

**THE LIBYAN CRISIS: IN THE MIRROR OF RESPONSIBILITY TO PROTECT**

**BY**

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## DECLARATION

With the exception of the quoted references and acknowledged sources, I hereby declare that this dissertation is a result of an original research conducted by me under the supervision of Dr. Vladimir Antwi-Danso and it has neither in whole nor in part been presented to any examination body for any other purpose.

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## DEDICATION

I dedicate this paper to my parents, Samuel and Georgina Oduro-Denkyi, for their love and motivation throughout my life. Special gratitude goes to my sisters Ivy, Freda, Joycelyn and Sandra whose words of encouragement and support have brought me this far. Thanks to the Almighty God Jehovah, for his mercies and blessings throughout my study at LECIAD.



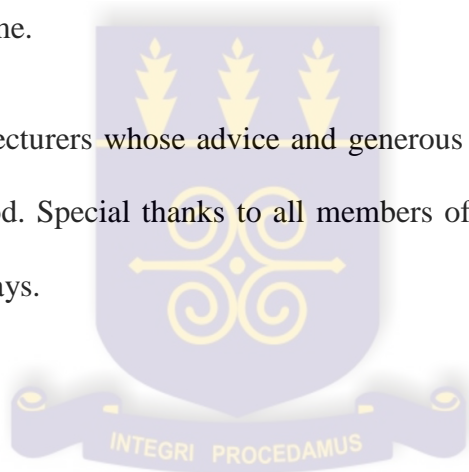
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## ABBREVIATIONS

|        |  |
|--------|--|
| AU     | African Union  |
| EU     | European Union                                       |
| ICC    | International Criminal Court                         |
| IL     | International Law                                    |
| IR     | International Relations                              |
| LECIAD | Legon Centre for International Affairs and Diplomacy |
| NATO   | North Atlantic Treaty Organization                   |
| R2P    | Responsibility to Protect                            |
| SALW   | Small Arms and Light Weapons                         |
| SSA    | sub-Saharan Africa                                   |
| TNC    | Transitional National Council                        |
| UN     | United Nations                                       |
| UNGA   | United Nations General Assembly                      |
| UNSC   | United Nation Security Council                       |
| UNSCR  | United Nations Security Council Resolutions          |
| USA    | United States of America                             |

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## ABSTRACT

The United Nations (UN), when established in 1945, was envisaged to provide a bulwark against threats to international peace and security. Thus the unilateral use of force, which undermined the effectiveness of the defunct League of Nations, the precursor to the UN, was proscribed. From the Cold War era and its aftermath, however, a number of states have pursued parochial interests under the umbrella of the UN, some permanent members of the United Nations Security Council (UNSC) being key players in that regard. In a world, buffeted by intra-state conflicts particularly across the African continent, the UNSC has had to balance the verve for partisan outcome with the primary responsibility of the maintenance of international peace and security. An important step towards the maintenance of international peace and security was the reaffirmation of paragraphs 138 and 139 in Resolution 1674 which formalised the UNSC support for the normative concept of Responsibility to Protect (R2P) in 2006. Critical to the actualization of R2P is the need for states to redefine security to include that of human security, and the possibility of applying coercive measures to ensure that states do not commit heinous crimes and crimes against humanity. In the wake of the Arab Spring in 2011, the UNSC employed a raft of measures to prevent a humanitarian carnage in Libya, one of the countries adversely affected by the Arab Spring. However, the manner of the implementation of enforcement measures, led by the North Atlantic Treaty Organization (NATO), in Libya has triggered questions about the real intentions behind “humanitarian” intervention in Libya. The questions bother on whether the military operation in Libya was inspired by considerations of R2P or was another instance of *realpolitik* cloaked in R2P. Employing a qualitative analysis of existing literature, this research interrogates the aforementioned questions and concludes that, the NATO-led intervention was motivated by factors including regime change, while the use and conduct of military operations violated the laws of war, leading to increasing number of casualties. In addition, post-Gaddafi Libya remains a fragile state, adversely affected by sectarian violence. As a result, the precedential nature of the Libya intervention would adversely affect future international cooperation on R2P. Mindful that future collaboration on R2P has been hampered by the case of Libya, this research recommends, among others, that multilateralism and shared responsibility within the UNSC should be pursued to avert the dominance of a few powerful states. At the continental level, it is recommended that the African Union (AU) strengthens its conflict prevention capacities to pre-empt fault lines of conflicts across the continent. With reference to Libya, it is recommended that the international community must support efforts at post-conflict reconstruction in Libya to ensure stability and to prevent a relapse into chaos.

## CHAPTER ONE

### 1.1 Background to Research Problem

Sovereignty also entails the responsibility of a state to protect its people. If it is unable or unwilling to do so, the international community has the responsibility to, in extreme necessity, assume such responsibility itself.<sup>1</sup>

The foregoing underline the rationale behind the inception of the doctrine of Responsibility to Protect (R2P), a normative doctrine that is envisaged to shape the contours of states' relations in safeguarding international security.<sup>2</sup> The inception of the R2P is remarkable mindful of the fact that for decades, after the establishment of the United Nations (UN), norms hardly influenced states' behavior, particularly during the Cold War era, where absolute gains influenced states' foreign policies. This is against the backdrop that ethical considerations have limited effect on states' relations, in an anarchic international system. Rather, national interests prevail. It is against this backdrop that the implementation of coercive measures during humanitarian intervention remains a "chief dilemma of international politics."<sup>3</sup>

This dilemma, among other things, is predicated on the tension between the globalization of norms on the one hand, and the Westphalia principles of absolute conception of sovereignty and territorial integrity on the other hand. In effect, even in instances where states undertake to perpetuate grisly crimes, it would be inconceivable to invoke any kind of external intervention as that intervention would be deemed as violating Westphalian principles. The United Nations (UN) Charter, mindful of the Westphalia principles, proscribes the use of force unless authorized by the United Nation Security Council (UNSC). The increasing spate of intra-state conflicts in the post-Cold War era, however, exposed the weaknesses of an absolute interpretation of sovereignty and territorial integrity.<sup>4</sup> As a result the post-Cold War era has been marked by interventions, including peacekeeping and enforcement action.

According to Samantha Power, from Bosnia to Rwanda, the international community was confronted with the necessity of implementing interventions to avert the scourge of war.<sup>5</sup> From the perspective of Africa, the international ambivalence in the 1994 Rwanda genocide lingers and this has obviously shaped international opinion on how similar humanitarian crises would or should be resolved.

At the heart of the debate over intervention is not whether there exists a compelling basis to ameliorate “the population of a state experiencing unacceptable, persistent levels of human sufferings caused by natural disaster, political collapse or deliberate government policy.”<sup>6</sup> The sticking points are two: whether the international community can develop consistent, credible, and enforceable standards to guide [interventions by state], and secondly, how to balance sovereignty with responsibility.<sup>7</sup> The International Commission on Intervention and State Sovereignty (ICISS) noted that:

State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.<sup>8</sup>

The ICISS’ report is, among other things notable for ‘replacing the atavistic terminology of humanitarian intervention (sovereignty vs. human rights) with the new language of the responsibility to protect’.<sup>9</sup> The Report of the Secretary-General’s High-Level Panel on Threats, Challenges and Change, 2004, also made a compelling case for R2P by positing that ‘collective strategies, collective institutions and a sense of collective responsibility are indispensable’.<sup>10</sup>

To a considerable extent R2P reached its zenith during the World Outcome Summit of 2005 where a preponderant number of states gave their imprimatur to R2P, and endorsed the fact that

“each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>11</sup>

Political unrest in the Middle East, in the wake of the Arab Spring, was envisaged to test the resolve of the collective security of the international system presumably under the rubric of R2P. In countries such as Bahrain, Tunisia, Egypt, Morocco, among others, the West and the UNSC opted for mild “exhortation and, occasionally, condemnation”,<sup>12</sup> notwithstanding the brutal suppression of political dissent in the above mentioned countries. By contrast, political upheaval in Libya was ameliorated by enforcement action. This was expressed in UN Security Council Resolutions (UNSCR) 1973, which authorized states to apply “all necessary measures” to avert humanitarian crises.<sup>13</sup>

The NATO-led intervention in Libya has been construed in positive terms. For example, the intervention is said to have “put new wind in the sails of humanitarian intervention and an unambiguous case for applying the R2P doctrine.”<sup>14</sup> In addition, “Libya is perceived as the first major humanitarian intervention under the R2P umbrella—and humanitarian intervention has always been the most salient and controversial part of the doctrine.”<sup>15</sup> Crucially, the NATO-led intervention in Libya has been cited as the “first major case—and perhaps the test case—of the doctrine [R2P].”<sup>16</sup> If Libya represents a test of R2P, then the presumption is that the NATO-led intervention should have necessarily led to enduring peace and security. If that is the case, is it credible to posit that the NATO-led intervention was based on altruistic objectives rather than parochial interests? If the intervention was based on altruistic objectives, such as peace and security, why have the international community remained relatively lethargic with regards to responding to similar cases such as that of Syria? And what explains the indifferent attitude of

the UNSC and for that matter, the international community towards Libya after the demise of Muammar Gaddafi? Must the intervention in Libya be interpreted as a manifestation of preponderant states' parochial interests? This work discusses the outcome of the intervention, and interrogates whether the intervention was a pretext for the pursuit of subjective interests.

## **1.2 Problem Statement**

The NATO-led intervention in Libya has been serenaded as marking a crucial juncture in the implementation of norms among states. However, the ambiguity of UNSCR 1973, which implored states “to take all necessary measures to protect civilians and civilian populated areas under threat of attack,” has been questioned. Similarly, the implementation of enforcement action has been a subject of intense scrutiny because of the outcome of the intervention. The apparent contradiction between the stated objective of the intervention—collective security—and the current state of affairs in Libya—sectarian violence and conflicts—hints of other overriding interests by powerful states in the intervention. This is heightened against the background of inaction in other Middle East countries, which witnessed similar upheavals analogous to that of Libya. On this basis, must the intervention in Libya be considered another instance of absolute pursuit by powerful states, including the United States of America (USA) or Britain, or a genuine desire to promote peace and security in Libya?

## **1.3 Objectives**

The overall objective of this research is to interrogate the application of the doctrine of R2P within the context of intervention in Libya. Specifically, the following objectives undergird this study:

- (a) Examine the historical trajectory of the normative doctrine of R2P.

(b) Assess the conditions which precipitated the conflict in Libya.

(c) Ascertain whether the NATO-led intervention was based on the ideals of collective security or parochial considerations disguised as international security.

(d) Recommend measures that would avert a relapse in Libya, and make the UNSC a neutral arbiter.

#### **1.4 Hypothesis**

The NATO-led intervention in Libya was a conduit to promote the parochial and partisan interests of preponderant states under the banner of R2P.

