

Explaining NATO's intervention in Libya in 2011

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Abstract The NATO intervention in Libya in 2011 was widely celebrated as the triumph of the emerging Responsibility to Protect (R2P) doctrine. While the international community in the 1990s failed miserably to prevent the massacre of Srebrenica and the genocide in Rwanda, it now had stepped up to the challenge and effectively protected the population of the Libya's second largest town, Benghazi from an imminent bloodbath at the hands of the advancing Gaddafi's revengeful forces. In contrast the realist take on the intervention was that the Libyan conflict, created a power vacuum and an opportunity to topple the regime, further the geopolitical interest of key great western powers and in doing so strengthen NATO's global role in retaining US hegemony.

This thesis concludes that the geo-political objective behind NATO's interventions in Libya in 2011 superseded the official civilian protection objective. The intervention failed to meet any of the R2P precautionary principles which explain why Libya five years later has all the elements of a failed state. From the start U.S. pushed for a military solution to the conflict since the Libyan theater of operations represented an ideal testing ground for NATO's post- cold war organisational change and mandate expansion. NATO was a critical tool to strengthen and mobilize the alliance members and new partners in support of an inevitable global showdown with China and Russia. The latter, having incurred significant economic and political losses as a direct result of the invasion and observing how NATO transgressed the UN mandate interpreted the intervention as the start of a Western balancing effort with the aim to contain the two powers. The result is a return to a great power confrontation. In this sense, the Libya intervention represented a game changer in the relations between great powers.

Ethical Approval Declaration

I confirm that my research “Explaining NATO’s intervention in Libya in 2011” did not require ethical approval.

I confirm that all research records will be held securely for the required period of time (12 months) and then destroyed in accordance with college guidelines.

Yes {X} No { }

Signed, Eigil Kvernmo

Date, 26 June 2016

Declaration

This dissertation is the sole work of the author, and has not been accepted in any previous application for a degree; all quotations and sources of information have been acknowledged.

Signed, Eigil Kvernmo

Date, 26 June 2016

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Introduction

In the midst of the Arab spring and following the popular uprisings in Egypt and Tunisia, on 15 February 2011, anti-government protests broke out in Libya's second largest town, Benghazi and quickly spread to the major cities across the country. According to Libyan and international NGOs and most media outlets, the government forces responded with merciless brutality attacking peaceful demonstrators using lethal force and even using the helicopter gunships to quell the popular anti-government demonstrations clamoring for democracy. Armed with the UN Security Council Resolution 1973 authorization, on 19 March 2011, French airplanes bombed Libyan security forces advancing on Benghazi and thereby prevented a bloodbath that awaited hundreds of thousands of civilians rebelling against the oppressive regime of Moammar Gaddafi. The establishment of a non-fly zone and systematic bombardment of the government army allowed the rebel forces to take over the country and with the air support from NATO track down and kill Gaddafi. The UN authorized military intervention in the Libyan conflict to protect civilian population was widely hailed as a model intervention for how to effectively protect civilians facing crimes against humanity. 5 years later this commonly held narrative still stands remarkably strong.

The research question of this thesis explores which International Relations theory can provide the best explanation for the causes and effects of NATO's intervention in Libya in 2011. It starts in section I with a brief review of the essential elements of two theories of International Relations: constructivism and neorealism, focusing on how these schools of thought would explain military interventions.

In order to determine the explanatory powers of these two theories to the case study of the intervention of Libya, this thesis will, in section II, first briefly describe the Responsibility to Protect norm and then assess whether the precautionary principles elaborated by the International

Commission on Intervention and State sovereignty (ICISS) were met when the decision to intervene in Libya.

Based on these findings section III will discuss the correlation between the Libya intervention, regime change, and NATO expansion and mandate change. Section IV analyses how the intervention in Libya changed Russian and Chinese foreign policy as well as the the Sino – Russian relationship. The thesis will argue that the Libya crisis presented a power vacuum and an opportunity for the U.S. and European allies to promote regime change and set NATO on the track to become a global security organization to uphold U.S. hegemonic position in the international system of states. The new common threat perception caused an impasse on how to respond to the crisis in Syria and profound changes in the Sino – Russian relationship that quickly evolved from being pragmatic partners of convenience to strategic partners of necessity. The thesis concludes that offensive realism best explains the Libya intervention and its aftermath.

Chapter 1: Constructivism and Neorealism

Constructivism is claimed to be the international relations theory that best explains the development of the Responsibility to Protect (R2P) norm. Drawing on the utopic liberal idea to transform and tame the balance of power dynamics between,¹ in this perspective, the international system is determined by the distribution of ideas and beliefs within the system, how they are shared and the common understanding derived from these ideas. Therefore, the decision to intervene militarily in a given context is therefore informed and influenced by leading norms and ideas.² The constructivists believe that the power politics of realism is a practice of the past and that through progressive discourse and a collective act of will a new system will surface based on norms and rules that foster a peaceful world community.³

Realism, on the other hand, portrays a more gloomy and sinister view of the international system of states as value- and moral free place of anarchy, where states exist under constant fear of attack.

This dominant theory of international relations for the last centuries evolved considerably in the 20th Century and has now two main schools of thought: classic realism and neorealism.

Hans Morgenthau's view of classic realism is that the human nature drives for dominance and is reproduced at the state level. In contrast, Kenneth Waltz's neorealism focuses on the structure of international politics. Neorealism as theory of international relations is based on the assumption that the state is the most important political actor.⁴ The key priority of states is to pursue their own strategies of survival while navigating an anarchical system, and this precedes economic objectives.⁵ This doesn't mean that Hobbesian disorder and chaos prevails, but that there's no centralized authority or watchman. In realism, all states possess some level of military capability which represent a potential danger to neighboring states and no one can never be absolutely certain about the intentions of the other actors and whether they intend to use their

¹ Jackson (2013) p. 34-37

² Finnemore (1996) p.310

³ Ibid. p.394

⁴ Dunne (2010) p.53-54

⁵ Mearsheimer (2001) p.34

military capabilities for defensive or offensive purposes creates an unresolvable security dilemma.⁶ Finally, this theory assumes that all great powers are rational actors that approach the geopolitical situation in a rational and strategic way to enhance their prospects for survival. Within neorealism there are two schools of thought, those that believe that the anarchic structure of the international system moves states to act defensively (defensive realists) or offensively (offensive realists). This thesis will focus on the latter.

In the view of the offensive branch of neorealism, most forcefully represented by John J. Mearsheimer, states are constantly looking for ways to increase their *relative* power compared to potential rivals and they are even willing to take costs in the form of reduced absolute power in their efforts to gain a relative upper hand in the power game. In order to achieve this, the states will employ diplomatic, economic and military strategies and resources⁷ assessing carefully, as rational actors, the potential costs, and benefits of such actions. Given the above, states will strive to become the most powerful regional power and ideally acquire the status of hegemon status.⁸ A hegemon is a state powerful enough to dominate the other states in a system. States that become regional hegemons, according to this school of thought, will employ any means, including military force to impede emerging rival powers from doing the same in their or other regions since they fear that such a rising power could start projecting powers into their own backyard.⁹ Offensive neorealist predict that war is more frequent in multipolar than bipolar systems, where more actors will amount to more unstable systems due to a more complex spider net of rivalries and actors involved. In a multipolar system, we will see greater imbalances of powers and these may change with modifications of alliances between the actors. Finally, with so many actors involved with different capabilities and changing intentions, miscalculations that lead to hostilities are more frequent when more actors are involved.¹⁰ According to Mearsheimer balancing is the main strategy to deter

⁶ Mearsheimer (2010) p. 360

⁷ Mearsheimer (2001) p.38

⁸ Ibid. p.34

⁹ Ibid.

¹⁰ Waltz (2000) p.32-35

aggression, either internally, through internal build-up of military capabilities or externally, through alliances with other states. Alternatively, buck-passing, passing on the burden to deter potential adversaries to third parties is a favored strategy.¹¹ While balancing is more likely in a bipolar system, buck passing happens more frequently in a balanced multipolar system.¹² The more imminent the threat, the more prone states are to adopting a balancing strategy.

A unipolar system is the most short-lived since hegemon without counter balancing powers tend to misuse its power and overextend.¹³ Without effective checks and balances in the system, other states will be most concerned about the current and future behavior of the hegemon forcing them to build up their own strength and build alliances to counterbalance the power of the hegemon.

In the case study of the NATO intervention in Libya in 2011, constructivist theory will show to have stronger explanatory power if powers acted in accordance with emerging R2P norm and sought to provide effective protection of the Libyan civilian population from harm. Meanwhile, offensive realists would expect the intervention to be closely linked with the vital security interests of the intervening powers and the intention of the intervention would be to increase their relative power at the expense of existing or potential rivals. The latter would then respond with counterbalancing measures.

Chapter II: UNSC Resolution 1973 and the R2P

On 17 March 2011, United Nations Security Council Resolution (UNSCR) 1973 was passed with 10 votes in favor and five members abstaining. The resolution demanded an immediate ceasefire and authorized member states to take all necessary measures to 'protect civilians and

¹¹ Mearsheimer (2001) p.156 - 162

¹² Ibid. Ch.8

¹³ Ibid. p.26-28

civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory'.¹⁴UNSCR 1973 was hailed by many as the first time the UN Security Council formally recognized the international communities' responsibility to protect principle in a United Nations security council resolution.¹⁵

The Responsibility to Protect (R2P) norm, for its own part, was first introduced by the International Commission on Intervention and State sovereignty (ICISS) in 2001. The core idea of R2P is that states have the responsibility to protect its citizens against mass atrocity crimes and human rights violations including crimes against humanity, genocide, ethnic cleansing and war crimes and further stipulates that "when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states."¹⁶

The R2P norm, promoting the responsibilities to prevent, react and rebuild, transcended the traditional understanding of the sovereignty and non-intervention principles of the UN Charter when states failing to uphold a level of protection towards its citizens relinquishes its right to sovereignty. The UN Charter, however, only considers two situations where the exception to the use of force could be contemplated:

1. (The inherent right of) individual or collective self-defense if an armed attack occurs against a Member of the United Nations (article 51)
2. UNSC power to respond to a situation that represents "a threat to international peace and security" (art 42).

At the time of the signing of the UN Charter, the member states were mainly concerned about preventing and responding to state on state aggressions as displayed by the Axis during the WWII. The R2P, on the other hand, was born out of the post-cold war threat scenarios where mass

¹⁴ UNSCR 1973

¹⁵ UN News Center (2011)

¹⁶ ICISS (2001) p. vii

atrocities or displacements of populations in one country frequently would spill over into neighboring countries and thereby upsetting the regional peace and security situation.

The ICISS report considered the option of military intervention ‘an exceptional and extraordinary measure’ that would necessarily would require prior approval from United Nations Security Council (UNSC).¹⁷ In order to guide the decision-making process ICISS introduced the following precautionary principles¹⁸: just cause; right intention; last resort; proportional means and reasonable prospects.¹⁹ The 2005 World Summit²⁰ endorsed the R2P norm, however, the mentioned precautionary principles were left out of the final report from the summit.

