signed an Application for Ukraine's Membership in the European Union,” *President of Ukraine Official Website*, February 28, 2022, accessed August 7, 2024, <https://www.president.gov.ua/en/news/volodimir-zelenskij-pidpisav-zayavku-na-chlenstvo-ukrayini-u-73249>; “We are Taking our Decisive Step by Signing Ukraine's Application for Accelerated Accession to NATO—Address by President Volodymyr Zelenskyy,” *President of Ukraine Official Website*, September 30, 2022, accessed August 7, 2024, <https://www.president.gov.ua/en/news/mi-robimo-svij-viznachalnij-krok-pidpisuyuchi-zayavku-ukrayi-78173>; “Statement: By Secretary General Jens Stoltenberg on Finland and Sweden's NATO Membership,” *North Atlantic Treaty Organization (NATO)*, March 17, 2023, accessed September 7, 2024, https://www.nato.int/cps/en/natohq/opinions_212882.htm.

¹⁶² “NATO-Ukraine Cooperation in the Military Sphere,” *Mission of Ukraine to the North Atlantic Treaty Organization*, October 8, 2020, accessed August 6, 2024, <https://nato.mfa.gov.ua/en/ukraine-and-nato-ukraine-cooperation-military-sphere>.

the JIT.¹⁶³ Finally, Russia was also expelled from the CoE, and the European Court of Human Rights has been seized of a number of proceedings in relation to breaches of the European Convention on Human Rights arising from its military operations in Ukraine.¹⁶⁴

These initiatives—many of which ought to be credited to Ukraine’s own agency and strategy in countering Russia’s abuse—collectively illustrate how an affected region can mobilize against a GPP to holistically counter all four elements of its power. Of course, as mentioned above, it will take time for any of the mechanisms activated against Russia to yield results, and many of these seem inapplicable to China, at least for the time being. This is for a number of reasons, including the fact that Beijing remains outside of the reach of most European and transatlantic regional mechanisms; that its strength in Asia is greater than Moscow’s in Europe; that unlike Russia’s aggression, China’s conduct is also impugned with respect to norms, namely RtoP, for which *some* level of contestation does exist; and that China enjoys far greater structural power within the prevailing international system that renders collective mobilization more cumbersome. Given the limited reach of existing atrocity prevention tools and strategies, what, if any, are the reasons for optimism?

With respect to China, given the importance of its economic footprint to the grip of its structural power, it is noteworthy to observe that some countries are beginning to use trade, legislative, and other financial tools to tackle its abuse of the Uyghurs. For example, the UK Parliament has called for the incorporation of an atrocity prevention lens into the government’s trade policy with China¹⁶⁵ and proposed bills that would prohibit imports from Xinjiang and, more generally, prevent the UK from trading with states against whom there has been a genocide finding.¹⁶⁶ Parliament also convened an inquiry into the camps and declared the abuse against the Uyghurs a genocide¹⁶⁷—a move rebutted by the UK government which, however, itself imposed sanctions under the UK version of the Magnitsky Act on a number of Chinese

¹⁶³ “Eurojust and the War in Ukraine,” *European Union Agency for Criminal Justice Cooperation*, n.d., accessed August 6, 2024, <https://www.eurojust.europa.eu/eurojust-and-the-war-in-ukraine>; “Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation,” *International Criminal Court*, March 2, 2022, accessed August 7, 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-receipt-referrals-39-states>; “Ukraine War: MEPs Push for Special Tribunal to Punish Russian Crimes,” *European Parliament*, January 19, 2023, accessed August 6, 2024, <https://www.europarl.europa.eu/news/en/press-room/20230113IPR66653/ukraine-war-meps-push-for-special-tribunal-to-punish-russian-crimes>; “PACE Unanimously Demands an International Tribunal to Prosecute Russian and Belarusian Leaders for the Crime of Aggression Against Ukraine,” *Parliamentary Assembly*, January 26, 2023, accessed August 5, 2024, <https://pace.coe.int/en/news/8963/pace-unanimously-demands-an-international-tribunal-to-prosecute-russian-and-belarusian-leaders-for-the-crime-of-aggression-against-ukraine>; “Statement by President von der Leyen on the Establishment of the International Criminal Centre for the Prosecution of Crimes of Aggression Against Ukraine,” *European Commission*, March 4, 2023, accessed September 7, 2024, https://ec.europa.eu/commission/presscorner/detail/en/statement_23_1363.

¹⁶⁴ “Newsroom: The Russian Federation is Excluded from the Council of Europe,” *Council of Europe*, March 16, 2022, accessed August 5, 2024, <https://www.coe.int/en/web/portal/-/the-russian-federation-is-excluded-from-the-council-of-europe>; “Announcement of a Grand Chamber Decision in the Inter-State Case Ukraine and the Netherlands v. Russia,” *European Court of Human Rights*, January 18, 2023, accessed September 7, 2024, <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7544376-10362845&filename=Announcement%20of%20a%20Grand%20Chamber%20inter-State%20case%20Ukraine%20and%20the%20Netherlands%20v.%20Russia.pdf>.