#### **1.5 Literature Review**

The post-Cold War international system has been punctuated by a number of humanitarian carnage. Perhaps, botched interventions in the Balkans, belated response to the Rwandan genocide, among others, were a vivid reminder about the need to encourage state interactions based on norms and humanitarianism.<sup>17</sup> But even before the carnage in Rwanda and Balkans, Vattel Emerich, in the 18<sup>th</sup> Century, pointed out the necessity of foreign intervention in instances whereby tyrannical rule leads to humanitarian bedlam, and Vattel is quick to add that the intervention must be at the behest of “an oppressed people who asked for its aid”.<sup>18</sup>

Based on Vattel’s perspective, it is obvious humanitarian themes remain integral aspects of states’ discourse and that interventions are permissible but must be undertaken rightfully. In addition, Vattel shows that even before the establishment of the UN foreign intervention and humanitarianism were part of the subject areas that occupied the menu of international politics. This chime with Roberts Adam’s is view that “humanitarian issues have played a historically

unprecedented role in international politics.”<sup>19</sup> If that is the case, then the inception of the normative doctrine of R2P, perhaps, represents one such defining moment in interventionism discourse in the 21<sup>st</sup> Century, notwithstanding Ian Brownlie’s concerns that interventions, particularly those that preach humanitarian values remain vague.<sup>20</sup>

Suffice to note that R2P is envisaged to bridge the gap between the blurred boundaries of ‘humanitarian’ interventions on the one hand, and the need for states to reconcile “sovereignty with responsibility.”<sup>21</sup> This was corroborated by Kofi Annan, who posits that “states have a responsibility to protect its citizens from genocide or other mass atrocities”,<sup>22</sup> but expressed concerns that forging global consensus on R2P would be hamstrung in the face of rampant use of force and unilateralism.<sup>23</sup>

William Pace and Nicole Deller caution that the possible application of R2P with “humanitarian” intervention, the type of intervention that seems to be humanitarian in principle, but the promotion of national interests by other means in practice, could lead to the demise of R2P as a global norm.<sup>24</sup> For Alex Bellamy, the lack of consensus on the constituting elements of R2P, at its incipient stages, is as a result of based on the belief that it could be used as a tool to pursue the interests of global poles.<sup>25</sup> The above mentioned adverse premonition about the application of R2P has been brought to the fore in the wake of intervention in Libya, in 2011. This has triggered questions as to whether R2P would be undercut by self-interested global poles, with the financial and logistical resources to promote their national interests.

Not every author is unenthused about R2P, though. For Thomas Weiss, R2P represents a bold and rigorous attempt at preventing impunity and mass perpetuation of grave crimes against humanity.<sup>26</sup> Weiss concludes that the intervention in Libya is a demonstrable evidence of R2P,

but cannot say conclusively whether the NATO-led intervention in Libya represents the zenith of the internalization of the doctrine of R2P.<sup>27</sup> However, Weiss fails to articulate some of the dysfunctions which characterized NATO's operations in Libya, creating an erroneous impression that intervention in Libya was sacrosanct.

For Ramesh Thakur, R2P provides an institutional and operational bulwark against threats to international peace and security. With reference to the specific case of Libya, Thakur is unequivocal that the R2P-driven intervention was successful. Unlike Weiss, however, Thakur criticizes the overreaching interpretation of UNSC Resolution 1973 to include regime change.<sup>28</sup> Nevertheless, Thakur contends that "R2P was a game changer which acted as a powerful new galvanizing norm over Libya,"<sup>29</sup> while Alex Bellamy posits that R2P was integral to the response of the UN in the humanitarian crises in Libya.<sup>30</sup>

By contrast, Aidan Hehir contends that the broad interpretation of UNSCR 1973 to include regime change proves that R2P is analogous to national interest and a "blank cheque" for intervention.<sup>31</sup> This reinforces the view, articulated by Hans Morgenthau, that international politics is ultimately about "the pursuit of power, defined as [national] interest."<sup>32</sup> Hehir's criticisms are corroborated by Edward Luck, who contends that:

It isn't the goal of the responsibility to protect to change regimes. The goal is to protect populations. It may be in some cases that the only way to protect populations is to change the regime, but that certainly is not the goal of the R2P per se.<sup>33</sup>

Aidan Hehir presents a bleak view of R2P and posits that intervention in Libya was neither precedential nor represented a commitment to the principles of R2P.<sup>34</sup> At best, Libya case could be described "as aberrant, albeit welcome, behavior impelled by a unique constellation of necessarily temporal factors."<sup>35</sup> Hehir reiterates criticism of five permanent members (P-5) of

the United Nations Security Council (UNSC) are buffeted by natural interest and cannot act as neutral arbiters in the arena of humanitarian intervention. Hehir posits that R2P would remain a hollow concept unless its implementation is intimately linked to addressing the overreaching power of UNSC, relative the powers of other organs of the UN.<sup>36</sup>

Michel Walzer concurs with Hehir as he concludes the P-5 members “do not have a strong sense of responsibility for global security . . . they pursue their own national interests.”<sup>37</sup> The UNSC has also been chastised for colluding with the International Criminal Court (ICC) “for the legal normalization of certain types of violence such as Western counterinsurgency efforts, while arbitrarily criminalizing the violence of other states as genocide.”<sup>38</sup>

The critical issue Hehir and Walzer points out is an urgent need for institutional reform within the UN, the kind reform that would not only circumscribe the powers of the UNSC, but also engender transparency and openness within the UN. Without such reform, it would be difficult galvanizing international consensus on when to apply the coercive elements of R2P. This is important because for most members of the UN, the use of coercive measures or force can be applied selectively, as happened in the case of Libya.

Gareth Evans contends that the international community has still not resolve concerns about the selective application of humanitarian intervention. For example, the pre-emptive war spearheaded by the USA and Britain under the pretext of humanitarian intervention in Iraq, 2003, has undermined international consensus on the use of force.<sup>39</sup> The “might is always right” approach to waging a war in Iraq by both the USA and United Kingdom under the pretext of humanitarian intervention but without recourse to the UNSC, justifiably chipped away some of the gains that had been made on the threshold of application of humanitarian intervention.<sup>40</sup>

Restating concerns by Evans and Wheeler, Micah Zenko argues ‘mismanagement and military overreach in Libya have essentially doomed a similar plan for Syria [and the rest of the world]’.<sup>41</sup> Crucially, the inception of the Arab Spring is indicative of three issues in international politics: First, “it isn’t too much of an exaggeration to say that the greatest danger most people face in the world today comes from their own states.”<sup>42</sup> Second, the wording of UNSC Resolutions with platitudes including “all necessary measures” may serve as a façade by powerful states, to implement their specific foreign policy goals under the umbrella of international efforts. Three, the institutional objectives of the UN has been subjugated to that of the interests of the five permanent members of the UNSC. In summary, what the NATO-led intervention in Libya has proved is the fact that the norm of R2P is susceptible to unilateralism and military overreach.

## **1.6 Theoretical Framework**

This study is situated within the theory of realism. Realists trace their intellectual heritage from political theorists including Thomas Hobbes and Nicolo Machiaveli. As expected, Realists are unabashed about the primacy of hard power and the state as the unit of analysis in International Relations (IR), the primacy of absolute gains instead of relative gains.<sup>43</sup> In this regard, realists believe that morality and ethics have limited effects on international politics. By inference, realists are averse to intervention as they regard the pursuit of rights as an unnecessary, sometimes even a dangerous extravagance, often at odds with national interest”.<sup>44</sup> Realists are of the view that intervention is necessary only if it is undertaken in furtherance of national interest and not in pursuit of normative imperatives. The overbearing focus on high politics by realists has been criticized by liberals, whose intellectual ancestry can be traced to the works of

Woodrow Wilson and Immanuel Kant. Liberals points to collective security s they posit “institutions [can] be used to mediate disputes whenever misconceptions, wounded sensibilities, or aroused national passions threaten their relation.”<sup>45</sup> In addition, liberals are of the view that international institutions are needed to prevent heinous to intervene in all incidents which “shock the conscience of mankind,”<sup>46</sup> including genocide.

At the heart of this study is the fact the implementation of R2P in Libya was tool for the promotion of relative gains in the international system. Although the intervention was not unilateral, it still left lingering doubts over whether altruistic objectives or parochial gains were behind NATO’s enthusiastic foray into Libya. If the intervention was mainly about peace and security, could diplomatic options not be explored continuously as has been done in the case of Syria, notwithstanding evidence of the use of chemical weapons? Gaddafi was not sacrosanct, judging his governance record and his belligerent reaction to the political strife during the Libya Spring. But Gaddafi was not an exception in the Middle East, a region whose Heads of State have been collectively characterized as “moral embarrassment.”<sup>47</sup> The speed, with which NATO led the intervention and the manner of Gaddafi’s demise serve to reinforce the view, held by realists, that states’ actions are shaped by absolute gains and that morality has limited role in the conduct of foreign policy.<sup>48</sup>

### **1.7 Significance of the Study**

This study is important for the following reasons: contribute to the body of knowledge on the concept and practice of humanitarian intervention within the framework of the Responsibility to Protect (R2P); raise awareness about the evolving nature of absolute conception of sovereignty

and the accentuation of norms as intervening variables in states' interactions, and the possibility of relapse in post-Gaddafi Libya in the aftermath of humanitarian intervention.

### **1.8 Sources of Data and Methodology**

This research uses mainly qualitative analysis of secondary data. The data source from Books and journal articles are sourced from the Legon Centre for International Affairs and Diplomacy (LECIAD) and Department of Political Science Libraries as well as internet sources. In terms of sampling technique Libya is purposively selected because as mentioned already, it is cited as the first instance and a test case of the normative doctrine of R2P. In interrogating R2P, therefore, the case of Libya would be a useful reference point.

### **1.9 Chapter Arrangement**

This study consists of four chapters. Chapter one comprises the research design; chapter two presents an overview of interventionism, highlighting the tensions between the absolute conception of Westphalia principles and states' responsibility to protect (R2P). Chapter three examines the implementation of enforcement action in Libya, focusing on the politics and subjective interests that characterized the R2P-inspired intervention. Chapter four will deal with the summary of findings, conclusion and recommendations.