The following section will assess to what extent the precautionary principles were met in the case of the military intervention in Libya in 2011.

a. Just Cause Threshold

The Just Cause theory is concerned with the conditions under which it’s morally right to go to war (jus ad bellum) and the right conduct in war (jus in bello). The ICISS report concentrated on the former and suggested the following criteria had to be met to undertake a military intervention:

- large-scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation;
- large-scale ‘ethnic cleansing’, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.²¹

The commission held that if either or both of these conditions are satisfied, the ‘just cause component of the decision to intervene is amply satisfied.’²²

¹⁷ Ibid. p. 49-50

¹⁸ Ibid. p.36

¹⁹ Ibid. p.35-37

²⁰ United Nations (2005)

²¹ ICISS (2001) p. xii

²² Ibid. p.32

A short run through of the Libyan crisis reveals whether the just cause principle was met, reviewing the allegations against the Gaddafi regime that justified the NATO military intervention on 19 March 2011.

In the midst of the Arab Spring following the popular uprisings in Egypt and Tunisia, on 15 February 2011, anti-government protests broke out in Libya's second largest town, Benghazi and quickly spread to the major cities across the country. NGOs and international media reported that the government forces responded with merciless brutality attacking peaceful demonstrators using mercenaries and even helicopter gunships to quell the popular dissent while conducting ethnic cleansing of innocent immigrants. Based on these reports the UN Human Rights Council (HRC) decided to hold an emergency session where it was decided to suspend Libya's membership. In her introductory statement, Navi Pillay, the UN High Commissioner for Human Rights denounced that 'the crackdown in Libya of peaceful demonstrations is escalating at alarming rates with reported mass killings, arbitrary arrests, detention, and torture of protestors'. In her statement she is quoted as to saying 'tanks, helicopters, and military aircraft have reportedly been used indiscriminately to attack the protestors.' In addition, according to other sources, 'thousands may have been killed or injured.'²³To finish, she added that 'killings have also been carried out by foreign fighters who were and reportedly continue to be brought into the country and equipped with small arms and light weapons by the Libyan government to suppress the protests.'

The HRC condemned the Libyan government for committing 'crimes against humanity', and decided to establish an international Commission of Inquiry (CoI) 'to investigate all alleged violations of international human rights law in Libya.'²⁴ Two days later, the UN Security Council held a special session on the crisis in Libya and adopted a resolution on Libya proposed by France, Germany, UK and the U.S. The resolution captured the concern over the protection of civilian populations and

²³ Human Rights Council (2011)

²⁴ Ibid.

ongoing displacement and demanded ‘an end to the violence’, while referring the Libya situation to the prosecutor of the International Criminal Court (ICC). In addition, the HRC introduced an arms embargo on Libya and encouraged ‘member states to take steps to strongly discourage their nationals from traveling to the Libyan Arab Jamahiriya to participate in activities on behalf of the Libyan authorities that could reasonably contribute to the violation of human rights.’²⁵

The following review of the allegation presented against Gaddafi will demonstrate that the regimes actions quelling the protests and armed revolt fell far short of meeting the just cause threshold and that, to the contrary, the main violator of IHL was the armed opposition.

Allegation 1: Gaddafi security forces were massacring peaceful demonstrators

The HRC and UNSC resolutions and the ICC indictment were based on the fundamentally flawed assumption that Gaddafi forces were the only party to the conflict that perpetrated violence. While Gaddafi convinced that foreign powers instigated the uprising, certainly used excessive force in the efforts to quell the demonstrations, violent protesters, and gangs took to the street from the start.

The demonstrations that took place in Benghazi on 15 February were violent with protesters throwing stones and petrol bombs while the police responded with water cannons and rubber bullets. Two days later, in Al Bayda, police defectors opened fire on the security forces which set the tone for ensuing protests that quickly escalated into violent confrontations. From then on, the protests quickly escalated into violent confrontations.²⁶ On 19 February, the rebels exercised control over the Katiba premises as well as the airport in Benghazi. On the same day in Tobruk, Government opponents took over Omar al- Mukhtar Katiba and confiscated weaponry. One day later, demonstrators controlled the town of Al-Shahat, east of Libya, and reportedly “arrested” persons

²⁵ UNSCR 1970.

²⁶ ‘Libya protests: Second city Benghazi hit by violence’, BBC, 16 February 2011

fighting with the Gaddafi forces.²⁷ The International Commission of Enquiry analyzing the intensity of the conflict and the level of control of territory by rebels, including the organizational structure, deemed it had reached the armed conflict threshold by 24 February.²⁸ From this moment onwards International Humanitarian Law (IHL) applied to the Libyan conflict.

An email to then U.S. Secretary of State Hillary Clinton from a high-level State Department official, dating 27 February 2011, revealed that the U.S. government was aware of the existence of extremists groups among the rebels at an early stage in the conflict and therefore viewed Libya as a 'hostile environment to a potential peace keeping operation.' Another email from the same source to the Secretary of State elaborated further "Libya's Islamist activists have maintained a low profile since the start of the insurgency in late February; fearing that their activities would give credence to Qaddafi's claims that the rebels are terrorists." By the time of the email, these groups had become more assertive within the National Transitional Council (NTC) and had 'drafted a 'national pact' which looked like a road map for organizing the role of the Islamist movement in the transition to a post — Gaddafi Libya.'²⁹

The reports that claim that Gaddafi was using his air force against peaceful demonstrators, a critical element in justifying the establishment of a no-fly zone over Libya was neither confirmed by either the UN Commission of Inquiry (Col) nor other Human Rights organisations. Also the chairman of the U.S. Joint Chiefs of Staff Adm. Mike Mullen claimed, that during the first two weeks of the uprising they had 'not been able to confirm that any of the Libyan aircraft have fired on their own people.'³⁰

Allegation 2: Gaddafi forces and foreign mercenaries used systematic rape of women and ethnic cleansing

While the reports that claimed that Gaddafi's forces had used rape and ethnic cleansing as a

²⁷ International Commission of Inquiry (2011) para. 75-79

²⁸ International Commission of Inquiry (2011) para. 65

²⁹ WikiLeaks (2015)

³⁰ Becker/Scott (2016)

weapon of war, oftentimes at the hands of foreign mercenaries, this allegation was never proven by the Commission of Inquiry. Forced expulsion, killing and torture of migrants and black Libyans was already a common practice among the armed opposition. As the NATO member countries of U.S., GB and France prepared to intervene to stop the 'imminent massacre' of innocent civilians in Benghazi at the hand of the Gaddafi security forces and alleged 'hired guns', the armed opposition had completed one month of ethnic cleansing and persecution of migrants from sub-Saharan Africa, or black Libyans³¹ rounding up, displacing, killing and massacring innocent civilians under the disguise of being 'foreign mercenaries.'³²

The notion that Gaddafi had brought in hordes for African mercenaries to the Eastern part of Libya, ³³ played on existing xenophobia in the Libyan society and was also used as a strong argument in the UNSCR debate to justify the establishment of a no-fly zone over Libya.³⁴ However, during the subsequent investigations, the UN commission of inquiry found no evidence that Gaddafi had used mercenaries in the Libyan conflict.³⁵

Towards the end of the uprising against Gaddafi, the Libyan armed opposition displaced 40000 black Tawerghans³⁶ accusing them of having committed atrocities with Gaddafi forces in Misrata. The NTC leadership claimed that they had evidence that Gaddafi's loyal Tawerghan had systematically raped women from Misrata as a strategy of war, a claim they were never able to substantiate.³⁷ Since then, according to a report by Human Rights Watch (HRW), thousands of Tawerghans have become victims of arbitrary detentions, torture, and killings in Libya. The violations are so widespread, systematic, and sufficiently organized to qualify as crimes against humanity.³⁸ Many of these were forced to flee multiple times due to ongoing persecution.³⁹ Finally, the Commission of Inquiry found that many of the victims were in fact refugees and migrants from Sub-

³¹ 'Libyan rebels appear to take leaf from Kadafi's playbook', Los Angeles Times, 24 March 2011

³² The International Commission of Inquiry Report (2012) p. 69-70

³³ The Telegraph (2011) reported that 'women and children, leaping to their deaths from high bridges as they tried to escape battle-hardened mercenaries from neighboring countries like Chad'

³⁴ Security Council Resolution 1973 (17 March 2011) debate extract in S/PV.6498

³⁵ International Commission of Inquiry report (2012) para. 390 - 451

³⁶ Ibid.

³⁷ Ibid.

³⁸ Human Rights Watch (March 2013)

³⁹ Human Rights Watch (September 2014)

Saharan Africa attempting to pass through Libya trying to get to Europe. They were falsely accused of fighting for Gaddafi and then executed.⁴⁰

These facts demonstrate that the uprising against Qaddafi was violent from the start, and further that by 24 February the uprising had turned into a civil war. While there is sufficient evidence to support the allegations that Gaddafi forces used “excessive force against demonstrators in the early days of the protests”⁴¹, these actions were nowhere close to the just cause threshold set out by ICISS and were also a far cry away from comparable situations that the advocates for the intervention wanted to avoid repeating like Rwanda and Srebrenica. Importantly, the main allegations against Gaddafi and his forces were later proven either false or highly exaggerated. The paradox is that while Gaddafi in the first phase of the civil war moved relatively carefully as to not provoke an international reaction, the armed opposition got away with ethnic cleansing, extrajudicial killings and torture amounting to crimes against humanity with total impunity during the civil war and its aftermath.

The following analysis on the right intentions principle will help shed light on what could explain the inaccuracy of many of the allegations presented against Gaddafi.

b. Right Intentions: The international regime change campaign

The ICISS report makes clear that the *primary* purpose of any military interventions should be to ‘halt or avert human suffering.’ Warning that “competing ‘facts’ and versions of events will be produced – often for the specific purpose of leading or misleading external opinion’ the commission underscored that ‘obtaining fair and accurate information is difficult but essential.” To ensure this the commission recommended sending

⁴⁰ International Commission of Inquiry report (2012) p.72

⁴¹ International Commission of Inquiry (2012) para. 22

“independent special fact-finding mission could be sent by the Security Council or the Secretary-General.”⁴²

So what explains the significant discrepancy between the narrative of the mainstream media and the actual conduct and conditions on the ground? Reviewing and analysing the sources of the information paints a picture of a concerted destabilisation campaign from different Libyan and international NGOs and think tanks with converging interests in removing Gaddafi from power.

The Interventionist Propaganda strategy

Due to access problems, during the first month of the Libyan conflict, the Western media, came to rely to a considerable extent on reports from Libyan human rights organisations in exile. Al Jazeera, in particular, used statements from these NGOs to support their coverage of the conflict, stories that were quickly picked up by Western media like BBC, CNN and the Independent.

Starting from 18 February 2011, onwards LLHR (Libyan League for Human Rights), UN Watch and the *Fédération internationale des ligues des droits de l'Homme* (FIDH)⁴³ began to produce statements on the situation in Libya that would shape the narrative of the conflict and lay the groundwork for the justification of the intervention further down the road.

On 21 February, LLHR and FIDH made a public communique entitled ‘Massacres in Libya: the international community must respond urgently’ stating that at least 300-400 persons had been killed since 15 February by the Libyan regime ‘using mercenaries from Chad, Niger, Zimbabwe and some former henchmen of the former dictator Charles Taylor.’⁴⁴ The following day on 22 February 70 NGOs sent a letter to the U.S. President Obama, then EU High Representative Catherine Ashton, and UN Secretary-General Ban Ki-Moon, claiming that snipers were ‘shooting peaceful protesters.’ And alleging that ‘artillery and helicopter gunships’ had been used against crowds of demonstrators.