¹⁶⁵ House of Lords International Relations and Defence Committee, “The UK and China’s Security and Trade Relationship,” *Parliament of the United Kingdom*, September 10, 2021, accessed September 7, 2024, <https://committees.parliament.uk/publications/7214/documents/75842/default/>.

¹⁶⁶ “Genocide Determination Bill [HL],” *Parliament of the United Kingdom*, last updated October 31, 2023, accessed August 7, 2024, <https://bills.parliament.uk/bills/3179>.

¹⁶⁷ “Government Refuses to Declare Atrocities in Xinjiang a Genocide,” *Parliament of the United Kingdom*, November 14, 2021, accessed August 7, 2024, <https://committees.parliament.uk/work/564/xinjiang-detention-camps/news/158880/government-refuses-to-declare-atrocities-in-xinjiang-a-genocide/>.

officials precisely on account of abuse in Xinjiang.¹⁶⁸ Similar steps have also been taken by the US, the EU, and Canada, who have restricted imports from the region, among other measures.¹⁶⁹ Of course, these actions are not sufficient, and certainly do not provide immediate relief to Uyghur victims. They have, however, significantly raised the cost of certain diplomatic interactions¹⁷⁰ and contributed to a cooling of China's relations with many Western countries.¹⁷¹ To be sure, other factors have also contributed to increasing alienation between China and Western counterparts, including China's increased aggression in—and assertiveness outside of—the Asia-Pacific region,¹⁷² and the announcement of its “no limits partnership” with Russia,¹⁷³ to which Beijing remains committed even after Vladimir Putin became wanted for war crimes by the International Criminal Court.¹⁷⁴ Yet more must be done, which requires the international community to mobilize as a whole.

As unrealistic as this might seem at present, it is not unreasonable to think that, eventually, the tide could also turn against China: its economic policies—described by some as “economic blackmail” or “neo-colonialism”—are starting to backfire;¹⁷⁵ frustration is growing with its attempts to re-write international legal rules;¹⁷⁶ and its aggressive military policies have, for some time now, generated unease and pushback within and outside of the region.¹⁷⁷ Beijing is indeed walking a fine line, and the cumulative effects of such actions could prompt a gradual re-positioning by alienated partners. And if Beijing ever invades Taiwan, this might be the tipping point—as it as in Ukraine—for a significant part of the international community. At this

¹⁶⁸ Foreign, Commonwealth & Development Office and the Rt Hon Dominic Raab MP, “UK Sanctions Perpetrators of Gross Human Rights Violations in Xinjiang, Alongside EU, Canada and US,” *Government of the United Kingdom*, March 22, 2021, accessed August 6, 2024, <https://www.gov.uk/government/news/uk-sanctions-perpetrators-of-gross-human-rights-violations-in-xinjiang-alongside-eu-canada-and-us>.

¹⁶⁹ Patrick Wintour, “US and Canada Follow EU and UK in Sanctioning Chinese Officials Over Xianjiang,” *Guardian*, March 22, 2021, accessed September 7, 2024, <https://www.theguardian.com/world/2021/mar/22/china-responds-to-eu-uk-sanctions-over-uighurs-human-rights>.

¹⁷⁰ For example, in February 2023, the Governor of the Xinjiang Autonomous Region, Erkin Tuniyaz, already sanctioned by the US, was forced to cancel a Europe-bound diplomatic trip to meet with EU and UK officials following public outrage at the announced visit. See Cristina Gallardo, “Xinjiang Governor Cancels Controversial Trip to the UK,” *Politico*, February 14, 2023, accessed September 7, 2024, <https://www.politico.eu/article/xinjiang-governor-erkin-tuniyaz-cancel-controversial-trip-london-backlash/>.

¹⁷¹ Alexandra Brzozowski, “As EU-China Relations Cool, Europe Increasingly Looks to Taiwan,” *Euractiv*, August 18, 2022, accessed September 7, 2024, <https://www.euractiv.com/section/eu-china/news/as-eu-china-relations-cool-europe-increasingly-looks-to-taiwan/>.

¹⁷² Stephanie Hogan, “When a Suspected Chinese Spy Balloon Flew Over Canada, Why Didn't We Shoot it Down?,” *CBC*, February 9, 2023, accessed September 7, 2024, <https://www.cbc.ca/news/canada/spy-balloon-canada-norad-questions-1.6742695>.