## End Notes

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- <sup>1</sup>Bellamy Alex, “Realizing the Responsibility to Protect”, International Studies Perspective, Vol. 10, No. 2, 2010, p.113.
- <sup>2</sup> For a detailed analysis see: MacFarlane Neil, Intervention in Contemporary World Politics, Adelphi Paper 350 Oxford: Oxford University Press, 2000, p. 79.
- <sup>3</sup> Michael Walzer, Just and Unjust Wars, 3rd ed. (New York: Basic Books, 2000).
- <sup>4</sup> This is given more amplification by Cottey, Andrew, ‘Beyond Humanitarian Intervention: the New Politics of Peacekeeping and Intervention’, in Contemporary Politics, Vol. 14: No. 4, 2008, p. 429
- <sup>5</sup> Power Samantha, Chasing the Flame (New York: Penguin, 2008), pp. 188-189.
- <sup>6</sup> Malaquais Assis, “Humanitarian Intervention”, in Krieger Joel (ed.), The Oxford Companion to Politics of the World, 2<sup>nd</sup> ed. (New York: Oxford University Press, 2001), pp. 370-374.
- <sup>7</sup> International Commission on Intervention and State Sovereignty (ICISS), The Responsibility To Protect. Ottawa: International Development Research Centre, 2001, p.4
- <sup>8</sup>Report of the International Commission on Intervention and State Sovereignty (ICISS), 2001, p. xi, <http://responsibilitytoprotect.org/ICISS%20Report.pdf/>, 27 October, 2013.
- <sup>9</sup>Ibid.
- <sup>10</sup> See Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change, p.9, <http://www.un.org/secureworld/report3.pdf>, 15 August, 2013.
- <sup>11</sup> See ‘2005 World Summit Outcome’, [http:// globalr2p.org/media/pdf/WSOD2005.pdf](http://globalr2p.org/media/pdf/WSOD2005.pdf), 21 September, 2013.
- <sup>12</sup> Views of Shadi Hamid, cited in Focus on Africa, Vol. 22, No.3, July-September, 2011, p. 25. Shadi Hamid is the Director of Research at the Brookings Doha Center.
- <sup>13</sup> Rasmussen, Forgh, A., “NATO After Libya: The Atlantic Alliance in Austere Times” Foreign Affairs, Vol. 90, No. 4, 2011, p.4.
- <sup>14</sup> Patrick Stewart, “Libya and the Future of Humanitarian Intervention: How Qaddafi's Fall Vindicated Obama and RtoP”, Foreign Affairs, August 26, 2011, accessed at
- <sup>15</sup> Pattison James, ‘Roundtable: Libya, RtoP, and Humanitarian Intervention: Introduction’, Ethics and International Affairs, Vol. 25, No.3, 2011, p. 252.
- <sup>16</sup> Ibid.
- <sup>17</sup>Wheeler Nicholas, Saving Strangers: Humanitarian Intervention in International Society (Oxford: Oxford University Press, 2001), p. 295.
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## CHAPTER TWO

### OVERVIEW OF INTERVENTIONISM: FROM THE CHANGING CONCEPTION OF SOVEREIGNTY TO RESPONSIBILITY TO PROTECT

#### 2.1 Introduction

This chapter interrogates the conceptual boundaries of the absolute conception of sovereignty with the objective of delineating whether this absoluteness still hold sway. The history of the application of humanitarian intervention in three countries, namely Bosnia, Kosovo, and Rwanda, are examined as a product of the changing conception of sovereignty and, how humanitarian intervention in the aforesaid countries dovetails into states' Responsibility to Protect (R2P) and by inference, humanitarian intervention in Libya.

#### 2.2 Sovereignty and Territorial Integrity: Bulwarks against External Intervention

The inception of the Westphalia Treaty (1684) upended the dynamics of International Relations (IR) as a result of the Treaty's canonization of the principles of sovereignty and territorial integrity. These principles underscore the primacy of states relative to other actors in the international system. States remained pre-eminent and the source of power and authority. For Thomas Hobbes, a sovereign state can "sovereign can commit no wrong or injustice." These imply that states are the source of stability and as a result, any infraction that undermines the survival of states must be prevented. Upholding the sovereignty and territorial integrity of states is integral in multilateralism and for that matter, international cooperation.

Consequently, The Westphalia principles are incorporated into Articles 2 (4) and (7) of the United Nations (UN) Charter, which oblige states not to abhor the use of force unless authorized

by the UNSC. This explains why enforcement action, according to the UN Charter, is authorized by the United Nations Security Council (UNSC), the organ charged with the responsibility to maintain international peace and security. These institutional safeguards were established to prevent the unilateral use of force, a dysfunction that adversely affected the League of Nations, the predecessor organization to the UN.

Subsequently, the Cold War international system, non-interference gained traction as states, guided by strategic considerations, either permitted external interventions based on the politics of the ideologically driven War.<sup>1</sup> This served to dissuade the UNSC from preventing the scourge of war across the globe as then two dominant actors, the former Soviet Union and the United States of America (USA), determined the course of interventions across the globe.<sup>2</sup> Remarkably, though, the Cold War also played an encumbering role as it prevented incidences of intra-state conflicts across the globe. The thaw of the Cold War, therefore, presented the UN with the responsibility of preventing and resolving conflicts which hitherto, had been held in abeyance due to the Cold War.<sup>3</sup> This re-ignited debates, particularly after the Cold War, over whether the absolute conception of sovereignty and territorial integrity must be applied to prevent external intervention, as was mainly the case during the Cold War.<sup>4</sup>

### **2.3 The Changing Concept of Sovereignty in the Post-Cold War Era: Wither Absoluteness?**

However, other epochal moments in the international system, such as the Cold War and its termination, the Rwandan genocide, have created a conundrum over whether the absolute notion of states must still prevail. First, the Cold War and its demise was demonstrable evidence that states and their instrumentalities can use sovereignty as a pretext to perpetuate grisly crimes. And the aftermath of the Cold War and the waning of its encumbering effects created internal security

predicaments particularly in sub-Saharan Africa (SSA), triggering a surge in the number of intra-state conflicts across the African continent. Confronted with the deleterious implications of these conflicts, particularly in the 1990s, and more crucially, the atrocious and gory imageries of the Rwandan genocide in 1994, the old assumption that national sovereignty trumps all other principles in international relations is under attack as never before.”<sup>5</sup> A case in point is erstwhile Secretary-General of UN, Kofi Annan’s lamentations over the use of absolute sovereignty by predatory leaders to ward-off humanitarian intervention even in the presence of overwhelming evidence that warrant such interventions. <sup>6</sup> Kofi Annan’s questioning of the absolute concept of sovereignty represented another bold effort at rallying international consensus in favor of a nuanced conception of sovereignty, a conception that “reconciles sovereignty with responsibly.”<sup>7</sup>

Reconciling sovereignty with responsibility was given an impetus when in 2001; the International Commission on Intervention and State Sovereignty (ICISS) intimated that:

State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.<sup>8</sup>

The absolute conception of sovereignty had come under scrutiny and it was apparent that to a considerable degree, the international community was keen not to permit impunity under the cloak of the absolute conception of sovereignty. The inception of the doctrine of Responsibility to Protect (R2P) after the World Outcome Summit in 2005 also reinforced the place of humanitarian intervention in the sovereignty discourse.<sup>9</sup> The precedential nature of intervention or the lack of it in Rwanda, Somalia and the former Yugoslavia (Bosnia and Kosovo) had already focused the attention of the international community on why in some instance, constructive intervention is imperative.<sup>10</sup>

In Rwanda, international effort was belated.<sup>11</sup> Intervention in Somalia in the 1990s was induced by strategic considerations. This is because the USA's obsession with defeating Faraar Aideed, one of the protagonists in the Somali conflict—perceived as an ally of the former Soviet Union—was what precipitated her interest to intervene.<sup>12</sup> At least in Kosovo, 1999, a possible genocide similar to that of Rwanda was averted as a NATO-led military operation prevented large scale ethnic cleansing by the war machine by the war machine of then president, Slobodan Milosevic.<sup>13</sup> But crucially, the NATO-led intervention in the former Yugoslavia, the threat posed to the interests of the USA in Eastern Europe was a key basis for the military intervention by NATO in Kosovo.<sup>14</sup>

The above mentioned cases prove that to a significant degree, interventions, whether 'humanitarian' or otherwise, are intimately linked to the self-interested foreign policy objectives of global powers.<sup>15</sup> That notwithstanding, there also is a considerable degree of consensus that the international community has the responsibility to prevent conflict, hence the emergence of the norm of R2P.

#### **2.4 The Responsibility to Protect Factor: The ICISS and World Outcome Summit**

As noted already, key principles that guide relations among states are sovereignty and territorial integrity. These Westphalia principles have been canonized and cannot be breached without the express word of the UNSC, the organ that has the power to authorize the use of force under the UN Charter. However, the Westphalia principles have become a cloak for impunity as states deflect military interventions, arguing that such interventions would undermine their international law. This had the consequence of engendering sovereignty without responsibility, leading to chaos and implosion within states where leaders wield power with force. Appalled by

the incidences of impunity globally, the UN began to draw attention to the importance of emphasizing to reconcile the “twin principles of sovereignty and responsibility”.<sup>16</sup> This culminated in the work of the International Commission on Intervention and State Sovereignty (ICISS), which reinforced the need for states to focus on the core issues of human security as a means of preventing the scourge of war.

Inspired by the work of the ICISS and relentless efforts of key personnel of the UN including then Secretary-General Kofi Annan, who made a case for R2P in his *Larger Freedom*,<sup>17</sup> the World Outcome Summit of 2005 embraced the doctrine of Responsibility to Protect (R2P), where leaders across the globe agreed that:

States have the responsibility to their citizens form genocide, war crimes against humanity and ethnic cleansing and that as members of the international community they stand prepared to take all collective action in cases where national authorities are manifestly failing to protect populations from the scourge of war.<sup>18</sup>

Specifically, paragraphs 138 and 139 of the World Outcome Summit document implore the international community under the auspices of the UN to take “collective action to protect populations from the following: genocide, war crimes, ethnic cleansing, and crimes against humanity.”<sup>19</sup>

Effort by the UN to institutionalize R2P as a global norm was not without challenges. Key among the challenges was the view that R2P would soon become a coercive tool for unilateralism. A number of states including China, Russia, Pakistan, Iran, Algeria, Zimbabwe, Venezuela, among others, had expressed concerns about the possibility of R2P being used to promote the interest of powerful states in the international system.<sup>20</sup> Mindful of military

overreach and unilateralism in previous humanitarian interventions, these above mentioned states argued that R2P may be used to legitimize the illegal use of force.<sup>21</sup> The United States of America (USA) and the European Union (EU) were generally supportive of the R2P. However, the USA did not play a frontline role in articulating a persuasive case for the institutionalization of R2P, perhaps due to her turbulent history with interventions.<sup>22</sup>

The doctrine of R2P and finally endorsed by the UNSC in 2006 as members of the UN eventually brokered a consensus on the elements of R2P. The elements of R2P comprises a three-tier levels: the primary responsibility by states to prevent the perpetuation of heinous crimes, the need for the international community to help states achieve the aforementioned primary responsibility, and, as last resort, the application of coercion or use of force to safeguard peace and security if states fail in their primary responsibility.<sup>23</sup> The application of coercive measures, according to UN Secretary General, Ban Ki-Moon, must be ‘decisive and timely measures’ if states are unable or unwilling to shield their populations from atrocities.<sup>24</sup>

#### **2.4.1 The Use of Force and the ICISS**

The unilateral use of force, as noted already, remains thorny a subject in states’ interaction particular with regard to military or ‘humanitarian’ intervention. As stated above, the UN prohibits the unilateral application of force, providing that only the UNSC has the power to authorize the use of force. The regulation of the use of force has not mitigated the controversies which have shaped the application of use of force particularly in instances of interventions. From anticipatory to pre-emptive self defense, different views have been espoused as to whether the use of force is inherent or otherwise. Nonetheless, the International Court of Justice (ICJ) has made some definite pronouncements on the use of force, “stating that the principle of non-

intervention forbids all states or group of states to unilaterally use force to intervene directly or indirectly in the internal affairs of states.”<sup>25</sup> That notwithstanding, the subject of intervention remain as divisive as controversial. Ian Brownlie, for instance, is of the opinion that intervention is still subjected to varied interpretation, ranging from unilateralism and to lawful interventions.<sup>26</sup>

It was, therefore, not unexpected that a sticking point in the work of the ICISS was whether to add a coercive dimension to the implementation of R2P. Eventually, the ICISS, mindful of the possibility of unilateralism in prior interventions, noted that “military intervention for human protection purposes must be regarded as an exceptional and extraordinary measure”.<sup>27</sup> In addition, the ICISS, inspired by the principles of Hugo Grotius and his treatise on the laws of war, outlined the threshold of application of use of force to implement R2P. The threshold of application, which reflects just war doctrine and the permissibility of the use of force in International Law (IL), states the following: the use of force under R2P must be a tool of last resort, be applied for a just cause such as halting the perpetuation of genocide, must be authorized by a legitimate body, (UNSC), the force applied must be proportional, and there should be a high degree of success.<sup>28</sup>

## **2.5 Libya’s Bumpy Road to Conflict: Sowing the Seeds before the Spring**

Muammar Gaddafi has confounded his critics and admirers since he became president of Libya in 1969 through a military *coup* as he deposed King Idris, first post-independence leader of Libya.<sup>29</sup> Overall, Gaddafi’s reign as president was punctuated by confrontations with the West, a commitment to his own brand of socialism, a failed attempt to unite the Arab World, and a radical approach to Africa’s quest for continental unity.<sup>30</sup>

It may be persuasive to link the political strife in Libya to the presence of natural resources, mindful of the resource curse thesis. In other words, conflict theorists, such as Paul Collier and Anke Hoeffler, who ground their explanations in “econometric approaches and rational choice theory interpretations”,<sup>31</sup> would conclude that the Arab Spring-driven rebellion in Libya was initiated by rebels, motivated by the desire to have access to oil resources, to fund their rebellion.