⁴² ICISS (2001) p.35-36

⁴³ FIDH is an international human rights NGO federating 178 organizations from 120 countries <https://www.fidh.org/en/>

⁴⁴ FIDH/LLHR (February 2011)

Their claims furthered that ‘thugs armed with hammers and swords attacked families in their homes’ while tanks were ‘reported to be on the streets and crushing innocent bystanders.’ The letter continued that witnesses ‘report that mercenaries are shooting indiscriminately from helicopters and from the top of roofs. Women and children’ also reportedly, being seen ‘jumping off Giuliana Bridge in Benghazi to escape.....[M]any of them killed by the impact of hitting the water while others drowned’.⁴⁵ The letter urged the convening of an emergency session of the UN Human Rights Council. In turn, the Global Center on the Responsibility to Protect amplified the message from the NGOs⁴⁶, including the letter from the FIDH and referred to the R2P proposed in their communication and the proposed the establishment of a no-fly zone, arms embargo as well as ‘targeted sanctions’ on the Gaddafi family.⁴⁷ Their call for military action by NATO was echoed by the main proponents of the R2P norm such as Gareth Evans,⁴⁸ Ramesh Thakur.⁴⁹ Notably, both were among the authors of the ICISS report, as well as Anne-Marie Slaughter⁵⁰ Irwin Cotler and Jared Genser.⁵² The latter two declared Libya as a test case for the R2P and called for the international community to ‘authorize a NATO-supported no-flight zone over Libya to preclude any bombing of civilians and permit all UN members to provide direct support to the provisional government’.

Surprisingly the author could find no words of caution among the writers of the ICISS report or other R2P proponents in the time leading up or during the Libya intervention.

Months later the LLHR director Sliman Bouchiguir admitted in an interview that they had no evidence to substantiate the claims made by LLHR and recognized that the information they disseminated with UN Watch, FIDH, and other NGOs was largely based on reports from leaders of armed Libyan opposition and hearsay from the field. He also conceded that several leaders in NTC at the time, including Ali Zeitan, the minister of information Mahmoud Shammam, the minister of oil

⁴⁵ UN Watch (February 2011)

⁴⁶ See Annex 1

⁴⁷ ICRtoP (2011)

⁴⁸ Evans (February 2011)

⁴⁹ Thakur (2011)

⁵⁰ Rogin (2011)

⁵¹ Slaughter (2011)

⁵² Cotler/Geners (February 2011)

and finance Ali Tarhouni and Mahmoud Jibril were all members of LLHR before and during the civil war.⁵³

Research for this thesis found that Libyan League for Human Rights (LLHR) and UN Watch were leading the drafting and dissemination of the NGO statements as well as the subsequent advocacy to influence the international community, in particular, the UN, EU and the U.S. These organizations appear to have shared a history of political collaboration targeting the Gaddafi regime. In May 2010, UN Watch, a pro-Israel NGO, took the lead on a campaign to prevent the election of Libya to the Human Rights Council and later, when this failed, worked for its suspension from the Council that also was unsuccessful until a new opportunity arose again in February 2011.⁵⁴ The Libyan uprising gave wind in the sails for this campaign and helped mobilize old and attract new allies, such as the National Endowment for Democracy (NED) that had played a key role in shaping U.S. foreign policy towards Libya and promoted regime change in Libya through financial support of organizations such as FIDH and LLHR.⁵⁵

Further inquiry into the debate over Libya in the U.S. media, this author found that think-tanks in the US foreign policy establishment, both neoconservative, and liberal interventionists, joined forces to amplify the messages and promote U.S. and NATO intervention in Libya. On 25 February 2011, under the umbrella of Foreign Policy Initiative (FPI), 45 US government officials, human rights and democracy advocates, and foreign policy experts sent an open letter to President Obama.⁵⁶ The letter warned that the crisis in Libya was ‘on the threshold of a moral and humanitarian catastrophe’ and demanded that the U.S. and NATO allies should ‘establish a presence in Libyan airspace to prevent the continued use of fighter jets and helicopter gunships against civilians, economic sanctions, and enforce accountability under international law in order to end the violence and end ‘the murderous Libyan regime’. The follow up letter from the Foreign Policy

⁵³ The Humanitarian War documentary www.thehumanitarianwar.com

⁵⁴ UN Watch (2010)

⁵⁵ Department of State to the National Endowment for Democracy an approximately USD 15 million annual grant to “assist activists in working in the available political space, and try to strengthen their institutional capacity” in “authoritarian countries such as Iran, Libya, Syria, Tunisia, Bahrain and Saudi Arabia.” Read more: <http://www.state.gov/documents/organization/137857.pdf>

⁵⁶ Foreign Policy Initiative (February 2011)

Initiative on 15 March also addressed to president Obama renewed the call for a no-fly zone, 'targeted strikes against regime assets' and for the United States to 'immediately recognize the Libyan National Transitional Council and take all necessary action to support their efforts to unseat the Qaddafi regime'.⁵⁷

The Foreign Policy Initiative (FPI), with high profile neocon members such as Paul Wolfowitz and Otto Reich, was formed in 2008 in response to foreign policy challenges facing the U.S., its focus was on documenting the 'rise of resurgent powers, including China and Russia' and other 'autocracies that violate the rights of their citizens', including (...) 'rogue states that work with each other in ways inimical to our interests and principles, and that sponsor terrorism and pursue weapons of mass destruction'⁵⁸.

This research found that FPI promoted the Libya policy agenda in a number of ways. In addition to the before mentioned public letters to Obama producing policy briefings, publishing op-eds in major newspapers, they also participated in TV debates to the extent that they dominated the discussion on the crisis in Libya in the US mass media. Reviewing the U.S. Libya debate in the period between the two public letters addressed to President Obama, the author found that 26 of the signatories to the letters wrote or participated in at least 83 newspaper articles, blogs, and TV interviews during the period February – March 2011 repeating the same core message from the letters - that the US should take military action in Libya with NATO allies. (See Bibliography 2 for complete list of articles reviewed under this research.)

After the adoption of UNSC Resolution 1973, FPI also lobbied for the US government to stay the course in Libya by facing the increasing congressional opposition to the intervention. In the beginning of June 2011, the Libya civil war had reached a stalemate and U.S. public opinion support for the US engagement started to waver. The House of Representatives overwhelmingly supported a Republican-initiated resolution to rebuke 'President Obama for continuing to maintain an American

⁵⁷ FPI (March 2011)

⁵⁸ Foreign Policy Initiative: Mission Statement

role in NATO for operations in Libya without the express consent of Congress'.⁵⁹ Fearing that the U.S. Congress would cut the funding for 'U.S. involvement in the NATO-led military operations', FPI sent a third letter, with largely the same signatories as previous letters, this time directed to the House Republicans. According to the letter, 'the problem is not that the President has done too much, however, but that he has done too little to achieve the goal of removing Qaddafi from power'. Repeating the demand that "the U.S. should do more to support the Libyan opposition" the letter warned that interrupting the support now 'would undermine American influence and embolden our nation's enemies'.⁶⁰

In an interview with the Atlantic magazine five years later Obama admitted that, on top of the push for war from within the administration, there was significant pressure from the U.S. foreign policy establishment to apply the militaristic play book in Libya.⁶¹ Even with the counterweight from his vice president and secretary of Defense Robert Gates, the combined strength of the liberal interventionists and neoconservatives tipped the weight in favor of military intervention in Libya.

Ticking all the right boxes

The Human Rights Council (HRC), UNSC resolutions 1970 and 1973 followed the demands of the NGOs and the U.S. Foreign Policy establishment to the letter and without further investigations or verifications of the veracity of the information. Libya was suspended from the HRC, and as mentioned previously, an International Commission of Inquiry (ICOI) was appointed to investigate alleged violations of international human rights law.⁶² Also, further sanctions were imposed on the Libyan authorities as well as an arms embargo and the freezing of assets of the country's leaders. In addition a no-fly zone was established over Libya.⁶³ Finally, as previously noted, the situation in Libya was referred to the Prosecutor of the International Criminal Court (ICC).

⁵⁹ Steinhauer (2011)

⁶⁰ Halper (2011)

⁶¹ Goldberg (2016)

⁶² Human Rights Council Resolution A/HRC/RES/S-15/1 of 2

⁶³ UNSC 1970 and 1973 (2011)

In a statement issued on 2 May 2011, the Prosecutor of the ICC underscored that he had "strong evidence" that crimes against humanity, including illegal arrest, torture, forced disappearances, were committed by the regime of Muammar Gaddafi. Two weeks later on 16 May, the Prosecutor requested ICC judges to issue arrest warrants for Gaddafi, his son Saif al-Islamand, and the military intelligence chief Abdallah al-Sanoussi on two types of crimes against humanity - murder and persecution.⁶⁴

The evidence from the ICC report, however, had all been redacted and removed allegedly in order to protect the victims and witnesses of the ongoing investigation, according to the ICC prosecutor at the time Luis Moreno Ocampo.⁶⁵ More than 5 years after Gaddafi's death the evidence supporting the ICC decision to issue arrest warrants against these Libyan indictees is still not available to the public.⁶⁶

While recognizing that there was pressure on the Prosecutor to conduct an expedient investigation and secure the arrest of potential perpetrators of crimes against humanity there are indicators that hastily investigation fell short of international standards. In the Libya situation, the Office of the Prosecutor (OTP) opened its investigation on March 3, 2011, and requested an arrest warrant on May 16, 2011, which is a remarkably fast turn around, even for large investigative teams to meet the burden of proof standards for criminal proceedings.⁶⁷

The OTP, however, only began conducting *in loci* investigations in January 2012⁶⁸ and prior to this the OTP relied on 'local' information providers such as the LLHR that openly admitted basing their reports and public letters and statements on information from the NTC, a party to the conflict.⁶⁹ The Chief Prosecutor also repeated publicly NTC claims that later turned out to be false.

⁶⁴ ICC (2011)

⁶⁶ Email Request for information sent by the author to ICC Secretariat Information department and follow up phones

⁶⁷ *Ibid.*

⁶⁷ Groome (2014) p. 9

⁶⁸ *Ibid.* p.11

⁶⁹ The Humanitarian War documentary www.thehumanitarianwar.com

For example, after a meeting with the NTC leadership on June 9, the Chief Prosecutor said there was evidence of Libya acquiring ‘containers of Viagra to enhance the possibility to rape women’ and that Gaddafi himself authorized rape.⁷⁰ In contrast, the ICOI found no evidence sustaining this allegation nor the notion that rape was used by the Gaddafi government as a weapon of war.⁷¹ This was also the conclusions of Amnesty International and Human Rights Watch investigations into the rape allegations, in spite of this NATO leaders and the U.S. government continued to spread these unconfirmed rumours.⁷² The ICOI chief investigator, Cherif Bassuoni classified the allegations as ‘mass hysteria’ suggesting that this was part of the war propaganda.⁷³ These assertions and the earlier mentioned flaws in the OPT approach to the Libyan investigation suggest that the political sphere swamped the human rights arena.

Meanwhile, NATO member states welcomed the news of the arrest warrant as a boost for the legitimacy of the coalition partners’ efforts to oust Gaddafi and as a sign of the dwindling legitimacy as the Libyan leader. The then NATO Secretary General Anders Fogh Rasmussen underscored that the ICC announcement reinforced ‘the reasons for NATO's mission to protect the Libyan people from Gaddafi's forces’.⁷⁴ On the other side, the threat of prosecution boxed the regime into a corner by having provided disincentives for the Gaddafi forces to comply with IHL and undermined the efforts to find a peaceful outcome to the conflict.⁷⁵ In this sense, the ICC indictments caused more harm than good in regard to the protection of the civilian population and contributed to prolonging the civil war in Libya.

