The Politics of the United Nations and the Reality of Responsibility to Protect: The Case Study in Libyan Crisis

Wisdom Iyekekpolo* Professor O.J. Offiong

Department of Political Science, University of Benin, Edo State Nigeria.

*E-mail of the corresponding author: eyewyz@yahoo.com

Abstract

There has been intense debate on the appropriateness of interventions in sovereign states. This has resulted in a divide which has pitched those in favour against those against intervention. In a concerted effort to resolve the differences and enhance the protection of civilian populations in times of conflict, the World leaders in 2005 adopted the doctrine of Responsibility to Protect (R2P) which seeks to reconceptualise/redefine intervention and sovereignty as that of responsibility or duty to defend a population. The first resort to R2P by the United Nations Security Council (UNSC) was in its resolution 1973 which was aimed at protecting the civilian population caught-up in the violence that erupted in Libya in 2011. The UNSC resolution 1973 and its implementation in the 2011 Libyan crisis has been a test case for the doctrine of Responsibility to Protect. It is therefore important to use it as a case study in determining if humanitarian intervention in sovereign state is possible without undermining the sovereignty of the state; the possibility of intervening state(s) using R2P as a platform to promote self-interest; and finally, the continued perpetuation of unprecedented human right abuses, war crimes, genocide, ethnic cleansing and crimes against humanity under the covering of sovereignty.

The research examines recent NATO led intervention in Libya with a view of ascertaining its intent and appropriateness, traces the origin and pillars of R2P then, further examines its implementation in the 2011 Libyan crisis with the objectives of determining its appropriateness and its level of success if indeed it was successful. Finally, the research examines if politics in the Security Council enhances or impedes the implementation of R2P and what the future holds for the doctrine. The work in its propositions assumed that the members of the UNSC advance their national interest in implementing R2P and that the UNSC's prompt intervention in Libya was driven by a regime change agenda. The methodology adopted in gathering and analysing data in this work is the historical methodology and the secondary sources of data collection were employed.

In conclusion, this work supports the recourse to the doctrine of Responsibility to protect in the 2011 Libyan crisis as it adjudges it appropriate. It also adopts as necessary the NATO's rise to the challenge of implementing the Security Council Resolution 1973. The work argues that the intervention in Libya was a success as the protection of the civilian population from impeding mass slaughter in the hands of the Ghaddafi-led regime was averted. The research also submits that the United Nations Security Council did not engage in the form of politics that could have endangered the continued relevance of the doctrine of R2P. In its final recommendations, this research advises that R2P as was approved in 2005 is appropriate though with a little fine-tuning in the basic strategy of military engagement in conflict area. It urges the International community to ensure its continued existence and relevance therefore the adoption and implementation of the Responsibility to Protect must be devoid of all forms of United Nations politics. The protection of civilian population in any crisis must be done primarily with humanitarian interest in focus.

Keywords: Responsibility to Protect, United Nations, Libya, Humanitarian Intervention

1. Introduction

The United Nations came about primarily to maintain and check threats to international peace and security (UN Charter, 1945:1) after the sorrow and anguish of World War II. Its creation was a deliberate attempt to ensure that World War II was the end of total war. The United Nations charter further provides procedures to handle any international dispute or friction to check its escalation. This is contained in Chapters VI and VII of the charter. The UN charter further upholds the sovereignty of all its member state in article 2 No 7 by asserting that

nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state but in the case of threat to international peace, articles 41 and 42 permits the United Nations Security Council to take measures to maintain or restore international peace and security. Despite these provisions, the post cold-war era witnessed unprecedented mass slaughter and atrocities in Somalia, Rwanda, Bosnia and other affected countries.

While the UN charter concentrated on inter-state conflicts, the 1990s witnessed brutal intra-state conflicts. So Political scientists and Legal theorists began to discuss humanitarian intervention as necessity in the face of intrastate violence (Auger 2011:85). The crisis, war and intervention in Kosovo and East Timor heightened the debate on humanitarian intervention and state sovereignty. While the debate on intervention and sovereignty continued, the then UN Secretary-General, Mr Kofi Annan raised fundamental questions on existing norms based on sovereignty and non-intervention. Referring to the precedents of Rwanda, Kosovo and East Timor; he asserted that each has either shown the consequence of inaction or lack of unity of the international community in the face mass murder (Auger 2011:86). The Canadian governments in response to this call by the UN Secretary-General provided the International Commission on Intervention and State Sovereignty (ICISS) report on the doctrine or principle of Responsibility to Protect.

The ICISS led by Gareth Evans attempted to change the dynamics of the debate by reframing the issue not as a Right to intervene but as a Responsibility to Protect. This doctrine of responsibility to protect was approved at the World Summit of 2005. The doctrine rest on 3 pillars:

Firstly, it is the primary responsibility of states to protect their own population from genocide, war crimes, ethnic cleansing and crime against humanity;

Secondly, the international community has the responsibility to assist the state in meeting those responsibilities;

Thirdly, the international community has a responsibility to take timely and decisive actions in cases were a state has manifestly failed to protect its own population from these crimes (Court 2011:6).