<sup>32</sup> If the views of Collier and Hoeffler are situated within the case of Libya, it can be hypothesized that the rebels’ primary motivation for initiating the rebellion was to plunder Libya’s natural resource. However, in the absence of credible evidence to the effect that rebels were motivated by the economics of Libya’s natural resource, postulations by Collier and Hoeffler do not provide a robust explanation for underlying cause (s) of Libya’s rebellion or conflict.

A more plausible explanation is that the cause of the political strife in Libya is based on both remote and proximate cause. To a significant extent, the proximate cause of the political strife is as a result of the domino effect of the Arab Spring, which had already afflicted countries such as Tunisia and Egypt.<sup>33</sup> The remote cause of the conflict is that socio-political grievances such as limited political space and limited civil liberties, among others, are important in understanding the conflicts in Libya.<sup>34</sup> This is because Gaddafi’s regime epitomizes some of the challenges which confront governance process in Africa and the Middle East. Some of the governance challenges in Libya included the centralization of power, corruption, lack of political reform and dissent, cling-on democracy, among others. These precipitated tensions which were simmering even before the inception of the Arab Spring.<sup>35</sup> If Gaddafi was able to hold in abeyance, simmering tensions in Libya prior to the Arab Spring, it was possibly because of the use of vast oil wealth for socio-economic development, investments in housing and welfare services for lots

of Libyans.<sup>36</sup> Importantly, vast oil resources in Libya operated as a “rentier effect”, conceptualized as follows:

Governments use low tax rates and patronage to relieve pressures for greater accountability; a “repression effect,” which argues that resource wealth retards democratization by enabling governments to boost their funding for internal security; and a “modernization effect,” which holds that growth based on the export of oil and minerals fails to bring about the social and cultural changes that tend to produce democratic government.<sup>37</sup>

Gaddafi’s stranglehold on Libya was put to test in the wake of internal conflict driven by adverse governance and the domino effect of the Arab Spring, a string of protests that pitched political establishments in the Middle East and that of their citizens. To a certain extent, the political upheavals in Libya indicate that autocratic rule and lack of political and civil space can spur political unrests.<sup>38</sup>

## **2.6 The R2P’s Road to Libya**

The proximate cause of the authorization of enforcement action under the rubric of R2P in Libya can be traced to events that characterized protests in that country inspired by the Arab Spring, in 2011. The Arab Spring was marked by large scale protests in many countries across the Middle East, and led to the demise of long-standing presidents in Egypt and Tunisia. In Tunisia, the quick departure of President Ben Ali perhaps, calmed the nerves of the protesters, and led to an abrupt end of the protests. In Egypt, the incarceration of Hosni Mubarak was also integral to assuaging the concerns of thousands of Egyptians who were clamouring for Mubarak’s exit from power. In both countries, however, the UN did not play any constructive role in implementing the coercive elements of R2P. The reasons for the lack of interest in the cases of Tunisia and Egypt

vary. In the case of Tunisia, Ben Ali capitulated at the incipient stages of the revolt, preventing protracted political disputes between the protesters.

It could also be conjectured that Tunisia, perhaps, did not serve any strategic interests of global powers, hence the ambivalence. In the case of Egypt, an intervention would have worsened the already fragile state of security in the Middle East. For decades, Hosni Mubarak had proved an effective ally of the United States of America (USA), serving as a bulwark against anti-USA sentiments championed by religious fundamentalist groups including the Muslim Brotherhood. Global powers, especially the USA, probably did not push for intervention in order not to humiliate a former ally.

On the contrary, protests in Libya occupied the policy space of the UN as the verve for Gaddafi's overthrow gathered momentum, inspired by mainly people from Benghazi, Libya's second largest city. The enthusiastic response of the UN to events in Libya was encouraging, but it exposed the double standard of the UNSC. The UNSC had failed to act in Tunisia and Egypt but found it expedient to act in Libya, evolving a range of measures including the use of force. Therefore, The North Atlantic Treaty Organization (NATO), acting under the authorization of UN Security Council Resolutions (UNSCR) 1970 and 1973 played a leading role in the enforcing 'Operation unified Protector' ostensibly to salvage a potentially explosive situation in Libya.<sup>39</sup> UNSCR 1970 called for a ceasefire and imposed a raft of sanctions, including economic and diplomatic on the Gaddafi regime,<sup>40</sup> while UNSCR 1973 famously authorized that 'all necessary measures' be implemented to prevent imminent humanitarian apocalypse under the aegis of R2P.<sup>41</sup> This led to the application of use of force in Libya with NATO playing a leading role.

## 2.7 Conclusion

It cannot be denied that the international community has embraced the idea that states have the responsibility to protect their citizenry from conflicts. Therefore in cases whereby states and their instrumentalities fail to promote human security, but rather perpetuate grisly crimes, the international community has a responsibility to act, through a range of measures including “humanitarian” interventions. This was the case in Libya, in 2011.

However, the implementation of enforcement action in Libya ‘raises the specter of a return to colonial habits and practices on the part of the major Western powers’.<sup>42</sup> Could it, therefore, be said conclusively that the R2P-inspired intervention in Libya represents a genuine attempt at engendering collective security? Mindful that political establishment in countries including Tunisia, Egypt and Syria can be held responsible for atrocities against humanity, why was Libya selected as a ground for implementing R2P? Was it about the specific interests of global powers or the overarching interests of Libyans? If there is an urgent desire for peace and security, why has the international community not heeded to their promise to rehabilitate Libya after the intervention? Did the intervention meet the threshold of the implementation of the coercive elements of R2P? The next chapter examines these questions in order to generate credible answers.

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## CHAPTER THREE

### INTERVENTION IN LIBYA AND R2P: AN ANALYSIS

#### 3.1 Introduction

This chapter focuses on the UN-authorized intervention in Libya in the wake of the Arab Spring, 2011. It presents an objective analysis of events prior to and after the NATO-led intervention in Libya. The overarching theme of this chapter is to provide copious evidence that the manner of the NATO-led intervention was reflective of strategic considerations rather than altruistic objectives.

#### 3.2 The Case Against Libya: Past and Present

It would be erroneous to conclude that the intervention in Libya was only as a result of political and civil strife. Rather, it an intervention whose proximate cause was the insecurity triggered by the Arab Spring, but whose latent cause is embedded in historical enmity. This enmity can be traced to the 1980s, when Muammar Gaddafi was accused of promoting international terrorism after Libyan nationals were accused of masterminding the bombing of an airplane in Scotland, and the murder of American citizens at a night club in Germany, in 1986.<sup>1</sup> This triggered a wave of diplomatic and economic sanctions against Libya, championed by both the USA and Britain. These sanctions isolated Libya for a considerable period of time as Gaddafi was considered a pariah by the West.<sup>2</sup>

In addition Gaddafi reportedly supported insurgent activities in West Africa, providing logistical and financial support for rebellions in both Liberia and Sierra Leone in the 1990s.<sup>3</sup> Therefore, a window of opportunity was presented when Gaddafi reportedly applied overwhelming military

force to avert protestations that threatened his stranglehold on power in the wake of the Arab Spring.<sup>4</sup> Curiously, of the five permanent members of the UNSC, only Britain and the USA actively participated in the NATO-led intervention, that led to not only the overthrow of Gaddafi but also, his unfortunate perils at the hands rebel forces that led to his death.<sup>5</sup>

As noted in the previous chapter, Gaddafi can be held culpable, to a certain degree, for the belligerence and heightened rhetoric that shaped the political unrests in Libya and consequently, the intervention by NATO. The asymmetry military balance between Gaddafi's forces and that of the protesting civilians would have inevitably, spawned a humanitarian disaster. This cannot be dismissed because Gaddafi had, at some point of the political unrests, referred to protesters as "rats and cockroaches" and reportedly used cluster bombs, hanged and tortured protesters who were averse to his regime.<sup>6</sup> Averting a humanitarian quandary in Libya was critical in order to avoid a re-enactment of the Rwanda genocide, where the UN was criticized for a belated response to an invidious civil war. To that extent, it was imperative that measures to prevent a humanitarian catastrophe.

In principle, the NATO-led intervention, as noted in the UNSCR 1973, was expected to "protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya". Therefore post-Gaddafi Libya was expected to become peaceful and tranquil, leading to political transition that would mark a watershed in governance, after decades of autocratic rule in Libya. In the absence of the intervention, perhaps, a civil war similar to what pertained in Rwanda would have taken place in Libya. Furthermore, the fact that the UN did not hesitate to intervene in Libya shows the Organization prioritized international peace and security. However, the West, determined to use political unrests in Libya to exact parochial interests, implemented a military

intervention in a manner that would lead to a regime change and undermine consensus on international norms.<sup>7</sup>

### 3.3 A Scorecard of the NATO-led Intervention: Absolute Gains or Relative Gains?

This section interrogates the intervention in Libya, delineating critical points that show that the NATO-led operation was buffeted by parochial, partisan interests, not the altruism of collective security or relative gains.

#### 3.3.1 The Politics of UNSC Decision-Making: Skewed Against Libya

The processes leading up to the authorization of the implementation of UNSCR 1973 reinforce the politics of the enforcement action in Libya. The voting pattern at the UNSC, as noted below, shows that Russia and China abstained from casting affirmative votes for enforcement action in Libya.<sup>8</sup>

**Table One**

| Approved (10)  | Abstained (5)   | Opposed (0) |
|--|---|-------------|
| <ul style="list-style-type: none"> <li>•  Bosnia and Herzegovina</li> <li>•  Colombia</li> <li>•  France</li> <li>•  Gabon</li> <li>•  Lebanon</li> <li>•  Nigeria</li> <li>•  Portugal</li> <li>•  South Africa</li> <li>•  United Kingdom</li> <li>•  United States</li> </ul> | <ul style="list-style-type: none"> <li>•  Brazil</li> <li>•  China</li> <li>•  Germany</li> <li>•  India</li> <li>•  Russia</li> </ul> |             |

Source: See <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>.