Before the approval of the UNSCR 1973 there were significant concerns within the UN Security Council as regards to the intentions behind the resolution. An extract from the UNSC debate on 17 March 2011, demonstrated that many questions remained unanswered prior to the voting. Several

⁷⁰ Bowden (2011)

⁷¹ International Commission of Inquiry report (2012)

⁷² ‘Amnesty questions Libyan mass rape’, New Zealand Herald, 25 June 2011

⁷³ ‘Libya rape claims “hysteria”-investigator’, Herald Sun, 10 June 2011

⁷⁴ ‘Libya: Muammar Gaddafi subject to ICC arrest warrant’ BBC, 27 June 2011

⁷⁵ A recent study concluded that a strong ICC can have a negative effect on efforts to find peaceful and negotiated transition to power in autocracies and deter dictators to peacefully give up their powers. Read more in Nalepa/Powell (2015)

of the nations that supported or abstained in the 1973 resolution debate underscored that the territorial integrity and sovereignty of Libya had to be respected. For example, in his speech, the South African delegate rejected ‘any foreign occupation or unilateral military intervention under the pretext of protecting civilians.’ Furthermore, India observed that there was ‘relatively little credible information on the situation on the ground in Libya.’ Russia, in turn warned that Western powers would be held responsible for any use of excessive use of force that would have severe implications for the civilian population of Libya and a destabilizing effect on ‘peace and security throughout the entire region of North Africa and the Middle East.’⁷⁶ The disagreement between the great powers on how to resolve the crisis in Syria demonstrated that the statement of the Russian representative to the UN wasn’t an empty threat.

c. Last Resort

According to the precautionary principle of last resort, ‘every diplomatic and non-military avenue for the prevention or peaceful resolution of the humanitarian crisis must have been explored. The responsibility to react – with military coercion – can only be justified when the responsibility to prevent has been fully discharged’.⁷⁷

The UNSC resolution 1973 ‘demanded the immediate establishment of a cease-fire’ and stressed the need to find a peaceful solution to the crisis. In the following days and weeks there were a number of serious and credible ceasefire proposals emanating from the Gaddafi camp and from the African Union (AU) that were rejected or simply ignored by the NTC and the NATO coalition members. Two such initiatives, the Gaddafi ceasefire proposals and the AU peace initiative will be analysed below.

⁷⁶ UNSCR 1973 (17 March 2011) debate extract in S/PV.6498

⁷⁷ ICISS (2001) p.36

For the last resort principle to have been applied one would have expected NATO and partner organizations to have explored all diplomatic avenues before taking any military measure to ensure compliance with the UNSC 1973.⁷⁸

The Gaddafi ceasefire proposals 18-22 March 2011

One day after the passing of UNSCR 1973 and establishing a no-fly zone over Libya, the Gaddafi government declared an immediate ceasefire and a halt to all military operations. In a press conference, the foreign minister Mussa Qusa underscored that ‘Libya had decided [on] an immediate ceasefire and stoppage of all military operations (...) and opened up dialogue channels with everyone interested in the territorial unity of Libya’. In that statement, the Gaddafi regime demonstrated a commitment to protect Libyan civilians, and invited the international community to send government and nongovernmental organization representatives ‘to check the facts on the ground by sending fact-finding missions so that they [meaning NATO] could take the right decision’.⁷⁹

Notwithstanding this, the NTC rejected the ceasefire proposal, claiming that Gaddafi forces continued its attacks on Misratah.⁸⁰ In a joint statement the U.S., UK and France responded to the ceasefire declaration from Gaddafi highlighting that a ceasefire had to be immediately implemented, meaning that ‘all attacks against civilians must stop’. In addition, the statement demanded that Gaddafi stop his troops from advancing on Benghazi, pull back his troops from Ajdabiyah, Misratah, and Zawiyah’. Despite the fact that these conditions were not mentioned in UNSCR 1973 or with the NTC, the outright rejecting the ceasefire, would mean giving up a military advantage with no guarantee that the NTC would follow suit. Furthermore, there is no evidence that NATO countries exercised any pressure on the NTC to accept this or any future ceasefire proposals. To the contrary the NTC considered UNSCR 1973 as a military opportunity to turn the tide against Gaddafi with the

⁷⁸ ICISS (2001) p. 36

⁷⁹ ‘Libya calls ceasefire in response to UN resolution’, the Guardian 18 March 2011

⁸⁰ Ibid.

support from NATO countries.⁸¹

At the time of the passing of the UNSCR 1973, Gaddafi had recovered most of the territory lost to the rebels at the onset of the conflict and it is most unlikely that he would have proposed a ceasefire unless he considered external interference as a real risk. Nevertheless, the UNSC Resolution 1973 tip the military balance in favor of the rebels and - in anticipation of NATO bombing – reinforced their will to fight on.

Inside the Obama administration, it appears that there was a split between the State Department and the Department of Defense on how to approach the crisis in Libya. A desk review of the case shows that the Pentagon had serious concerns about the State Departments hawkish approach to the situation in Libya, while the former questioned what was perceived to be the deliberate withholding of information that formed the base of the State Department's analysis. According to research 'distrust was so great that high-level Pentagon officials bypassed the State Department and established a direct line of communication with the Gaddafi regime', as revealed by secret audio recordings of these conversations. then Secretary of State Hillary Clinton refused to accept a call from Saif Gaddafi seeking to find a peaceful solution to the crisis in Libya. At the same time, Clinton urged Pentagon officials to cease all communication with the Gaddafi regime. In one recording a Pentagon official noting that Pentagon officials sited in one recording that 'Secretary Clinton does not want to negotiate at all'.⁸²

Further evidence reveals that the Pentagon even explored, without the knowledge of the State Department, a ceasefire proposal with Gaddafi through the United States Africa Command (AFRICOM) in the early days of the NATO bombings. According to the Washington Times, Army General Carter Ham, then head of AFRICOM, sought to set up a 72-hour truce with the Gaddafi regime. Reports stated that Gaddafi was willing to leave office and facilitate a transition government under the conditions that his inner circle was given free passage and that the Libyan military was

⁸¹ Roberts (2011)

⁸² Shapiro/Riddell (2015)

given the means to eradicate radical Islamists in Libya.⁸³ Nevertheless, this proposal was rejected by the Obama administration.⁸⁴

There is no evidence, however, that the Western powers or the UN for that matter exercised any significant pressure on the armed opposition to consider these initiatives seriously. To the contrary, the NATO countries' response to Gaddafi's ceasefire proposal was to raise the demands without allowing sufficient time for Gaddafi to realistically comply.

The AU Peace initiative

The African Union Peace and Security Council (PSC) was convened on the 23rd of February in 2011 to discuss the Libyan crisis. AU leaders' views of Gaddafi were quite polarized, but they agreed on the need for a negotiated solution to the crisis fearing that the worst case scenario could be the unfolding of Libya and neighboring states, even as seen today five years later. The next meeting of the PSC on March 10 drew up a roadmap for a political solution to the crisis to be initiated by an immediate ceasefire, the establishment of an interim government and free elections.⁸⁵

The AU roadmap had several weaknesses including lacking specifics surrounding Gaddafi's departure as well as vague commitments from member states on staffing the inter-positioning force to monitor the proposed ceasefire.⁸⁶ Nevertheless, if the U.S., Britain, and France had supported this initiative and exercised pressure on the NTC to commit to the plan it would have increased the chances of a non-violent end to the conflict. Instead a flight with the AU High-Level ad-hoc Committee on Libya, scheduled to meet with the Gaddafi and the AU to discuss the roadmap, wasn't authorized by the UN (allegedly for security reasons) and instead marked the day of the implementation of the UNSCR 1973 two days after its approval.⁸⁷

⁸³ Ibid.

⁸⁴ Kuperman (2015)

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ AU High-Level Ad Hoc Committee on Libya (2011)

Recently released emails from former Secretary of State Hillary Clinton, reveal behind the scene diplomatic efforts by the US administration to block the AU initiative. There was significant pressure from the U.S. on then AU Chief Jean Ping, the Ugandan President Museveni, and other African leaders to condemn Gaddafi, support the UN SC resolution and align the AU with the international community, and the Arab League. The exchanges between most State Department officials, including the then senior Director for Multilateral Affairs and Human Rights on the National Security Council, Samantha Powers, and the US Embassies in key countries, also document strong pressure from Washington to not allow for the scheduled AU trip to Tripoli to go ahead for “security and political reasons.”⁸⁸

While it’s far from certain that the diplomatic initiatives promoted by the AU would have been successful, the chances would have been greater had the major NATO members been willing to support these efforts. In the following months, reports conclude that the AU continued to play a constructive role in the efforts to reach a ceasefire and a peaceful end to the conflict. These efforts were mostly welcomed by Gaddafi but automatically rejected by the armed opposition in Libya demanding Gaddafi to first step down prior to any negotiations.⁸⁹

Nevertheless, the attack on Gaddafi’s forces initiated 32 days after the first demonstrations in Benghazi and only 48 hours after the passing of UNSCR 1973. As a comparison following the Iraqi invasion of Kuwait 2 August 1990, the UN Security Council passed three resolutions⁹⁰ before passing the Resolution 678 on 29 November 1990, that gave Iraq two months to withdraw from Kuwait opening up for member states to use "all necessary means" to force Iraq out of Kuwait after the deadline. Operation Desert Storm was initiated 17 January 1991, more than 5 months after the invasion of Kuwait. In the case of Libya, however, significantly less time was allocated to investigate alleged violations of IHL and to exhaust peaceful solutions to the reported internal conflict, before opting for the military option. This is particularly problematic since many of the allegations against

⁸⁸US Department of State (2016)

⁸⁹Kuperman (April 2011)

⁹⁰UNSC Resolution 660 (August 2), condemning the invasion and demanding a withdrawal of Iraqi troops; Resolution 661 (August 6) introducing economic sanctions and Resolution 664 (August 18) establishing naval blockade *Report of the Security Council: 16 June 1990 - 15 June 1991* (Electronic). New York: United Nations. 1993. pp. 30–35

Gaddafi, in hindsight, were exaggerated or false and there was no conclusive evidence to suggest that he intended to massacre the civilian population in Benghazi. Instead, the records indicate that he was open to several cease-fire proposals that could have led to a negotiated and peaceful end to the conflict.

To conclude, U.S. and NATO allies did not explore all diplomatic avenues before taking any military measure to ensure compliance with the UNSCR 1973. To the contrary, their actions and inactions prior to and after the passing of the resolution indicated that they had taken the rebels' side in the Libyan civil war and were supporting a military solution to the conflict.⁹¹ As the analysis of the proportional means principle will illustrate, the no-fly zone objective in the UNSCR 1973 provided the entry point for a military intervention, and that NATO was locked on the goal to remove Gaddafi from power with force from the outset.

d. Proportional Means

The Proportional Means principle stipulates that 'the scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objectives in question'.⁹² This section will assess this aspect by examining the implications of establishing a no-fly zone over Libya from March 2011.

On 23 February 2011, President Obama, while condemning the violence in Libya, informed that he had requested his administration to 'prepare a full range of options' to respond to the crisis.⁹³ Two days later, and as referred to earlier, the FPI letter advocated specifically for a no-fly zone to be established to protect the civilian population. This demand was supported by the U.S. senators Joe Lieberman and John McCain on 27 February and went on further to suggest that the

⁹¹ Wintour/Norton-Taylor (2011).

⁹² ICISS (2001) p. 37

⁹³ 'Obama condemns violence in Libya, asks for 'full range of options'', Washington Post, 23 February 2011.