The doctrine of Responsibility to Protect (R2P) was invoked by the UNSC on March 17 by the adoption of Resolution 1973 which "authorizes member states ... to take all necessary measures, to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya..." (Blanchand, 2011:13). The application of R2P in Libya has been one of the few implemented cases since 2005.

2. Objective of the study

This study basically intends to review the emergence of R2P and its implementation in the Libyan 2011 crisis. In the course of the review, the paper will

1. examine if the implementation of R2P in Libya was appropriate;
2. examine if the NATO-led intervention in Libya was appropriate;
3. determine if the implementation of the responsibility to protect (R2P) in Libya was done as required, specified and in accordance with the principle/doctrine as approved by the UNSC resolution 1973;
4. to establish if R2P implementation in Libya was successful or not;
5. to find out if the politics in the UNSC and the UN in general enhances or impedes the implementation of R2P; and lastly,
6. to ascertain the present state of R2P, predict its future and suggest way forward for the doctrine.

3. The emergence of the doctrine of R2P

The 1990s saw an increase in the calls for the international community to provide for and protect populations displaced in the own countries. The views of the likes of Javier Perez de Cuellar, Francis M. Deng, Boutrous Boutrous-Ghali, Kofi Annan, and others helped to point out the limitations of Sovereignty in International law, its consequences on the rights of a population and the need for humanitarian intervention in cases of massive human right violations. The issue of humanitarian intervention became a key one in international relations, but its implementation was very difficult as the early post cold war era saw a UNSC that was reluctant to issue any resolution that will be deemed as a violation of State sovereignty (Murithi 2007:15).

In the face of UNSC reluctance to authorize humanitarian interventions, the former Secretary-General of UN, Kofi Annan made compelling appeals in the 1999 UN General Assembly and the 2000 millennium summit, for the International community to reach a consensus on resolving the dilemma of humanitarian intervention (Amneus 2008:12). In response, the Canadian government, on the initiative of the Foreign Minister Lloyd Axworthy, established the International Commission on Intervention and State Sovereignty (ICISS) in September 2000 (Amneus 2008:13). The ICISS was co-chaired by former Australian Foreign Minister Gareth

Evans and Mohamed Sahnoun, a UN diplomat. Financing was done by Canada and the Carnegie and McArthur Foundations. The mandate of the ICISS was basically to look into the legal, moral, operational and political debate on humanitarian intervention (Amneus 2008:13). After several discussions, meetings and consultations around the world, the ICISS released a report titled The Responsibility to Protect in December 2001 (Madokoro 2011:5). The report attempted to proffer an answer to the fundamental questions posed by Kofi Annan in 1999 and 2000 thus, "if humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica to gross and systematic violations of human rights that affect every precept of our common humanity?" (http://www.un.org/bgresponsibility.shtml).

Bogliolo (2009:22) in his essay 'The Responsibility to Protect and the legality of using force' writes that the commission's main achievement was the re-conceptualization of Sovereignty as implying Responsibility. The ICISS attempted to cause a change in perspective and language of humanitarian intervention from right to intervene to responsibility to protect; therefore dousing the tension and debate that had engulfed it. After initial delay, world leaders unanimously adopted R2P at the 2005 World Summit (Madokoro 2012:5), with a further reaffirmation by the UNSC Resolution 1674 in 2006 (Teitt 2008:3).

4. Literature review

In a research of this nature, it is imperative that a proper review of related literature be done. On this basis, two different scholarly perspectives of the doctrine of Responsible to protect will be reviewed then a further review of literature on scholarly essays on Humanitarian Military Intervention in Libya.

5. Responsibility to Protect

Literature on the doctrine of Responsibility to Protect has been basically focused in two main issues which are State sovereignty and Humanitarian intervention. There is an intense controversy and correspondingly, a large body of literature about whether (and if so, when) humanitarian intervention is legal and/or legitimate under international law provision (Sarbu 2009:8). This debate is predicated on State sovereignty which is often traced back to the Peace Treaty of Westphalia in 1648. Sovereignty guarantees a States territorial integrity, border inviolability and the supremacy of the state (http://www.en.wikipedia.org/wiki/sovereignty). This is reemphasized in the United Nations charter, article 2, # 7.

The debate has those who believe that the international community has a responsibility to intervene in the internal affairs of a State in conflict to avoid escalation and maintain international place but on the other side of the debate are those who hold strongly to the Treaty of Westphalia guaranteed State sovereignty. In the presentation of this debate, attempt will be made to fit the perspectives into the two dominant International Relations schools of thought. These are the Realist and the Idealist schools of thought.