The USA, Britain and France, cast an affirmative votes for coercive measures in Libya. The abstention votes—although abstentions are deemed to be “yes” votes by practice within the UNSC—cast by both Russia and China hint at the fact that they had concerns about the adverse implications of military intervention.<sup>9</sup> With hindsight, it is plausible that both Russia and China would have vetoed UNSCR 1973. Similarly, the affirmative votes by the USA, Britain, and France reveal the disharmony of interests within the UNSC. This contrasting voting pattern over military intervention in Libya reveals the partisanship within the UNSC, and points to the fact that right from the onset, the authorization of coercive measures assumed a political dimension.<sup>10</sup>

A remarkable feature of the voting pattern of UNSCR 1973, as noted above, indicates that two influential states in Africa, Nigeria and South Africa, voted in favour of UNSCR 1973. This belies the public show of aversion against the use of force by the African Union (AU). It is regrettable that the above mentioned two states, although serving as one of the non-permanent capacity in the UNSCR, failed to vote ‘no’ as a symbolic gesture against the use of force. It would not have changed the implementation of UNSCR 1973. However, it would have been on record. Importantly, the peripheral role of the AU in managing and resolving the Libyan crises highlight the limited efficacy of the AU’s peace and security architecture, creating an interregnum for global powers to play leading roles in resolving crises which should have been adequately addressed by the AU.

Instructively, the USA, prior to the authorization of enforcement measures in Libya, for instance, had remained hesitant about playing a leading role in the crises at its inception.<sup>11</sup> However, an imminent military victory caused a U-turn in the geostrategic calculus of the USA, thus supporting rigorously the authorization of enforcement action. In the view of Alan Kuperman,

“President Barack Obama grossly exaggerated the humanitarian threat to justify military action in Libya”.<sup>12</sup> This further underscores the subjective intentions of the foreign policy of the USA as eventually, she played a leading role in crafting a resolution whose sweeping language—all necessary measures—gave room for broad interpretation and military overreach.<sup>13</sup>

### **3.3.2 Of Military Necessity and Proportionality, and Regime Change**

The discourses leading to the emergence of R2P as an international norm, as mentioned as mentioned in chapter two of this work, emphasized that military force must be used as last resort, and the force used must be used to prevent an imminent humanitarian catastrophe. Gaddafi has been projected as preparing to undertake crimes against humanity on the scale of that of the Rwandan genocide. It is true that Gaddafi referred to the supporters of the rebellion as “rats” and vowed that “we are coming tonight. We will find you in your closets. We will have no mercy and no pity.”<sup>14</sup> This could have played into concerns that Gaddafi was about to unleash overwhelming military force on his opponents. It is also factual that forces loyal to Gaddafi, in their counter insurgency, killed hundreds of rebel forces and the civilian population.<sup>15</sup>

However, concerns that genocide was imminent were unfounded. Copious evidence show that forces loyal to Gaddafi did:

Not deliberately massacring civilians but rather narrowly targeting the armed rebels who fight against his government . . . Libya’s air force, prior to imposition of a UN-authorized no-fly zone, targeted rebel positions, not civilian concentrations. Despite ubiquitous cell-phones equipped with cameras and video, there is no graphic evidence of deliberate massacre. Images abound of victims killed or wounded in crossfire — each one a tragedy — but that is urban warfare, not genocide.<sup>16</sup>

The response of NATO on the basis that crimes against humanity were imminent cannot be sustained and, which was factored into the authorization of coercive measures against Libya was untenable. In addition, the overwhelming use of military force against Libya was “neither

charitable nor just” in the face of increasing casualties.<sup>17</sup> Also “United States’ interference under the [umbrella of NATO] has prolonged Libya’s civil war and the resultant suffering of innocents.”<sup>18</sup> Where, then, lies the military necessity and proportionality of the intervention? If the military did not conclusively resolve the underlying causes of the political unrest, it cannot be considered as a success story. Perhaps, the only successes chalked are the short-lived peace and security and importantly, the demise of a sovereign president.

### **3.3.3 Double Standards**

There is no gainsaying that the implementation of the intervention was hinged on the protection of parochial and strategic interests, particularly of the USA. Historically, the USA has supported repressive regimes in the Middle East, including Egypt and Yemen. However, the Arab Spring made it inexpedient to provide political and diplomatic cover for autocratic leaders in Bahrain and Egypt, who have had cosy relations with the USA for decades.<sup>19</sup> To create an impression that the USA was fully supportive of the wave of protest in the Middle East, Libya and by inference, Gaddafi was the safest option for the USA.<sup>20</sup> This was strategically, a good manoeuvre because for decades, “Muammar Gaddafi . . . was demonized so that his removal will look like the ideal solution to return the country to stability, notwithstanding the fact that after coming to power in 1969, he played a key role in just oil prices, housing for lower income families and the construction of the African Union (AU)”.<sup>21</sup>

Gaddafi was not the only despot in the Middle East. Fouad Ajami, for instance, observes that the Middle East is a “bleak landscape of terrible rulers, sullen populations, a terrorist fringe that hurled itself in frustrations at an order bereft of any legitimacy . . . and a moral embarrassment.”<sup>22</sup> Almost the entire Middle East is studded with dictators, from Libya to Saudi

Arabia. At least, Gaddafi showed a commitment to dousing himself of the pariah image that he was associated with. For instance, Gaddafi has made considerable efforts to reach out to the international community through various platforms, the zenith of which is the leading role played by Libya in the establishment of, as noted earlier, the AU. In addition, countries including Britain and the USA had, in recent times, relaxed international sanctions against Libya as a result of tangible signals that Gaddafi was keen to douse off his pariah image. British and American oil companies, with the political support of their government, won contracts to explore oil in Libya.<sup>23</sup> If Gaddafi were vindictive, as was projected before the intervention, he would have presumably severed economic cooperation with the West and deal exclusively with China, which has the market and resources to purchase oil from Libya, whose “sweet light crude oil is highly valued due to its premium quality.”<sup>24</sup>

The West’s double standards become more obvious when it is contrasted with countries such as Tunisia and Egypt, where presidents Ben Ali and Hosni Mubarak respectively, had been brutal and intolerant of political dissent for decades. However, Both Ben Ali and Hosni Mubarak had been propped-up by the West, and in contrast to Gaddafi, had a relatively dignified exits from the corridors of power; at least they are still alive to witness the tortuous political transitions of their countries. Again, the lack of intervention in Syria underscore why Libya’s case is a quintessential case of, to borrow the terminology of Nicolo Machiavelli, “the might is always right.” It is obvious that countries such as the USA and Britain would not risk their resources to intervene in Syria, mindful of the fact that it would precipitate a large scale war in the Middle East, which could have adverse effects on the security profile of Israel, a geostrategic ally of both the USA and Britain. The Libya-Syria scenario reinforces the point that in interventions, states, rational as they are, are motivated by subjective considerations, not international altruism.

For instance, a military solution to the Syria crises could prove daunting as the Syrian regime has the diplomatic and logistical support of both Russia and Iran, two countries that are equally keen to protect their strategic interests in the Middle East. While Russia is keen to court the friendship of Syria to dilute the influence of the USA in the Middle East, Russia and Iran, through the provision of ammunition and personnel, has strived to use the Assad regime in Syria as a proxy war machine against the security interests of Israel. A military action in Syria would be deflected by a veto-wielding Russia, while a military action in Syria, although possible, would prove costly in terms of casualties and resources. This is unlike Libya, where the overwhelming military force of NATO annihilated that of an isolated Gaddafi and his weakened military forces.

### **3.3.4 Undermining Global Consensus on Norms**

Even before the inception of R2P, the international community was polarized. A considerable number of states, particularly from Africa and Asia, protested vehemently.<sup>25</sup> This is because there is no global agreement on what constitutes “good or just”.<sup>26</sup> What may constitute “good” or “justice” is a matter of subjective interpretation. The fragile consensus that held states together under the umbrella of R2P has been undermined by the actions of NATO in Libya. For example, Michael Walzer notes that the intervention rather worsened the humanitarian state of affairs in Libya.<sup>27</sup> According to Walzer, “the intervention seems to have prolonged, rather than stopped, the killing, which is neither charitable nor just”.<sup>28</sup> This contrasts sharply with what the intervention sought to do in the first place: provide a safe haven for vulnerable people who had been denied access to the basic necessities of life because of the political upheavals. Nonetheless, James Pattison notes that intervention in Libya has rather engendered global

consensus because “intervention in Libya is permissible . . . when compared to no action in Libya or anywhere else, since saving some lives is better than saving none.”<sup>29</sup>

However, what Pattison fails to recognize is that regime change in Libya has, perhaps, emboldened the Syrian regime to resist any degree of intervention. The initial goodwill that was coalescing for R2P has withered away with the demise of Muammar Gaddafi as a result of adverse effects of the NATO-led intervention in Libya.<sup>30</sup>

### **3.3.5 Regime Change as a Product of “Humanitarian” Intervention**

As noted throughout this work, it has mentioned severally that United Nations Security Council Resolutions (UNSCR) 1973 did not authorize regime change, notwithstanding the broad interpretation of “all necessary measures” to include, among other things, regime change.<sup>31</sup> Rather UNSCR 1973 was intended to provide a context to avert a humanitarian catastrophe. On the contrary, according to Johan Galtung, “the West wants regime change by all necessary means. The price is occupation. And with it one more dent in Western civilization.”<sup>32</sup> It is evident that the phrase “all necessary measures” enables centers of power in the international system, to pursue their subjective interests.

What was also morally objectionable was the manner in which a disheveled Muammar Gaddafi was subjected to inhuman treatment prior to his death. Gaddafi had been accused by the West for being atrocious; however, NATO failed to halt the atrocious crime that was meted out to Gaddafi. Thus far neither NATO nor the UN has shown any interest in pursuing and prosecuting persons who played active roles in the death of Muammar Gaddafi. By contrast, prosecuting of Gaddafi loyalists is being undertaken with glee and enthusiasm.

### 3.3.6 Prospecting for Oil under the Guise of Intervention

In Africa, natural resource endowment is synonymous with dismal economic development and autocratic rule,<sup>33</sup> and economic predation driven by rebel and militia groups.<sup>34</sup> In addition, a case could be made for a causal relation between “humanitarian” intervention and natural resource endowments. For example, the geostrategic rivalry during the Cold War was motivated by among other factors, the desire to have access to natural resource in sub-Saharan Africa (SSA). In the case of Libya, thus far, there is no evidence to buttress anecdotes that the intervention in Libya was also motivated by a desire for access to Libya’s oil resource.