U.S. government should provide 'arms and humanitarian aid to the anti-Qaddafi government and recognize that government'.⁹⁴

However, both the U.S. Department of Defense and North Atlantic Treaty Organization (NATO) were initially skeptical of the imposition of a no-fly zone over Libya. The seasoned Secretary of Defense, Robert Gates, when warned about the implications of such a plan is quoted as to saying 'Let's just call a spade a spade a no-fly zone begins with an attack on Libya to destroy the air defenses. That's the way you do a no-fly zone'.⁹⁵ Echoing Gates' reservations, Ivo H. Daalder, the then U.S. Ambassador to NATO, underscored that no-fly zones are more effective against fighters, and that the effect against helicopters would be minimal given that the war in Libya was mainly a ground operations in Libya.⁹⁶ Finally, the application of no-fly zones as a measure to protect civilian populations has repeatedly been sited as a failed military approach in places such as Bosnia-Herzegovina (1992-95) and northern and southern Iraq (1991-2003).⁹⁷

Evidence suggest that there were strong reservations on the effectiveness of the application of a no-fly zone to protect civilian populations in the Libya setting. For example, on March 16, 2011, in an open letter to the UNSC on the situation in Libya the reputed International Crisis Group highlighting that the Libyan crisis had evolved into a 'full-fledged civil war' and urged the UNSC to put a stop to the violence and find a political solution to the crisis. The letter also underscored that imposing a no-flight zone, which many have been advocating for would, in and of itself, 'achieve neither of these.' Rather, they argued 'it would not stop the violence or accelerate a peaceful resolution. Nor would it materially impede the regime from crushing resistance'. Reports from the time stated, that 'government forces appear to be gaining the advantage mainly on account of their superiority on the ground, not air power'. And that, 'in short, a no-flight zone under

⁹⁴ Bliss (2011).

⁹⁵ Sanger/Shanker (2011)

⁹⁶ Richter (2011)

⁹⁷ Zenko (2011)

circumstances would not address the threat of mass atrocities it purports to tackle'.⁹⁸ These concerns were later echoed by Brazil in the next days' UNSC debate.⁹⁹

The official objective of the intervention was to enforce a no-fly zone 'in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians'.¹⁰⁰ However, since there was no imminent genocide or mass killing about to take place in Benghazi there was no need to intervene militarily. Also, given that the Gaddafi ground offensive didn't rely on the air force, controlling the airspace would do little to affect the military balance on the ground. However, since the Western powers and NATO had ruled out the use of ground troops to enforce the UNSC 1973, the only entry point for NATO to effectively prevent the imminent defeat of the rebels was through the use of airpower. In this way, the establishment of a no-fly zone wasn't proportional to the threat, but rather as seen by this author as a critical component of the plan to turn the tide of the civil war and remove Gaddafi from power.

Paradoxically, the military strategy that Assad followed in Syria, relied on using aircrafts to carry out the delivery of poison gas and indiscriminate shelling, including with barrel bombs. In this scenario, the establishment of a no-fly-zone would have had an enormous effect in reducing the civilian casualties but given the NATO regime change strategy recently displayed Libya, Russia and China feared that the Libyan playbook would be repeated in Syria and blocked all Western efforts.

e. Reasonable Prospect

Finally, we turn to the precautionary principle on reasonable prospect which alleges that 'military action can only be justified if it stands a reasonable chance of success' which means that 'halting or averting the atrocities or suffering that triggered the intervention in the first place'. In this way, military intervention is not justified if actual protection cannot be achieved, or if the

⁹⁸ International Crisis Group (March 2011)

⁹⁹ Security Council Resolution 1973 (17 March 2011) debate extract in S/PV.6498

¹⁰⁰ UNSC Resolution 1973, paragraph 6.

consequences of embarking on the intervention are likely to be worse than if there is no action at all.¹⁰¹

So what would have happened without NATO's intervention? The neoconservative and liberal interventionists maintain that the intervention in Libya produced far fewer casualties than it would have if the West had stood idly by watching Gaddafi's forces overrun Benghazi. These assertions are counterfactual and thus impossible to prove.¹⁰² However, since the timing of the intervention rested on these assertions, this paper will conduct a counterfactual examination of this critical moment in the Libyan conflict, asking the question, what if there was no foreign intervention, and assess the implications for the protection of the civilian population.¹⁰³

Some proponents of the intervention drew historical parallels and compared the situation in Libya of 2011, to the quelling of the civil rebellion in Hama, Syria in 1982 by the regime of Hafez Assad. In that comparison, which left 38,000 Syrian militants and civilians dead, arguments put forth that dictators like Assad and Gaddafi would take any measure and commit any crime under international law to stay in power. In a similar way, Saddam Hussein's brutal repression of the uprising Shia population in the aftermath of the first Gulf War in 1991 is also used as comparable examples to illustrate the mindset of similar dictators¹⁰⁴ and therefore as an argument in favor of an intervention.

However, in the case of Gaddafi, a close examination of the facts reveals significant difference. By mid-March 2011, it looked as if the tide of the conflict in Libya had turned. The initial progress made by the armed opposition at the end of February and beginning of March had come to an abrupt halt and Gaddafi's forces had regrouped and were for the first time on the offensive. The towns of Zawiyah and Gharian in the west had fallen to Gaddafi and in the east the rebels appeared

¹⁰¹ International Commission on Intervention and State Sovereignty (2001) p.37

¹⁰² Nye (2005)

¹⁰³ Fearon (1991) p. 173

¹⁰⁴ 'Libyan intervention was a success, despite the aftermath's atrocities', the Guardian, 28 October 2011

to be imploding, losing the towns of Surt, Ra's Lanuf, Ajdabiya, almost without putting up a fight to the overwhelming force moving eastwards. On the 18th of March Benghazi's turn was up. The NTC and numerous NGOs warned of an imminent bloodbath in the main opposition stronghold, a premonition that was echoed in the newscast in Paris, London, and Washington DC as well as Al Jazeera.¹⁰⁵

The notion of an imminent massacre in Benghazi was based on two assumptions that will be analysed in more detail below:

Assumption 1: The rebels, faced by overwhelming force, would stay and fight to hold Benghazi.

By the time of the NATO intervention in Libya, Gaddafi's forces had quickly recovered terrain lost to the rebel forces in the initial period of the revolt. The evidence suggests that while Gaddafi loyalist forces advanced quickly into the southwestern suburbs of Benghazi town on 18 March, the civilian population and rebels fled eastwards in the direction of Al Bayda, Tobruk, and the Egyptian border. Benghazi was likely to have fallen shortly thereafter until the French aircraft attacked and halted the advancing government armored vehicles and thereby turned the tide of the conflict.¹⁰⁶ Kuperman estimates that given the pace of the advancing Gaddafi forces, without the NATO intervention, the rebels would have been pushed back to the Egyptian border by the end of April 2011.¹⁰⁷ This might be an optimistic estimate, given the existence extremist Islamic groups among the so-called rebels forces, many with extensive battle experience from Al Qaeda in Afghanistan and Iraq.¹⁰⁸ The evidence suggests, however, that the geographic scope, length, and intensity of the conflict would have been considerably reduced given the military superiority of the Gaddafi forces at the time of the intervention.

¹⁰⁵ Kuperman (2013) p. 113-121

¹⁰⁶ 'Libya: Benghazi about to fall...then came the planes', the Telegraph, 20 March 2011

¹⁰⁷ Kuperman (2013), p. 132-34

¹⁰⁸ WikiLeaks (2015)

Assumption 2: The intentions of Gaddafi were to use all military means, including indiscriminate bombardment without any consideration for the lives and health of the civilian populations to retake Benghazi.

In the United States, the State Department and Pentagon held fundamentally different views on what military strategy Gaddafi would adopt when advancing on Benghazi. While the State Department warned of an imminent massacre of civilians of genocidal proportions,¹⁰⁹ high-level officials in Pentagon believed 'Gadhafi was unlikely to risk world outrage by inflicting large civilian casualties as he cracked down on the rebels based in Benghazi'.¹¹⁰

The authors research shows, that the urgency for intervening in Libya was therefore partly derived from Gaddafi's public statements at the beginning of the war. Gaddafi made several statements that could be classified as aggressive or determined in tone. Some media sources from the time reported Gaddafi as calling the rebels 'rats' and threatening them with the death penalty.¹¹¹ However, as the counteroffensive gained momentum and the rebels left town after town without putting up a fight, these same media sources quote that Gaddafi's public messages became more reconciliatory. For example, two days before the NATO bombing commenced on March 19th, the Libyan leader addressed the rebels of Benghazi and encouraged them to throw away their weapons, 'exactly like your brothers in Ajdabiya and other places did' thus reassuring them that those that laid down their weapons would not be persecuted. This tone of conciliatory messages, in the analyses of the author, displays the confidence and assertion of a person certain of imminent victory preparing for post-conflict reconciliation.

In a separate, but similar, communication aimed at the population of Benghazi on March 17th, Gaddafi warned that his soldiers would be arriving that night and that there would be no mercy shown for armed resistance. Media sources show that he promised on the other hand that 'whoever lays down his weapons' would be pardoned.¹¹² |

¹⁰⁹ 'A tough call on Libya that still haunts', Washington Post, 3 February 2016

¹¹⁰ 'Benghazi Won't Stick to Hillary Clinton, But the Disastrous Libyan Intervention Should', New Republic, 27 May 2015

¹¹¹ <http://www.theguardian.com/world/blog/2011/feb/22/libya-gaddafi-speech-reaction-live-updates>

¹¹² Kuperman (March/April 2015)

Careful analysis of the public articulations of Gaddafi prior to the intervention seem to reflect a leader acutely aware that the attention of the world was focused on. Indeed he seems to have wanted to send a clear message to his people and supporters of the rebels, projecting strength and determination, and at the same time taking care not to provoke a foreign intervention, which he is reported to have feared would be forthcoming.

On March 17th, with his security forces on the gates of Benghazi and rebels on the run Gaddafi was determined to defeat the rebellion with military force. However, there was no evidence, that Gaddafi planned to massacre the civilian populations in the east in the same way as Assad did in Hama in 1982, or with the genocidal intent displayed by the Hutu government in Rwanda in 1994.

On the contrary, prior to the intervention, Gaddafi made significant efforts to avoid civilian casualties. According to Alan Kuperman, in none of the towns retaken by Gaddafi's forces in the period of March 5th through the 15th in 2011 did any massacres on civilians take place.¹¹³ In fact, records show, that efforts were made to limit any negative impact on civilians. Accordingly, in the town of Misrata, during the first two months of the conflict only three percent of the casualties were women and children, suggesting that rather than targeting civilians, the armed forces loyal to Gaddafi made a deliberate effort to avoid causing civilian casualties in the fighting.¹¹⁴

Human Rights Watch (HRW) supports this finding suggesting that at the time of the NATO intervention around 350 protesters had been killed by "indiscriminate fire of government security forces" and did not "rise to the level of indicating that a genocide or genocide-like mass atrocities were imminent."¹¹⁵ Evidence indicates that Gaddafi in both words and military action did not have the intention to target innocent civilians but further, the initial phase of the conflict, tried to avoid excessive civilian casualties. The notion, therefore, that military intervention was necessary to protect civilians from imminent slaughter in Benghazi and elsewhere appears to be based on flawed

¹¹³ Kuperman (2013) p. 112.

¹¹⁴ Ibid. p. 111

¹¹⁵ Gillin (2015)

assumptions and that the military intervention on these grounds was unnecessary. There was no humanitarian imperative to intervene in Libya and as will be argued below, NATO's actions actually had a detrimental impact on the protection of the civilian population and had disastrous short-, medium- and long-term consequences for Libya as a country, the regional stability and relations between the great powers in the international system of states.