¹⁷³ “Joint Statement of the Russian Federation and the People's Republic of China on the International Relations Entering a New Era and the Global Sustainable Development,” *President of Russia* (website), February 4, 2022, accessed August 7, 2024, <http://en.kremlin.ru/supplement/5770>.

¹⁷⁴ Alan Yuhas, “China's Leader Will Visit Putin Under Shadow of War-Crimes Warrant,” *New York Times*, March 17, 2023, accessed September 7, 2024, <https://www.nytimes.com/2023/03/17/world/asia/xi-putin-ukraine-jets.html>.

¹⁷⁵ “Germany Drawing up New China Trade Policy: ‘We Can't Allow Ourselves to be Blackmailed,’” *South China Morning Post*, September 14, 2022, accessed September 7, 2024, <https://www.scmp.com/news/world/europe/article/3192391/germany-drawing-new-china-trade-policy-we-cant-allow-ourselves-be>; “China's Economic Blackmail Backfires,” *Wall Street Journal*, April 25, 2021, accessed September 7, 2024, <https://www.wsj.com/articles/chinas-economic-blackmail-backfires-11619384564>; Nick Van Mead, “China in Africa: Win-Win Development, or a New Colonialism?,” *Guardian*, July 31, 2018, accessed September 7, 2024, <https://www.theguardian.com/cities/2018/jul/31/china-in-africa-win-win-development-or-a-new-colonialism>.

¹⁷⁶ Tom Phillips et al., “Beijing Rejects Tribunal's Ruling in South China Sea,” *Guardian*, July 12, 2016, accessed September 7, 2024, <https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china>.

¹⁷⁷ Dipanjan Roy Chaudhury, “China's Aggression in South China Sea Faces Strong Global Pushback,” *Economic Times*, October 29, 2021, accessed September 7, 2024, <https://economictimes.indiatimes.com/news/defence/chinas-aggression-in-south-china-sea-faces-strong-global-pushback/articleshow/87351835.cms>.

point, the holistic approach and diversified strategies currently being deployed against Russia could be a useful roadmap to confronting Beijing through a mix of multilateral and regional tools. Indeed, many of the measures that are being put in place today with respect to Ukraine are admittedly being considered by Western policymakers not exclusively on account of their anticipated effects on Russia, but precisely as an admonition to China¹⁷⁸—the hope being that observing such strong reactions to a fellow P5 misconduct might, at the very least, be a chilling signal that informs Beijing’s policy towards Taiwan and, more broadly, the Asia-Pacific region.

Conclusions

To conclude, I posit that, given the systemic nature of the challenges posed by Great Power Perpetrators, existing atrocity prevention, tools, strategies, and approaches to counter it should be conceived in ways that target directly—and aim to maximize their countervailing effects on—all forms of power leveraged in the GPP’s abuse. In some cases, certain mechanisms already exist to counter or circumvent the GPP’s use of institutional and productive power, and should be wielded immediately. Reliance on the “Uniting for Peace” mechanism by the UNGA, and the UNHRC “accountability turn” in Geneva (as well as international and regional positioning on transitional justice and accountability measures with respect to Russian conduct in Ukraine) are perhaps some of the clearest examples of this: for they clearly indicate how the UN and regional systems can mobilize as a whole to mitigate the effects of the GPP’s veto, and to counter the productive power of its propaganda and attempts to foster false narratives. At the same time, although no precise formula exists on how to counter the structural and compulsory elements of its power—for these will be unique to a given GPP—it should be emphasized that doing so will require broad coalitions and a whole-of-system approach to leveraging all mechanisms available within the prevailing system, including—perhaps to the greatest effect—those available within the affected region. More generally, I also maintain that, although borne out of the system-level shock caused by the GPP’s abuse, the current, if imperfect, deployment of existing mechanisms available to confront GPPs is not only evidence of the multilateral system’s ability to innovate but also, in fact, of the resilience of its normative foundations. This is crucial and, indeed, reason for optimism, given the centrality of productive power to the GPP’s strategy. Finally, I further submit that countering such productive power effectively will require denying the GPP the opportunity to levy accusations of politicization and *tu quoque* against the champions of the very norms being challenged by its conduct. For this reason, it will be equally crucial for the US and its allies to address head-on their own blind spots, inconsistencies, and double standards in order to strengthen the norms and institutions under assault by great power abuse. Doing so will be instrumental to any appeals—particularly by the US and its partners in Europe and the Asia-Pacific—to mobilize the broader international community, and is, in fact, the only way to shift the center of gravity away from the UNSC, and thus to ensure a viable path forward for the atrocity prevention field within the prevailing multilateral system.

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¹⁷⁸ “China’s Position on Russia’s Invasion of Ukraine,” *U.S.-China Economic and Security Review Committee*, last updated March 31, 2024, accessed August 7, 2024, <https://www.uscc.gov/research/chinas-position-russias-invasion-ukraine>.

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