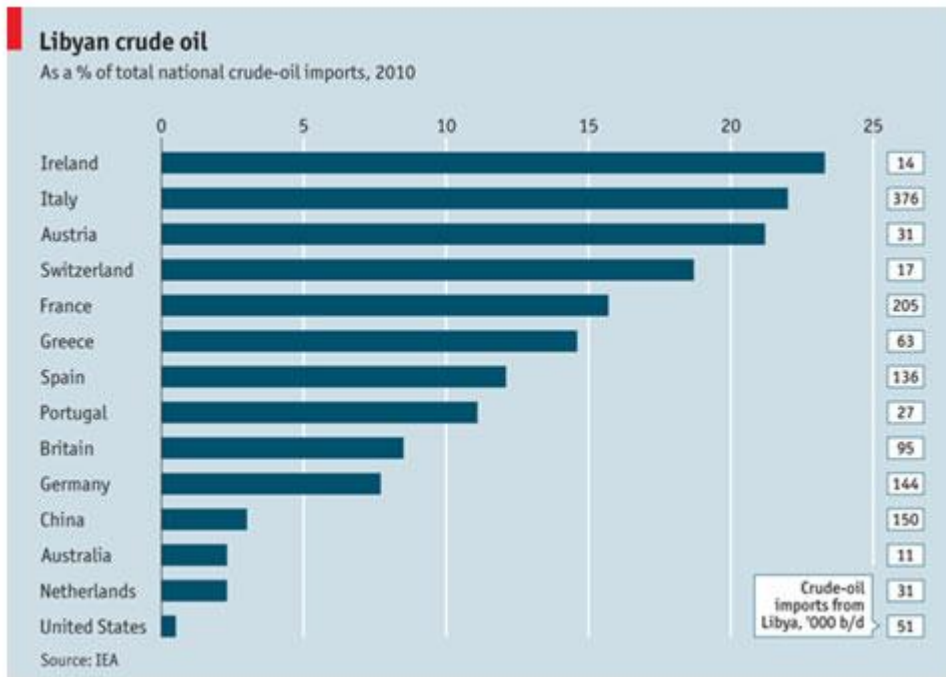
However, access to Libya’s oil resources by the West cannot be discounted based on historical analysis. For example, the unilateral declaration of military force by the USA against Iraq, 2003 has been cited as one instance of intervention-natural resource nexus.<sup>35</sup> It has been asserted that one of the critical reasons why the USA unilaterally declared war against Iraq, in 2003, was because of the oil factor.<sup>36</sup> For the statistics, it is estimated that “2030 the world will be using fifty percent more oil.”<sup>37</sup> If the USA paid about 70 percent of the cost of NATO’s intervention in Libya,<sup>38</sup> it would be foolhardy not to assert that access to oil resources was an important consideration for the USA prior to the intervention.<sup>39</sup>

Furthermore, the European Union (EU) depends extensively on Libya’s oil exports, accounting for 17 percent of the EU’s energy requirements.<sup>40</sup> In this light, strategic consideration of international politics dictates that “with rising oil prices being considered a major threat to economic recovery, it would be shortsighted to discount the extent to which the Libyan hydrocarbon industry fueled the military intervention.”<sup>41</sup> Situated within the theoretical construct

of realism, it is reasonable to conclude that both Europe and the USA would obviously construe Libya’s oil resource as alluring.

The graph below (graph one) shows the level of dependence of both the USA and Europe on Libya oil. From the graph; it is apparent that the combined demand of European countries for Libya’s oil is high, relative to that of the USA. However, what would unite Europe and the USA over the USA is the need for stable prices of oil on the international market. An ally in Libya, therefore, would be beneficial to Europe and the USA. To have a friendly establishment in Libya, therefore, implies the removal of Gaddafi. And as mentioned earlier, oil exploration contracts would be easy to secure once a relatively friendly regime is installed in Libya.

**Graph One**



Source: *The Economist*, “Relying on Libya” 25 February, 2011

### 3.4 Violating the Laws of War

In adding a coercive dimension to the R2P the ICISS, as mentioned in chapter of this research, added that the laws of war, including military proportionality and the minimization of casualties, must be of utmost importance. However, the following discussions would indicate that the NATO-led intervention was not motivated by just cause; the use of force was not proportional. In effect, the NATO-led intervention was undertaken without recourse to the laws of war.

#### 3.4.1 Just Cause

Considering the *just cause* criteria, was the situation in Libya so pressing to have necessitated a military intervention for humanitarian purpose? As noted in the previous chapters of this study, the ICISS states that a just cause exists when there is genocide, crimes against humanity, war crimes and ethnic cleansing.<sup>42</sup> Is it conceivable to argue that the aforesaid conditions existed before the intervention in Libya? The USA and the other states, that voted in favor of UNSCR 1973 consistently used the rhetoric of Gaddafi to buttress the argument for a humanitarian intervention. For instance, Gaddafi was quoted in a speech to his supporters as saying “...from tomorrow you will only find our people. You all go out and cleanse the city of Benghazi”<sup>43</sup>. The reckless shelling of Misrata can also not be overlooked as a motivating factor an intervention. UN estimates before NATO intervention places death toll in Libya between 1,000 and 2,000 but after (8) eight months it was most likely, ten times the figure.<sup>44</sup>

Although there may have existed a *just cause* for humanitarian assistance the situation was blown out of proportion to even necessitate a regime change. Accurate figures of the death toll in Libya can hardly be found. NATO did not even wait for the report of the fact-finding mission by UN Human Rights Council and the Security Council from Libya.<sup>45</sup> How then could the mission

have justified the reports in the media? The Libyan crisis did not call for regime change in Libya intervening states campaigned for it, to the extent that it provided support for rebels. The mandate of UNSCR 1973 was clear, to protect the civilian population against mortal combat but not to intervene in the uprising (every state bears the responsibility to defend its territorial integrity during an uprising), accomplish a regime change, or oust Gaddafi. Gaddafi was the ultimate target by external forces, causing NATO to act beyond its mandate in breach of UN Charter. The risk associated with a regime change is always higher than the protection of civilians.<sup>46</sup> It could include greater number of troops both in the air and on land, higher civilian casualties, extended duration of crisis and possible instability in the region of the host state. By ignoring these risks and enabling regime, NATO obliterated any just considerations about the need for intervention.

### **3.4.2 Right Intention**

As noted throughout this research, states are susceptible to undertaking interventions to pursue subjective goals. Therefore, the ICISS emphatically states that the one of the overarching intention behind an intervention must be to avert human suffering.<sup>47</sup> Can the same intention be said of the Libyan intervention? Was the mission aimed at using all necessary means to protect civilians or the overthrow of Gaddafi was the key objective? Clearly, the phrase “all necessary measures” may be quite extensive in scope if not ambiguous. In the past similar phrases such as “all necessary means” have been used while referring to the use of force under Chapter VII of the Charter. Whichever manner these phrases are enforced, there are three constant restrictions, in the resolution and in international law itself.<sup>48</sup> Other aspects of the resolution clearly spell out what can and cannot be done during enforcement. First, it must be directed at those who put

civilians and their occupied areas in danger. Second, in no other way should it result in a “foreign occupation force”. Third, the intervention must be necessary. The whole idea is that the use of force must be proportionate to the precise goal of the resolution. At the beginning of the intervention it was clear the intervention took the form of a humanitarian objective, but it changed course along the line. Military strikes launched earlier were targeted at installations that possibly may have posed threat to civilians. The question is who is a civilian? UNSCR 1973 also provided protection for a large group of Libyans such as “members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria,”<sup>49</sup> but does not include person actively engaged in the hostility or combatants.<sup>50</sup> Furthermore, The UNSCR 1973 also sanctioned the use of force to protect civilian-occupied areas under threat of attack. This includes civilian towns and cities even if attacks targets combatants.<sup>51</sup>

According the report of the Independent Civil Society Fact-Finding Mission to Libya, in the course of the revolution, NATO trained some rebel forces in ‘liberated’ areas of East Libya and in the mountainous areas of Western Libya, specifically around Jabal Nafusa.<sup>52</sup> Some states also supplied armed groups with weapons, but none of the rebels were reported to have been trained in the law of armed conflict or according to human rights principles.<sup>53</sup> France, for example, violated UNSCR 1973 by supplying ammunitions officially to rebels. This only stopped after Russia protested vehemently.

It is also widely understood that a ceasefire in times of war must be exercised by all parties to the conflict. After numerous mediation efforts by AU, Russia and others, consensus was never

reached. NATO took sides with the rebels since without a ceasefire there would be enough reason to continue the bombardment of the Libyan military.<sup>54</sup> NATO and the USA extended the bombings to the military installations of the regime including the compound where Gaddafi and his family earlier resided. The coalition did not hesitate to lay bare its intentions, which was to see to Gaddafi's exit from power. In a joint statement by Barack Obama, David Cameron and Nicolas Sarkozy, the leaders reiterated their resolve to stick to the mandate of UNSCR 1973, that is, 'to protect civilians'. However, the aforementioned leaders were exposed when they added, at the inception of the intervention, that:

But it is impossible to imagine a future for Libya with Gaddafi in power... So long as Gaddafi is in power, NATO and its coalition partners must maintain their operations so that civilians remain protected and the pressure on the regime builds.<sup>55</sup>

These aforesaid statements clearly violated the mandate of the mission and exposed the regime change intentions of the intervening states. United States and NATO and thought of who will be next after Gaddafi and by what means. Two years after the regime, the effects are glaring. Actors from criminal organizations to Jihadist groups control vast territories, terrorize the government, rendering it unstable. The murder of the former ambassador of the USA to Libya, Christopher Stevens, just a year after the Libyan intervention was a foretaste of the insecurity that the NATO-led intervention engendered.

The involvement of the West in the internal affairs of the Arab world is, to a significant degree, based on national interest. As remarked by Lord Palmerston, "we have no eternal allies, and we have no perpetual enemies. Our interests are eternal and perpetual and these interests it is our duty to follow."<sup>56</sup> Evidently, the West helps leaders who advance its foreign policy but ousts regimes that fail to back its strategic interest in various regions. For instance, the USA continued to support King Hamad Bin Isa Al-Khalifa of Bahrain in spite of his violent crackdown on pro-

democracy protesters.<sup>57</sup> Washington still sees Al-Khalifa as essential to its national interest in the region. Similarly King Abdullah of Saudi Arabia and Ali Abdullah Saleh of Yemen were never condemned by the U.S. after their governments violently suppressed various protests in their country. According to Hafizullah Emadi, it is obvious that the USA was determined to carry out a regime change in Libya since it set off a media campaign to ‘demonize’ Gaddafi so his removal would be welcomed as a relief to the Libyan people.<sup>58</sup>

### **3.4.3 Proportional Means**

The following indicators serve as a frame of reference in determining the proportionality of the use of force: The ‘scale, duration and intensity’ of the military must be the minimum required to secure a successful humanitarian intervention. There must be a clear mandate by the UNSC. The intervention must be narrowly focused. Did the supposed Libyan R2P intervention measure up to this yardstick? Proportionality became a subject of concern at the initial stages of the intervention, when it was obvious the mission would not be only last few days or weeks. For some, the removal of the immediate threat in Benghazi should have marked the end of the supposed R2P mandate but that was not the case. The deaths and destruction in Libya resulting from NATO and U.S. unceasing bombings paints images of horror, striking out supposed claims humanitarianism.<sup>59</sup>

UNSCR 1973 was loosely worded, hence the discretion of applying “all necessary measure” were left in hand of intervening states.<sup>60</sup> The mandate of the intervention after being overstepped to embrace regime change, it was then extended to the murder of Colonel Gaddafi. A week after the murder of Gaddafi of Seumas Milne, after careful analysis wrote in *The Guardian*, “If the

Libyan war was about saving lives, it was a catastrophic failure”.<sup>61</sup> Definitely Milne was communicating sentiments of millions of people around the world who were struck with grieve.