Libya: the creation of a new failed state

In the weeks leading up to the UNSC resolution 1973 there were a few divergent voices warning about the potentially disastrous and unintended consequences of a military intervention in Libya. While most NGOs either strongly supported or were remarkably silent in the debate, the earlier mentioned International Crisis Group (ICG) report predicted correctly that a military intervention could 'lead to large-scale loss of life as well as precipitate a political vacuum in Libya in which various forces engage in a potentially prolonged and violent struggle for supremacy before anything resembling a state and stable government are reestablished'. ICG analysts, therefore, recommended the 'facilitation of an immediate ceasefire, deployment of a peacekeeping mission and supporting the AU mediation proposal'. The recommendations were ignored and the predictions turned out to be accurate.¹¹⁶

The intervention instead most likely, prolonged the conflict and thereby inflicted more casualties among both civilians and fighters. One estimate states that at the time of the NATO intervention, the conflict had caused less than one thousand casualties between government security forces, rebels, and civilians. The intervention contributed to extending the conflict until October 21 and increasing the death toll at least sevenfold, while also exacerbating human rights abuses, humanitarian suffering as well as Islamic radicalism.¹¹⁷

Five years after the NATO intervention, the Libyan civil war has spread to every corner of the country. According to UN Support Mission in Libya (UNSMIL), there are now 1700 militia groups with

¹¹⁶ International Crisis Group (2011)

¹¹⁷ Kuperman (2013) p. 133

different religious, political and tribal allegiances who operate across the territory and have contributed to the complete breakdown of law and order. The regime change produced a state of anarchy and has allowed for the proliferation of extremist groups such as the Islamic State to control the central Sirte region, once the stronghold of Gaddafi. As reported by UNSMIL, irregular forces have gained and consolidated control over swaths of territory, 'committing gross abuses including public summary executions of individuals based on their religion or political allegiance'.¹¹⁸

The Regional Spillover of the Libyan crisis

During the 1980s and 90s, the Gaddafi regime committed significant human rights violations and is known to have actively supported international terrorism.¹¹⁹ The Nuclear Threat Initiative (NTI) also reports that it had a program to develop weapons of mass destruction. During that period, one could reasonably argue that the regime represented a presumable threat to international peace and security. By 2011 however, this was no longer the case. As early as 2003, the Gaddafi regime had given up its ambition of acquiring nuclear weapons¹²⁰ and chemical weapons¹²¹, had made an 180 degree turn from supporting terrorist organization to actively endorsing the War on Terror and combating Al Qaeda in particular.¹²² The human rights situation was still serious but as the Human Rights Watch report from 2010 demonstrated, the abuses were mainly focused on older cases, dating back a decade or longer.¹²³

When NATO intervened in Libya in 2011 the United States, Britain, and France focused on securing MANPADS (man-operated portable air defense systems) while largely ignoring the vast stocks of other heavy and light weapons, including 'mortars, grad missiles, anti-tank and anti-aircraft rockets, heavy machine guns and light weapons' in storage sites across Libya.¹²⁴ Since then massive amounts of weapons from Libya have been traced back to looted supplies once stored in Libya which

¹¹⁸ UNSMIL/OHCHR (2015) p.1

¹¹⁹ Libyan involvement in the Berlin discotheque bombing in 1986, Pan Am Flight 103 Bombing in 1988 caused the UN Security Council to impose sanctions on Libya (Resolutions 731, 784 and 883) that was only lifted with UNSC Resolution 1506 in 2003.

¹²⁰ The Nuclear Threat Initiative (NTI) Libya Profile 2015 <http://www.nti.org/learn/countries/libya/nuclear/>

¹²¹ "The Chemical Weapons Convention enters into force in Libya", Organisation for the Prohibition of Chemical Weapons, 2 February, 2004 <https://www.opcw.org/news/article/the-chemical-weapons-convention-enters-into-force-in-libya/>

¹²² Analysis: Blair visit to Libya, CNN May 6, 2004.

¹²³ Human Rights Watch (2011)

¹²⁴ Black (2013)

have fueled conflicts all over Sahel reaching at least 12 countries including Nigeria, Mali, Somalia, and Syria. The spillover effect of the removal of Gaddafi's regime was particularly devastating in Mali,^{125 126} where Tuaregh fighters formerly allied with Gaddafi lead a rebellion that seized the Northern part of the country.¹²⁷ The ICOI report has attributed the weapons proliferation during and after the civil war to the 'collapse of the security apparatus, including the loss of national control over weapons stockpiles and the absence of any border controls' as well as the lack of effective 'disarmament and weapons collection'.¹²⁸

Previous sections have demonstrated that Libya didn't represent a threat to the regional peace and security prior to the NATO intervention and the tragic paradox seems to be found that in spearheading a protection of civilians mandated intervention, NATO reduced Libya to a failed state and contributed to undermining peace and security of numerous countries in the Sahel and beyond.

The fear of repeating the Libyan playbook in Syria

Once it was clear that the Foreign Policy Initiative (FPI) Libya campaign had succeeded, the attention shifted to the unrest in Syria. Several neocons and liberal interventionists argued vigorously for U.S. and NATO intervention in Syria to protect the civilian population.¹²⁹

Syrian Arab Republic became after the war, a prominent destination for Libyan military material., One example of such shipments are reported to have taken took place in September 2012 when a by a Libyan ship delivering 400 tons of military material to the Syrian opposition. It should come as no surprise that some Libyan jihadist fighters also joined the Syrian armed opposition.¹³⁰

¹²⁵ Ibid. p.15-16

¹²⁶ UNSC (2012) p.2

¹²⁷ Kaplan (2014)

¹²⁸ UNSC (2013) p. 24

¹²⁹ See Annex 1

¹³⁰ Sheera (2012)

Furthermore, the outcome of the military intervention in Libya has had a direct bearing on the will and capacity of key stakeholders in finding a peaceful political solution to the Syria crisis. The unlawful killing of Gaddafi in Libya and the similarities of approach from the Western powers to the conflict in Syria sent a clear message to Assad that external powers had no real interest in political solutions to the Syria crisis.¹³¹ Rather, from the beginning, leaders have stated that they wanted him 'gone' and have announced these views shortly after Assad had promised to curtail military and police operations against protesters in August 2011. While Assad, appears to have had no illusions regarding the intentions of the West since the United States, Britain, and France asked him to step down he has simultaneously watched how regime change was being played out in Libya and has hence had few incentives to accommodate the political demands or assume a more moderate approach.¹³²

More importantly, Russia and China, two key members of the UNSC that abstained from UNSC Resolution 1973, seem to have felt betrayed and ignored by the West in spite their explicit warnings against overstepping the UN mandate. From the sidelines, they observed how NATO members - while playing by the book through the joint NATO operations - increasingly and openly supported the armed opposition politically, economically and militarily to bring an end to the Gaddafi regime.

Already in June 2011 the Russian president Medvedev stated that he 'would not like a Syrian resolution to be pulled off in a similar manner [to Libya]'. He further added that Russia would not support a UN resolution on Syria condemning Assad.¹³³ The Russian ambassador to the UN, Vitaly Churkin, later explained the Chinese and Russian veto's on the Western-promoted Syria resolutions as a measure to prevent the new phenomenon of UNSCR 'as triggers' to invade other countries.¹³⁴

Furthermore, the Libya intervention caused a rare public confrontation between the current and former Russian president, Medvedev and Prime Minister Putin. Days after the approval

¹³¹ President Assad Net (2013)

¹³² CNN (2011)

¹³³ Siddique/Owen (2011)

¹³⁴ 'Russia's UN Ambassador sums up the country's positions', Russia Beyond the Headlines, 8 December 2012

of the UNSC Resolution 1973 the latter characterized it as 'defective and flawed' that could lead to 'a clash of civilizations'. When, Medvedev came out strongly and rebuked Putin for using this kind of language¹³⁵ which revealed an unusual public clash between Medvedev and Putin and the tension within the Russian administration on the issue.

Putin's concern about the UNSCR 1973 vote was widely shared within the Russian government. Several members of the Russian foreign policy establishment, including the Russian foreign minister, had been opposed to their government's decision to abstain on the issue of Syria. According to the editor of the journal *Russia in Global Politics*, Fyodor Lukyanov, 'what Libya did was compel a group of people in Russia – the elites and the general public – to say 'never again'.¹³⁶

As a direct result of the Libya intervention, China along with Russia vetoed three UNSCR which called upon the Syrian president Assad to stop 'attacking his own people and to step down as president'. These resolutions were criticized by the Chinese with a justification that they were unbalanced and made largely to target the government while ignoring the rebels, undermining tracks for a political settlement and weaken regional peace and stability.¹³⁷

Since the end of the Cold War, it has been quite rare that any of the permanent members of the UN Security Council to present a veto in the UNSC, let alone on three critical issue related to regional peace and security. Not only did the humanitarian crisis in Syrian dwarf the situation in Libya at the time of the NATO intervention, the Syrian crisis *does* represent a significant threat to international peace and security which merits a much more coherent and decisive international engagement and possibly intervention in the form of international mediation or possibly peace keeping mission.¹³⁸ In the view of the author, the prospect of regime change in Damascus represented a threat to the vital security interests of Russian and China: the fear of loosing an ally and the possible implications for the balance of power in the region motivated their

¹³⁵ 'Medvedev rejects Putin "crusade" remark over Libya', BBC 21 March 2011 <http://www.bbc.com/news/world-europe-12810566>

¹³⁶ Carrol/Lukyanov/Mendras (2012)

¹³⁷ Draft resolution S/2011/612 (4 October 2011), S/2012/77 (4 February 2012) and S/2012/538 (19 July 2012)

¹³⁸ Bennett (2015)

decisions to veto the three UNSCR over Syria. On the other hand, without NATO's intervention in Libya it's likely that Assad, with constructive collaboration from Russia and China, would have been more conducive to find a political solution to the crisis in Syria back in 2011.

Chinese and Russian losses in Libya

Perhaps another reason for the Chinese and Russian fear of intervention in Syria is connected to the financial losses each suffered in Libya as a result of the intervention in Libya. In the years leading up to the intervention, China and Russia were strengthening their political and economic ties with Libya at the expense of the U.S. and European companies and governments. Reporters from the Telegraph, site in a story from 2011 how Gaddafi's canceled deals with Bechtel corporation, valued at USD 1 billion, raised concerns about the ability of U.S companies to access contracts in Libya which in turn caused reneged contracts with British and French firms. Tales of a fallout between Sarkozy and Gaddafi, during a visit to Paris in 2007, where Gaddafi had promised the French President contracts worth USD 14 billion with French companies, provides further support of the financial risks that were in store for countries which invested in Libya prior to the invasion.¹³⁹

Instead, as has been noted, many of the most lucrative oil and non-oil related contracts were given to Russian and Chinese firms. Furthermore, in 2008, Russia and Libya signed major contracts in the areas of energy cooperation, military assistance and the construction of a railway line between Sirte and Benghazi.¹⁴⁰ In addition, prior to the military intervention, Chinese firms had large ongoing contracts with the Libyan government in the energy and infrastructure sectors.

Total losses for Chinese investment as a result of the Libyan conflict has been estimated at approximate USD 20 billion with an additional 36,000 Chinese workers in the oil and

¹³⁹ 'Libya: Sarkozy and Gaddafi before they fell out', in The Telegraph, 19 March, 2011

¹⁴⁰ Volman (2008)

infrastructure sectors having to be evacuated from the country at the onset of the conflict.¹⁴¹

Immediately after the war, the British Prime minister Cameron and the French President Sarkozy traveled to Libya to ensure that their wartime support for the National Transitional Council was translated into contracts for companies from these countries¹⁴² in the post-conflict rebuilding of the country, promises honored by the newly installed interim government.¹⁴³

On top of this, the Libyan intervention effectively removed one of the obstacles to deepening US military cooperation with African countries. The United States Africa Command (AFRICOM) was established in 2007 with the aim, to build defense capabilities, respond to crises, and deter and defeat transnational threats in order to advance US national interests and promote regional security, stability, and prosperity, in concert with interagency and international partners.¹⁴⁴ AFRICOM aim was to establish the head quarter and expand the number of US bases on the African continent.¹⁴⁵ The resistance from African countries, spearheaded by Gaddafi's Libya forced the US to establish the HQ of AFRICOM outside the continent, in Stuttgart, Germany. Gaddafi also used economic leverage to pay off African countries in return for their refusal to cooperate with AFRICOM.¹⁴⁶ After the death of Qaddafi, the main obstacle to AFRICOM/AU cooperation was removed and deployment of troops and joint exercises with African countries flourished, and unofficial AFRICOM bases sprung up across the continent as AFRICOM moved away from a training-intensive program and into the field of 'real-world operations'.¹⁴⁷ In conclusion, the Libyan civil war and the removal of Gaddafi inflicted significant economic and political losses for Russia and China. Conversely, the Western powers participating in the NATO intervention reaped economic, political and military strategic benefits from the intervention.

¹⁴¹ Kan (2014)

¹⁴² Wikileaks (2015) 15 September email from Sullivan to Clinton

¹⁴³ 'Ruin & Rebuild: Warfare worth \$300bln Libya windfall', RT, 15 November 2011

¹⁴⁴ 'About the Command', United States Africa Command, reviewed 11 April 2016 in <http://www.africom.mil/about-the-command>

¹⁴⁵ Stevenson (2011)

¹⁴⁶ 'The imperial agenda of the US's 'Africa Command' marches on', the Guardian, 14 June 2012

¹⁴⁷ *ibid.*

NATO's intervention in Libya didn't meet any of the ICISS precautionary principles and that therefore weakened the constructivist explanation of the intervention. The actual objective, regime change, was largely incompatible with the protection of the civilian population, had a negative impact on regional peace and security, and therefore contributed to weakening the credibility of R2P as a normative standard.

CHAPTER III: The Libyan regime change and NATO's evolution

An alternative explanation of the Libya intervention, is that the crisis opened a power vacuum in Libya, created an opportunity for U.S. and NATO allies to seize and promote regime change and, more importantly, it provided an exercise ground for NATO's evolution to becoming a global security organisation. This critique will demonstrate that China and Russia interpreted NATO's intervention as an effort to contain and roll back China's and Russia's global influence and power. In response to this and in order to balance against the perceived threat from US and allies, the nature of their political, economic and military relationship evolved from that of pragmatic partners of convenience to strategic partners.

a. NATO's organizational and mandate leap

The North Atlantic Treaty Organisation (NATO), founded in 1949, was established as a collective defense alliance which purpose was primarily to counter the threat from the Soviet Union and allies. During the Cold War, the existence of the Warsaw Pact had a disciplinary effect on the members of NATO and the U.S. dominance and leadership was rarely contested.¹⁴⁸ Instead of dismantling the alliance at the pace of the disintegration of the Soviet Union, in the 1990s NATO started an enlargement to the East and military engagement in Bosnia and Kosovo, interpreted as measures to consolidate European security.¹⁴⁹ In recent years, NATO membership has again

¹⁴⁸ Noetzel/Schreer (2009) p. 212-214

¹⁴⁹ Berdal/Ucko

expanded to include the Baltic States, Romania, Bulgaria, Slovakia, and Slovenia, in 2004, and Croatia and Albania in 2009.¹⁵⁰

NATO's New Strategic Concept of 2010 projected a comprehensive approach to all phases of conflict to address geopolitical instability in coordination with new strategic partners, including the UN and regional organizations.¹⁵¹ This new strategic direction in NATO coincided with the announced shift in the grand strategy of NATO's dominant member, the United States, from Europe to Asia. This latter move raised serious concerns about the future of the alliance and the implications for the collective defense of Europe.

Internally NATO was struggling with a process of accelerated disintegration caused by, among other issues the lack of a common external threat perception. There was also evidence of a deepening rift among the members on the future of the organization and its priorities, reflected in the growing difference in interests among its members¹⁵² and the growing mismatch in defense capabilities between the U.S. and the European members of NATO.¹⁵³

These changes gradually transformed the alliance into a multi-tier security forum. The Anglo-Saxon tier in NATO which envisioned an expansion of the geographical and thematic scope of the alliance "combating the proliferation of nuclear, biological and chemical weapons" and at the same time taking on a more prominent role in global security. In the U.S. strategic thinking, the enlargement of NATO was considered an important instrument in strengthening liberal democracies that were "potentially under threat."¹⁵⁴

Germany and France, for their part, were concerned with the risk of alienating major powers like Russian and China, advocated to maintain the *status quo* and strengthen the European perspective of the alliance by developing further European Security and Defense Policy (ESDP) as a counterbalance to the prevalent American Grand strategy.¹⁵⁵ France was initially reluctant to put the

¹⁵⁰ A short history of NATO <http://www.nato.int/history/nato-history.html>

¹⁵¹ Ibid.

¹⁵² Noetzel/Schreer (2009) p.212

¹⁵³ Berdal/Ucko

¹⁵⁴ Noetzel/Schreer (2009) p. 215

¹⁵⁵ Ibid. p. 217

Libya operation under NATO command and control,¹⁵⁶ hoping that Paris would exercise greater influence if the operational direction of the intervention remained outside the fold of the alliance.¹⁵⁷ Sarkozy was forced to concede after pressure from both the U.S. and Great Britain,¹⁵⁸ with influence from the neocons and liberal interventionists also advocated vigorously for the Libya intervention to be placed under a NATO umbrella.

The NATO intervention in Libya effectively split the status quo group. France sought an alliance with Great Britain, and abandoned, at least temporarily, the efforts to pursue a foreign policy independent of NATO and both these countries boosted their military credibility within NATO.¹⁵⁹ Germany, concerned about this changing balance of power in Europe, proceeded to strengthen the bilateral relationship with the U.S. and subsequently the globalist vision in the alliance.¹⁶⁰ Although some NATO members opposed the military engagement in Libya, the Anglo-Saxon tier's globalist power projection line came out strengthened. As demonstrated in the previous sections, NATO's actions in Libya and fears about the future intentions of the alliance changed the strategic nature of the Sino-Russian partnership. The growing mutual suspicions and political clashes between the two camps over Syria and later on in Ukraine has further reinforced the polarization towards bipolarity of the international system.¹⁶¹

The father of neorealism Kenneth Waltz, on the other hand, warned as early as the 90s that the expansion of NATO to the South and East was bound to undermine the prospects for liberal democracy to establish roots in the Russian society, and raised concerns about the ultimate intentions behind such intrusion in the Russian sphere of influence, predicting that these moves would force the Kremlin to look towards the East and South to garner support.¹⁶² In the neorealist perspective, institutions and alliances such as NATO reflect the interests of the dominant power and

¹⁵⁶ Embassy of France in London (2011)

¹⁵⁷ Muller (2015) p. 26

¹⁵⁸ 'David Cameron's Libyan war: why the PM felt Gaddafi had to be stopped', The Guardian, Sunday 2 October 2011

¹⁵⁹ Barry (2011)

¹⁶⁰ Fenenko (2016)

¹⁶¹ Ibid.

¹⁶² Waltz (2000)

NATO's evolution simply reflects the U.S. desire to maintain and direct 'the foreign and military policy of European states.'¹⁶³

b. NATO and Burden-sharing

The question of 'burden sharing' within NATO is as old as the alliance itself, but this issue became more urgent with the predicted reduction in the relative power of the U.S. and the 'pivot to Asia' in order to contain China's rise to become a regional hegemon. The European members of NATO had to step up their investment in and contribution to NATO operations in order to reduce their dependency on US military support to retain a credible collective defense of Europe.

From the US perspective, the Libyan crisis was an opportunity to boost the level of troop and military asset contribution of the European members in NATO operations,¹⁶⁴ and reduce the number of free-riders (buck-passers) within the alliance.¹⁶⁵ Involving NATO would also allow the U.S. to exercise a strong level of control over the operation even after pulling back its strike aircraft.¹⁶⁶ Finally, a successful intervention in Libya could help improve NATO's reputation and serve as something of a balm for the wounds the Alliance had suffered in Afghanistan and over Iraq. As one senior U.S. official put it, 'there is no such thing as an opportune war, but it was a very opportune time for a war in NATO.'¹⁶⁷ France and Great Britain for their part were eager to be seen as the most loyal supporter of the NTC from the start, and the U.S. considered the strategic organizational objectives of the intervention equally, if not more important than removing Gaddafi from power.¹⁶⁸

In the end, Libya did all of the above, including positioning NATO as a global security alliance with power projections beyond Europe and strengthening strategic military engagement

¹⁶³ Noetzel/Schreer (2009) p. 216

¹⁶³ Waltz (2000) p. 24

¹⁶⁴ Ibid. p. 36

¹⁶⁴ Daadler/Stavridis (2012) p. 6

¹⁶⁵ Goldberg (2016)

¹⁶⁶ Muller (2015)

¹⁶⁷ Ibid.

¹⁶⁸ Engelbrekt (2014) p.31

¹⁶⁸ 'Sarkozy threatens Libya air strikes', Africa Defense Journal, 11 March 2011

with non-members, like Qatar and UAE, in line with the Mediterranean Dialogue and Istanbul Cooperative Initiative.¹⁶⁹

Officially NATO didn't take sides in the Libyan conflict. Outside the NATO framework, however, some members established political and military bonds and engaged in military activities, such as the "provision of logistical support, advisers, forward air controllers, as well as intelligence operatives, damage-assessment analysts and other experts" to the rebels, that ensured their victory in the civil war.¹⁷⁰ Qatar, for example, a non-NATO member integrated into the Unified Protector operation, and also deployed Qatari special forces to train and equip rebel forces in Benghazi and Nafusa mountains in North-Eastern Libya.¹⁷¹

From Washington's perspective, the Libya intervention was a partial success. Although the the intervention prolonged a civil war that in five years reduced Libya from the most prosperous country in Africa (though with serious unresolved human rights issues) to a failed state, the planning, and execution of the intervention contributed to addressing some of the major internal and organizational weaknesses of the alliance. More European members of NATO participated actively in the military response and assumed greater leadership and provided more resources than before. Furthermore, several non-NATO members, participants in the Mediterranean Dialogue and Istanbul Cooperation Initiative contributed substantially to the regime change objective while formally operating outside the NATO framework and beyond the UN mandate.^{172 173}

While NATO before was an instrument to apply 'American power and vision to the security order in Europe',¹⁷⁴ the Libya operation in 2011 exemplified the evolution of NATO's potential to mobilize European and allies in the Middle East and North Africa. The missions efforts extended US

¹⁶⁹ Engelbrekt (2014) p. 25

¹⁶⁹ NATO's Mediterranean Dialogue and Istanbul Cooperation Initiative are forums for political consultations and practical cooperation, which includes a bilateral and a multilateral component and involves countries of the Mediterranean area and the broader region of the Middle East. Read more in "NATO's Mediterranean Dialogue & Istanbul Cooperation Initiative", 9 February 2012, retrieved 14 April 2016 from http://www.nato.int/cps/en/natohq/to_pics_59419.htm?