One year after the intervention Amnesty International published reports of widespread torture meted to prisoners and fighters camped in make-shift detentions in Libya.<sup>62</sup> Crimes reported by Amnesty International in the report captioned, *Militias threaten hopes for new Libya*, included war crimes, “beating with whips, cables, metal chains, wooden sticks, electric shocks, extraction of fingernails, and rape.”<sup>63</sup> The frightening aspects of the report indicated, the black race African migrants and refugees in Libya were targeted by thousands of young men who secured arms under leadership of National Transition Council (NTC), backed by NATO strikes.<sup>64</sup> The five-point AU road map developed during by AU High Level ad hoc Committee would have been proportionate and more appropriate. The AU, in its road map, demanded a ceasefire, protection of civilians, humanitarian aid to both Libyans and migrant workers, dialogue between the Gaddafi regime and the NTC to reach modalities for ending the crisis, inclusive transitional period, and adoption and implementation of political reforms which “meet the aspirations of the Libyan people.” These proposals were rejected outright by the NTC who insisted Gaddafi had to exit power, reaffirming the wishes of the NATO and United States.

The use of drones in Libya approved by President Barack Obama may be hailed by others as a humanitarian success but not until revelations of former United States Congresswoman Cynthia McKinney, who was an eyewitness when Libya was being pounded daily. McKinney highlights dozens of NATO bombs fired around Tripoli including civilian areas. She recounts that “As the bombs fell, each time buildings shook violently. Tripoli is under heavy aerial bombardment in all areas, in civilian areas.”<sup>65</sup> The USA is likely to have used depleted uranium weapons in Libya.

For example, credible reports indicated that uranium (DU) dust was used in the NATO-led military intervention.<sup>66</sup> During the beginning of the intervention in Libya, there were reports of forty-five 2,000 pound bombs which were dropped on Libyan by B-2 bombers in the first 24 hours of the attack including cruise missiles fired from the United Kingdom and French planes and vessels, all containing depleted uranium warheads.<sup>67</sup> While Pentagon consistently debunks claims that uranium (DU) is harmful, U.S. marines in Iraq were asked to avoid accessing sites where such weapons detonated.<sup>68</sup> The acts were definitely not driven by humanitarian concerns; they can be better categorized as war crimes and cannot constitute proportionality.

#### **3.4.4 Last Resort**

Before the use of enforcement action, it is envisaged that pacific approaches to resolving a dispute have been exhausted. This explains why the UN provides a context for diplomatic solutions to crises before escalation, a point that was also articulated by the ICISS. Within the context of Libya, regime change-targeted intervention cannot be justified as a last resort since other non-military options could have been applied to encourage Gaddafi to relinquish power. However, the West used R2P to scuttle the peaceful mediation efforts which was being undertaken by the African Union.<sup>69</sup> In addition the intensity with which the UNSC pushed the agenda for intervention in Libya made it difficult for a mediated settlement of the crises as the AU was largely peripheral.<sup>70</sup>

As mentioned already, skewed media reports, particularly from the Western media, about Libyan death toll and Gaddafi's determination to massacre his civilian population also helped galvanize the West to resort to military intervention. Reports acknowledged by UN and Amnesty International and Human Rights Watch indicate that it was rather the protesters who started the

violence in all four Libyan cities (Benghazi, Al Bayda, Tripoli, and Misrata), and were responsible for mounting civilian casualties during the conflict.<sup>71</sup> Widespread reports of Colonel Gaddafi ordering jet fighters to bomb peaceful demonstrators went viral on the internet and were widely reported by global cabal networks including Aljazeera and the British Broadcasting Corporation (BBC). However, these reports were founded on mischief as there were no proof such an activity had occurred. The USA and its allies consistently referred to this incident as concrete evidence that the Libyan leader had lost legitimacy and had to leave. This was a major reason for the imposition of a no-fly zone over Libya, and it certainly precipitated calls for immediate military intervention as a last resort.

At a Pentagon briefing when the question was posed: “Do you see any evidence that he [Gaddafi] actually has fired on his own people from the air? There were reports of it, but do you have independent confirmation? If so, to what extent?” Secretary of Defense Robert Gates replied: “We’ve seen the press reports, but we have no confirmation of that,” Chairman of the Joint Chiefs of Staff Admiral Mike Mullen added “That’s correct. We’ve seen no confirmation whatsoever.”<sup>72</sup> None of the intervening states could provide evidence to support this allegation. Russian military chiefs discounted these claim as false indicating Moscow monitoring of aerial activities proved otherwise.<sup>73</sup> What is apparent is that use of force was not applied as last resort. The West, particularly the USA has planned to aid a rebellion in order to enable the exit of Gaddafi.

### **3.4.5 Reasonable Prospects**

To a considerable extent, military interventions that fail the test for proportionality can hardly stand a reasonable chance of success since the two are inevitably interlinked. Reasonable

prospects means consequences for embarking on the operation should not be worse if there was no intervention action at all.<sup>74</sup> One of the reasons for the Libyan interventions was to avert the abuse of human rights alleged to have being perpetuated by Gaddafi. After the military victory of NATO, various rebel groups, which had come together to fight Gaddafi, have perpetuated gross human rights violations as a result of the inability of the NTC to enforce law and order. Those who hailed the intervention as a victory of R2P are reticent about the disturbing developments in Libya. A successful intervention should not have resulted in war crimes such as torturing and killings of civilians. The intervention has bequeathed to Libya the following: a fragile state, a surge in insurgency, the *coup d'état* in Mali, the proliferation of arms, sectarian violence, among others.

### **3.5 Contending Issues in Libya: Post-Gaddafi Era**

This section provides evidence to show that the Libya cannot be an accomplished mission with reference to peace and security. This is to illustrate that the intended mission of the intervention, safeguarding peace and security, has not being achieved and that the demise of Gaddafi has, to a significant extent, created an interregnum, thus a power vacuum that has engendered insecurity.

#### **3.5.1 Proliferation of Small Arms and Light Weapons**

There is no gainsaying that SALW were widely used as Libyans armed themselves in response to Gaddafi's overwhelming military superiority. With the proliferation of armed and militia groups in Libya, unregulated access to SALW poses an existential threat to Libya's nascent democracy and could potentially derail peace building efforts.<sup>75</sup> Closely related to the proliferation of SALW is the turf war that has ensued among Libya's fractious rebel movements. The overriding objective of overthrowing a tyrant—Gaddafi-- served as the harmony of interest among the

myriad of rebel movements in Libya. However, in the light of the demise of a common enemy, these fractious rebel movements are now engaged in turf wars, ostensibly for control of political power, notwithstanding the existence of a Transitional National Council (TNC). And bearing in mind the prevalence of both SALW and sophisticated armaments, these rebel movements have typically mobilised and engaged each other in street battles amid banditry, kidnapping, targeted bombings of infrastructure. Libya can potentially become Africa's version of Afghanistan if the proliferation of SALW and rebel movements persists. And these would have an invidious implication for the African continent already adversely affected by intractable conflicts.

Apart from SALW, the proliferation of sophisticated ammunitions to destabilize Libya and the Sahel region is real.<sup>76</sup> It is also estimated that high-tech weaponry including about 15,000 man-portable surface-to-air missiles fell in the hands of Islamic extremist during the NATO-led military intervention, further destabilizing Libya and the Sahel region.<sup>77</sup> This becomes ominous as the borders among Libya and Sahel states including Chad, Niger and Mali remain porous.

### **3.5.2 Libya: A Sanctuary for Terrorists**

The power vacuum created by the demise of Gaddafi can potentially leave Libya as an 'ungoverned spaces' and in the process, serve as eternal breeding ground of international terrorism.<sup>78</sup> Two factors could make this possible. First, the rebel movements in Libya could coalesce with Al-Qaeda cells in the Middle East and pose security threats to the geographical enclave, Middle East. Secondly, Islamic fundamentalists could infiltrate the ranks of the civilian population and co-opt some of them, particularly if there are limited economic opportunities. A third factor is worth mentioning although it is yet to crystallize: It may be the case that the present generation of leaders in Libya are acquiescing to the West as a 'thank you' for helping in

creating an enabling environment for restoring hope to Libyans. However, these leaders could potentially resort to anti-West narratives which are pervasive in sections of the Middle East—a state of affairs that could inure to the benefit of terrorist cells in Libya which have gone underground.

Already, remnants of rebels from Libya are playing a destabilizing role in West Africa. For example, mercenaries of Tuareg descent, who fought in the Libyan conflict, returned to Mali to launch a rebellion in the northern part of the country, forcing a military coup that led to the overthrow of President Amadou Toumani Toure. The arms cache and other ammunitions accessed by Tuareg rebels from the Libya conflict were used to launch the rebellion in Northern Mali.<sup>79</sup> Consequently, Mali has become a safe haven for Al-Qaeda in the Maghreb (AQIM) and other Islamist forces, keen to impose a caliphate in northern Mali amid worsening humanitarian crises.<sup>80</sup>

For the USA, which has been playing a leading role in the Global War and Terror (GWOT), Libya may soon become another addition to their already over-stretched military resources.<sup>81</sup> Already, the USA is bedeviled by accusations that the GWOT is a crusade against Islam.<sup>82</sup> In addition the USA may also have to evolve strategies to prevent Libya from becoming a ‘failed and failing state.’<sup>83</sup> The above conundrum serves to raise questions about the strategic objectives of the USA in deciding to play a leading role in the Libya intervention. This is because the short-sighted objective of regime change in Libya would, in the long term, provoke anti-USA sentiments and become a sanctuary for terrorists.

### **3.5.3 Transitional or Victors' Justice?**

The relentless pursuit of allies of Muammar Gaddafi, again, exposes the military intervention as mainly about Gaddafi and his forces. In a civil war, it is conceivable that both government forces and that of rebel movements would be held culpable for atrocities committed during the crises. However, transitional justice has given way to victors' justice, where Gaddafi's loyalists including are been pursued relentlessly. Limiting transitional justice to only elements within the Gaddafi administration would rather create conditions for a relapse of security in Libya through sectarian violence. The unwillingness or the inability of the international community to prod the transitional government in Libya to adopt an even-handed approach to transitional justice is worrying. The only interpretation that could be adduced is that Gaddafi was the reason why the intervention was triggered. After achieving the target of regime change, Libya remains at the backburner of the UN, and the UNSC and its five permanent members have not given practical meaning to all the lofty objectives, such as peace and security, human rights and security, which preceded the authorization of intervention in Libya.