¹⁷⁰ Engelbrekt/Mohlin/Wagnsson (2014) p.32-35

¹⁷¹ Ibid.

¹⁷² Daadler/Stavridis (2012) p.4

¹⁷³ Wilson (2011)

¹⁷⁴ Dadler/Stavridis (2012) p. 6

¹⁷⁴ Kornblum (1994) p. 14

power projection beyond Europe. When the U.S. and allies tried to reproduce the Libyan style intervention in Syria, 'calling on Syrian President Bashar al-Assad to step down',¹⁷⁵ they overreached and met with a wall of resistance from China and Russia.

Chapter IV: China and Russia: from pragmatic partners of convenience to strategic allies

One unintended consequence of the intervention in Libya was to shift the relationship between Russia and China, from that of a pragmatic partnership of convenience to a strategic partnership forged to counter balance the perceived imminent threat from NATO.

Libya wasn't part of Russia's or China's traditional sphere of geo-political influence, however, and as argued in the previous section, the intervention in Libya reinforced fears in both Moscow and Beijing about the perceived malicious intentions behind the expansion of NATO as an instrument of asserting power for U.S. and allies,¹⁷⁶ at the expense of the strategic influence of Russia and China. From the research, the 2011 Libya intervention marked a watershed in the Russian and Chinese military doctrines and created a strong strategic cooperation between the two powers.

a. Changes in the Russian Military Doctrine

The NATO intervention in Libya contributed to a significant shift in the Russian military doctrine. The 2010 Russian military doctrine identified as the primary external threat NATO's '*desire*' to assume global functions at the expense of international law and expanding the alliance and move military infrastructure closer to the borders of Russian Federation.¹⁷⁷ The 2014 doctrine,¹⁷⁸

¹⁷⁵ 'US followed the same playbook in Syria', CNN, 18 August 2011

¹⁷⁶ BBC Worldwide Monitoring (2010)

¹⁷⁷ Ibid.

¹⁷⁸ BBC Worldwide Monitoring (2015)

concluded that these threats were no longer just a NATO 'desire' or ambition but an unfolding reality, an 'action already underway'.¹⁷⁹

The second main external military threat identified in the 2010 Russian military doctrine was 'the attempt to destabilize the situation in individual states and the regions and to undermine strategic stability'.¹⁸⁰ Four years later the term 'attempt' was replaced by the assertion that the destabilization of 'certain states and regions' was underway 'undermining global and regional stability.' Further down in the document, the doctrine refers to the toppling of legitimate governments and subsequent imposition of regimes inimical to Russian interests.¹⁸¹ The danger had thus become a real and immediate and with the changes in the language attributed by some foreign policy analysts to the recent events in Libya, Syria and Ukraine, and foreign force deployments close to Russia.¹⁸²

b. Changes in Chinese military doctrine

China's foreign policy prior to 2011 was primarily oriented towards economic development, the promotion of the principles of the protection of states sovereignty and that of non-interference. China was careful to apply these principles and approaches to their dealings with other countries.

In 2011, the Deng Xiaoping's foreign policy doctrine of keeping a low profile was replaced by a more assertive global activism.¹⁸³ A Chinese white paper in 2012 raised serious concerns about 'hegemonism, power politics, and neo-interventionism' contributing to a slowdown in the shift towards a globalized, multipolar world and a slowdown in China's ability to close the power gap with the United States.¹⁸⁴ This language reflected a sharp negative turn in the assessment of the global situation compared to the 2010 white paper.¹⁸⁵

¹⁷⁹ Ibid. p.16-17

¹⁷⁹ Oliker (2015)

¹⁸⁰ BBC Worldwide Monitoring (2010)

¹⁸¹ Ibid.

¹⁸² Trenin (2014)

¹⁸³ Xuetong (2014)

¹⁸⁴ Hartnett (2013) p. 3

¹⁸⁵ Xinhuanet (2011)

Furthermore, the 2012 Chinese white paper mentioned for the first time how military force can support Chinese development objectives.¹⁸⁶ This change can probably be attributed to the significant economic and political losses incurred in Libya and as a risk mitigating strategy for major Chinese investments on the African continent and beyond.¹⁸⁷

c. From pragmatic partners of convenience to strategic partners of necessity

2011 also marked a significant shift in the relationship between China and Russia.

A Stockholm International Peace Research Institute (SIPRI) study on the Energy and Security relations between China and Russia characterized the cooperation between the two countries prior to 2011 as that of 'pragmatic partners of convenience, and not as partners based on deeper shared world views and strategic interests'. The Chinese tended to perceive Russian officials and decision makers as driven by fear of a Chinese threat in Central Asia and the North East, causing Russia to gravitate towards Europe. The study even suggested that an open conflict between the two powers were inevitable. Finally, SIPRI observed that the two countries were divided on how to 'restrain U.S. power without causing harm to their own bilateral relationships with the United States',¹⁸⁸ concluding that the energy and security cooperation between Russia and China would continue to diminish after 2011.

In reality, the opposite happened. By the end of 2011, the Sino-Russo cooperation in energy, security and economics had improved significantly and political decision-makers and public officials of the two powers started to consider their mutual collaboration as a counterweight to the increasing assertiveness of the U.S. hegemony in world politics.¹⁸⁹

¹⁸⁶ Chinese White Paper (2012)

¹⁸⁷ Ibid.

¹⁸⁸ Jakobsen/Holtom/Knox/Peng (2011)

¹⁸⁹ Shambaugh (2011) p. 11

Beijing now perceived Russia as an important strategic economic, political and security partner, a necessary ally to meet the growing geopolitical threat from the US and allies in South East Asia and Eastern Europe.¹⁹⁰

The changes in the Chinese and Russian perception of the U.S. threat changed with the NATO intervention in Libya and are reflected in the changes their respective military strategic plans and political statements.

¹⁹⁰ Ying (2016)

Chapter IV: The R2P: new instrument in the great powers' toolkit?

The marriage between liberal interventionists and neoconservatives reflected a confluence of interests and objectives of two opposing forces in American politics. The liberal interventionists and R2P advocates, including some of the authors of the ICISS report in their eagerness to field test the responsibility to protect norm and blinded by the victory of the prominence given to this norm in the UNSC 1973 failed to critically analyse the precautionary principles and relate them to the Libyan reality. Only in the aftermath of the intervention did some admit weaknesses but only that the coalition hadn't done enough to prevent or rebuild Libya after the fall of Gaddafi through the provision of political, economic, military and institutional support in the post-conflict transition.

The neoconservatives, on the other hand, had their eyes set on the future threats to the US hegemony, China/Russia and the need to preempt a showdown before they have grown too large, recognizing that US depends on NATO allies to amass enough economic, political and military power to effectively balance against these countries.

The Libyan armed opposition was an important source of information on alleged crimes committed by the Gaddafi regime during the Libyan uprising and civil war. These allegations were amplified and promoted by networks of U.S. funded NGOs and think tanks and used as evidence, without any critical fact checking, to justify UN endorsed sanctions, legal prosecutions and military intervention that paved the way for a regime change in Libya.

The intervention had disastrous consequences not only for the Libyan society, the regional peace and security and the global security climate. The R2P framework is now, in the eyes of the opponents to the intervention, such as China and Russia, perceived to be nothing more than a

chapter in the U.S. foreign policy toolkit. Therefore, when NATO allies tried to apply the Libya playbook in Syria they met robust resistance.

Many constructivists considered the protection of civilians objective in UNSCR 1973 as an important benchmark in the evolution of the international system of states beyond the state of anarchy towards a situation where states are being held accountable for providing protection for its subjects by the UNSC and other member states. The silence of the R2P advocates, in the face of the mission creep from population protection to regime change, raises serious questions about their independence from great power politics and appears to have been part of a Faustian bargain.

The intervention in Libya, however was avoidable. Powerful states assess the political costs and benefits prior to engage militarily¹⁹¹ and even after the global pro-intervention campaign documented in this essay, the U.S. decision to intervene was a close call. A 51-49 decision according to the US Secretary of Defence at the time Robert Gates.¹⁹² We also know that Russia and China considered putting down a veto until the last moment.

The dissertation documented that only one international NGO, the ICG, critically questioned including the establishment of a no-fly zone in UNSCR 1973 and suggested to exhaust non military measures before engaging militarily in the conflict. While the UN was largely subservient to the dictate from the large western powers, a few well-placed press releases and high level advocacy from NGOs prior to the 17 March vote could have tipped the scale towards a more cautious way forward in DC, Paris and London. More balanced analysis could also have induced Beijing and Moscow to modify the UNSC Resolution 1970 and 1973, placing a veto in the UNSC as a measure of last resort. Instead the proponents of the intervention had their way and with the absence of any significant opposition, the short-term political costs for undertaking the operation in Libya was minimal.

¹⁹¹ Mearsheimer (2001) p. 147-152

¹⁹² Becker/Shane (2016)

Conclusion: The game-changing return to great power confrontation

This dissertation has argued that the Libyan crisis didn't represent an immediate threat to the U.S. or European countries' vital national security interests. The conflict was an opportunity to remove a leader with visions of an independent Africa. More importantly for the U.S., however, it represented an opportunity to strengthen NATO burden sharing and strategic direction as a global security organization, which was critical to addressing U.S. medium- and long-term national security threats. After the intervention, NATO was arguably better prepared to balance against the 'rising and resurgent powers' of China and Russia before these two rivals acquire the military capability to challenge the hegemony of the U.S. or to dominate their respective regions.¹⁹³

Constructivism considers NATO as an alliance of Western liberal democracies bound together by common values and norms and that one of these norms, R2P, informed the decision to intervene in Libya.¹⁹⁴ Neo-realists, on the other hand, would interpret the intervention as a rational decision based on relative gains and concerns over the implications for the balance of power.¹⁹⁵

The offensive realism branch of neorealism provides the best explanation for the causes and effects of the intervention in Libya: the regional hegemon of the Western hemisphere, the United States, were perceived to take action to prevent any other power in the world from getting the similar status.¹⁹⁶

Leading constructivists view humanitarian catastrophes and human rights crisis as opportunities for rebirth, transformation and reconstruction of nations¹⁹⁷ and fortuitous entry point in the spiral of human progress. In order to achieve this the destruction and disintegration of the existing societies is sometimes necessary. This case study of the intervention in Libya has demonstrated that those ideas are sometimes literally paving the road to hell.

¹⁹³ Mearsheimer (2001) p.14

¹⁹⁴ Schimmelfennig (1998) p. 210

¹⁹⁵ Ibid. p.198

¹⁹⁶ Mearsheimer (2001) p.34

¹⁹⁷ Slaughter (2011)

For the U.S. the intervention in Libya was an opportunity to shape NATO as its global power projecting tool to increase its relative power at the expense of opposing alliances. Russia and China, having incurred significant economic and political losses as a direct result of the invasion, observing how NATO transgressed the UN mandate and new government contracts were shared among NATO member states after the war, interpreted the intervention, and current and future events in places like Syria and Ukraine as a rebalancing effort with the aim to contain China and Russia.

Confronted with this display of unbalanced U.S./NATO power and with greater certainty on the intentions behind the intervention and the U.S. global strategy, China and Russia realized that they had to meet this challenge and strengthen their partnership 'to bring the international distribution of power into balance.'¹⁹⁸ In the view of the author, the intervention in Libya, therefore, represented a game changer in the relationship between great powers in the sense that it triggered a return to great power confrontation.

¹⁹⁸ Waltz (2010)