### **3.5.4 Conclusion**

The evidence provided above indicates that the UNSC authorized intervention in Libya was undertaken in light of subjective interests by the West. The decision to intervene was not motivated by collective security. It was mainly based on regime change that has long being mooted before the Arab Spring. It was as historical as it is contemporary. Muammar Gaddafi was stigmatized as a pariah. This stigma fuelled perceptions that he resented the undermined the interests of the West, particularly the USA and Britain. The Arab Spring provided an opportune time to rid the international platform of Gaddafi. The invocation of R2P was a cloak that masked

the real intentions of the interveners. As Libya muddle through socio-economic difficulties and violence, there is no gainsaying that R2P had limited influence in the interests of states, such as the USA and Britain, which played leading roles in the NATO-led intervention. If the intervention were inspired by R2P, it would have been inconceivable that civilian casualties would spiral in the wake of the intervention. An R2P-inspired intervention would have exhausted all diplomatic channels before the use of force, mitigating measures would have been evolved, civilian casualties, and post-conflict reconstruction would have been prioritized. Effectively, the intervention was a smokescreen and illustrates the fact that in international politics, as opined by Machiavelli, “the might is always right”.

## End Notes

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## CHAPTER FOUR

### SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### 4.1 Introduction

This chapter focuses on a summary of key findings from this study, delineates conclusions and conclusions, that would help preventing a relapse in Libya, and help make R2P a tool for the promotion of relative gains in the international system.

#### 4.2 Summary of Findings

This work highlights a number of findings worth perusing. This includes the fact that the international community is enthused about evolving a normative framework that guides states' relations. This desire inspired the evolution of R2P at the World Summit Outcome of 2005. This reflects the view that states must balance Westphalia principles with responsibility, and this underscores the importance of focusing on providing basic goods and services to the citizenry. This work also highlights the nexus between oil wealth and governance. In Libya, oil wealth had been applied, to a certain extent, judiciously. However, the proclivity for centralization of power and 'cling-on' attributes ensured a disharmony of interest between Muammar Gaddafi and elements within and outside Libya who were averse to his style of governance. This is reflective of governance not only in Libya but also, the whole of the Middle East.

Nonetheless, the NATO-led intervention reinforces prevailing tension over the selective application of the use of force and for that matter, R2P. The intervention in Libya has underscored concerns raised by states before the inception of the R2P, that it could be applied to serve the interests of global powers, particularly the USA. These festering concerns have the potential to undermine international consensus on the application of R2P. It is not surprising that

the international community has failed to mobilize support for military intervention in Libya as states are mindful of the Libya precedent.

Regrettably, the intervention in Libya has polarized international opinion on R2P, and left in a state of flux. Presently, Libya has become synonymous with insecurity, the condition that the intervention was expected to prevent. The UNSC has not shown any political will to oversee peaceful political transition in Libya, while transitional authorities in Libya have failed to assert their authority across the country. At least, a Gaddafi-led Libya was relatively peaceful. If the spate of banditry and mass killings continue unabated, Libya risks becoming a hub of conflict with ripples for the wider Middle East. This would defeat the stated purposes of the R2P-inspired intervention that facilitated the overthrow of Gaddafi.

Importantly, the apparent limited role of the African Union (AU) in the Libya crises highlights the operational and institutional weaknesses of the Union. The AU, with its novel peace and security architecture, should have pre-empted the crises in Libya, especially as prior situations in countries such as Tunisia and Egypt were unfolding. This is an indication that perhaps, the AU, likewise its predecessor organization, the Organization of African Unity (OAU), lacks the institutional, operational and diplomatic resources to resolve conflicts within Africa. This further exposes the African continent to the parochial, partisan interests of global powers.

### **4.3 Conclusions**

There is no gainsaying that the authorization of coercive action against Libya was based on strategic considerations, the removal of Gaddafi being an integral component of this. It is evident that Muammar Gaddafi has had a tumultuous relationship with the West in the 1990s, particularly with the United States of America (USA) and Britain, due to his alleged sponsorship

for international terrorism. The implementation of coercive measures was therefore, a means to implement an objective that had been nurtured before the Arab Spring ensued in 2011. Under the rubric of the R2P, military intervention was to be considered as last resort. However, it is evident that the UNSC did not thoroughly engage Gaddafi. This is in light of the long processes of engagement that has characterized negotiations about a worsening security situation in Syria. If the political leadership of Syria has been offered such a long diplomatic rope, why was Gaddafi not offered similar overtures and given the time? History shows diplomatic negotiation with Gaddafi works, at least in the case of the resolution of the Lockerbie bombing case, where Gaddafi handed over Libyan nationals, accused of masterminding the death of passengers on board, a Pan Am airline in 1989.

The rush to intervene in Libya can only be assessed within the absolute interests of global powers, the USA and Britain being examples of such global powers. The removal of Gaddafi essentially transformed an internal conflict into an internationalized civil war because the intervention tilted the military scales in favor of the rebel movement. It has been noted that the posturing of the USA changes only when it became apparent that Gaddafi was close to defeating his opponents, militarily. While not projecting Gaddafi as sacrosanct, it cannot also be denied that NATO violated its mandate in Libya, and the USA was the likely beneficiary of such violations for two reasons. First, the removal of Gaddafi means a perceived sponsor of terror would have no access to influence and power. Two, the presence of oil resources in Libya can potentially provide the USA with access to cheap oil imports and unlimited access to oil resources in Libya. To put the issues into context, the USA would not have bore more than two-thirds of the operational costs of the intervention if she had no strategic interests, in a decentralized international system.

For an intervention that was based on safeguarding peace and security, it is difficult to understand why the same energy that inspired the USA to pay for the cost of NATO's operation has waned. Presently, Libya is embroiled in insecurity as reports of kidnapping, abductions, Killings, among others, dominate the international media. If the same level of energy has been devoted to post-conflict reconstruction of Libya, then the intervention could have been deemed to be altruistic. However, the deafening silence of the UNSC in particular has created the impression that "with [Gaddafi] gone the [UNSC] turn the light, closed the door and forgot about Libya."<sup>1</sup>

There is no evidence that the UNSC is averting the proliferation of arms in Libya, transitional justice has become synonymous with victors' justice as Gaddafi's key supporters are being hounded. These are the very conditions that can trigger a relapse and possibly, haul Libya back to symptoms of insecurity that the NATO-led intervention attempted to remedy. Unfortunately, the military intervention in Libya has reinforced views articulated by realists that the expression of self-interest . . . is the staff of politics.<sup>2</sup>

In principle, the coercive use of force under the umbrella of intervention in Libya manifest the desire by states to promote international peace and security. In practice, however, the manner in which the intervention was conducted, and the considerable degree of violence in post-Gaddafi Libya sums up the score card of the intervention: The West, led by the USA, was in an indecent haste to effect regime change, disguised in an ambiguous UNSCR 1973. The domino effect of the Libya intervention has already afflicted Syria, where the regime is reluctant to submit to any military intervention. If the outcome of the Libyan intervention had been auspicious, it would have been easy to mobilize international public opinion on that of Syria. Not only has the

intervention in Libya undermined consensus on the norm of R2P, but reignited debates over whether the coercive use of force can ever be regulated.

#### **4.4 Recommendations**

The following recommendations are outlined based on the findings of this research:

##### **4.4.1 A Relapse in Security Must be Averted**

The inception of R2P as a norm governing states has been hailed as a positive development in states' relations. It is envisaged that R2P would provide an objective framework for the implementation of humanitarian intervention. In this regard, post-conflict Libya is important to whether R2P would be perceived as another novel humanitarian intervention to be used by preponderant states for their interest. As a result, it is important that the international community ensures Libya is not overwhelmed by sectarian violence by investing in post-conflict reconstruction and peace-building.

Also, the trial of Gaddafi's supporters must not be about victors' justice. Rather, there must be genuine efforts towards national reconciliation and post-conflict reconstruction. For instance, assets, estimated at about 1.5 billion dollars,<sup>3</sup> were frozen as part of the economic sanctions on Libya, and must be released to the transitional government in Libya. This would enable increased investments in the productive sectors of the economy, stimulating economic growth and development. This, in addition to international efforts, would help set Libya on the road to lasting recovery from the bruises of a civil war. Also, international efforts must also prioritize the demobilization of the various armed and militia groups in Libya. These groups must be enlisted into the national army or offered financial incentives to demobilize. Without such efforts, Libya would descend into chaos.

#### **4.4.2 Implementing the Uniting for Peace Resolution**

Charter amendments have thus far focused on making the UNSC more democratic and representative. However, another equally important area that may obviate any criticisms against humanitarian intervention is to undertake amendments that would, among other things, make the United Nations General Assembly (UNGA) responsible for the authorization of enforcement of peace and security including military interventions. In any case, the UNGA is the only organ of the UN where every state has a single vote; and where the power of veto is not permissible. Such a mandate to the UNGA, particularly in instance where some member-states have vested interests in a specific conflict situation, would prevent criticisms of selective application and legitimacy of humanitarian interventions.

#### **4.4.3 UNSC: Undertaking Primary Responsibility is Important**

Charter amendments to limit the powers of the permanent five members of the UNSC have proved extremely difficult, notwithstanding the clamor for UNSC reform. In the absence of any far-reaching amendments that seeks to limit the veto-wielding powers of the UNSC, however, members of the UNSC must be mindful of their primary responsibility that is, safeguarding international peace and security. Members of the UNSC, especially the five permanent members, must be guided by collective security. This is because the five permanent members wield considerable power in deciding the authoritative allocation of values globally. It is the collective interests of the entire membership of the UN that matters. This would ensure that humanitarian interventions are bereft of parochial motives but based on an objective criterion that is universally accepted. This would prevent instances of selective application of humanitarian intervention and accusations of double-standard leveled against members of the UNSC.

#### **4.4.4 Shared Responsibility**

One of the reasons why preponderant states have been able to re-align humanitarian objectives to meet their foreign policy goals is that these states are willing to cater for the maintenance of the international system. With such huge investments in the UN, therefore, it may be difficult to prevent global powers such as the USA and Britain from influencing the direction of military intervention. Therefore member states of the UN must carry out their obligations under Article 43 of the UN Charter, which calls for contributions from all member states for the maintenance of international peace and security. The cost of international security is a shared responsibility, not the responsibility of a few states. If preponderant states pay for the cost of maintaining the international system, then other states would have no option than “dance to the tune” of preponderant states, who would find it expedient to promote their foreign policy objectives within the UN.

#### **4.4.5 The African Union Must Be Proactive**

Regional or continental organizations are important to the peace and security architecture of the UN. This has been stated in Chapter VIII of the UN Charter. This means that the UN expects regional or continental bodies to play constructive roles in international peace and security. To that extent, the AU needs to become more assertive in implementing its peace and security architecture, particularly its early warning system. This is important for conflict prevention and management. Perhaps, if the AU has pre-empted the Libyan crises, it would not have escalated into a civil war. Also the UNSC would not have authorized coercive measures, which served as a platform for regime change. This means that members of the AU must show political commitment in providing the needed funds required for the implementation of the AU’s peace

and security architecture. Without a robust peace and security architecture, the AU would have to resort to the UN eternally.

## End Notes

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<sup>1</sup> Pilger John, “The US Fraud in Africa”, *New Statesman and Society*, 8<sup>th</sup> January 1993.

<sup>2</sup> Carr Edward, The Twenty Years’ Crisis: 1919-1939, 2<sup>nd</sup> ed. (London: MacMillan, 1994), p. 94

<sup>3</sup> Joffe, Goerge, “Hard Target”, *Focus on Africa*, Vol. 22, No. 4, October-December 2011, p. 23.

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