6. Realist perspective

The realists postulate that power is the basis of international relations and that State only act in national interest. On this basis the realists argue against intervention that is only justified for humanitarian purpose. The international system is portrayed as a brutal Arena where States look for opportunities to take advantage of each other and therefore States are suspicious of each other. States are in constant struggle for power where each State strives not only to be the most powerful actor in the system but also to ensure that no other State achieves that of position (Mearsheimer 2006:571). Realists recognize that States sometimes operate through institutions (Mearsheimer 2006:572); however they believe that rules governing humanitarian interaction and doctrine like the responsibility to protect are designed in self interest either to maintain or increase its power. The Realists assumptions denotes therefore that intervention in sovereign state is never entirely humanitarian but in the self interest of the intervening state in an attempt to either maintain or increase their power and sphere of influence. They see the responsibility to protect as a justification used as a cover for selfish national interest of powerful States in seeking to maintain or increase their power base. Macfarlane et al in their 2004 work The Responsibility to Protect: Is anyone interested in Humanitarian intervention? It attempted to categorize the realist's opposition to humanitarian intervention into four groups. Firstly, those who argue that the responsibility to protect has the potential to divide the world into civilized and uncivilized zones and promote a return to semi-colonial practices in the latter. Secondly, those who are uncomfortable with the case-by-case decision making procedure. They argue that this raises the matter of selectivity and arbitrary application, which affects legitimacy. They further view the UNSCs jurisdiction of where to and not to intervene as a conspiracy by an elite group of Western powers to sit in judgment of their own actions. Thirdly are those who propose a return to the good old days - when the International Committee of the Red Cross formed the highest level of intervention. The

fourth group is the refugee and advocacy organizations that envisage self interest and politically guided interpretation of responsibility to protect in its application to the rights of refugees.

Realists argue that any intervention even when coated with humanitarianism directly breaches the UN charter and could lead to abuse. This is based on the realist assumption that all States even an intervening States(s) only pursue its national interest (Guraziu 2008:4). Lan Brownlie argues that humanitarian intervention, on the bases of all available definitions, would be an instrument wide open to abuse a rule allowing humanitarian intervention is a general license to vigilantes and opportunists to resort to hegemonial intervention (lan Brownlie Quoted in Rudi Guraziu 2008:4). In the same vein, Bellamy and Wheeler (2005:560) in their essay Humanitarian Intervention in World Politics highlights some of the realist views. These are that States almost always have mixed motives for intervening and are rarely prepared to sacrifice their own soldiers overseas unless they have self interested reasons for doing so. Realists therefore believe that humanitarian intervention cannot be free from the national interest of the intervening State(s). They further argue that States should not shed the blood of their citizens for foreigner in crisis on moral ground. Bellamy and Wheeler (2005:561) further points out that the national interest that guides States behaviour according to realism without doubt cause selective responses to humanitarian intervention as States will only intervene in crises that they have interest. Also, humanitarian intervention is prone to abuse as intervening States only use it as a means of achieving their national self-interest.

7. Idealist Perspective

Idealists argue that it is important and a moral duty for State(s) to intervene in another State with the aim of protecting civilians from genocide, ethnic cleansing war crime and crime against humanity. They argue that State sovereignty bestows on a State the responsibility to protect its citizen and in the event of a State's failure with regard to this responsibility, it then losses its sovereign right (Bellamy & Wheeler, 2005:558). Sarbu (2009:20) writes that it seems utterly simplistic and unjust to reduce humanitarian operations to a function of national interests, security concerns and material capabilities Sarbu in developing this Idealistic perspective emphasizes two points which are the Moral consideration and Economic interdependence. Under the moral consideration, it is argued that the United Nations humanitarian intervention will occur out of the intrinsic will of United Nations democratic members to address different forms of global disorder, remove human rights violations, atrocities and large scale suffering all across the world (Sarbu 2009:22). Some of the likely triggers for this moral consideration include the media or the so called CNN effect and membership of the same International organization. Under the Economic interdependence it is argued that in explaining the occurrence of UN humanitarian intervention, not only political institutional and moral considerations can take prevalence over security, military or strategic interests, but also economic reasons (Sarbu 2009:23). The main assumption here is that States with significant economic relations are more likely to assist each other in times of internal conflict, i.e. the economic interest of a State can prompt it to intervene in another. This is more like an interest driven intervention which is the realist position.

Idealists uphold what they refer to as natural law which is proper behaviour known by reason and it is binding on all rational beings. The most important of this natural law is the natural right which accrues to all human merely by being humans. Natural law recognizes the right of sovereigns to use force to uphold the good of the human community, particularly in cases were unjust injury is inflicted on innocents (Seybolt 2007:8). This holds therefore that humans have the responsibility to assist other human who are being treated unjustly. This is so because they are also humans. The idea of natural law persisted as the basis for reasoning on the legitimate use of force (Just war) until the treaty of Westphalia of 1648, which brought the thirty years war to an end (Seybolt 2007:8).

Idealist argue that sovereignty is not absolute and intervention is permitted for the purpose of preventing mass atrocities, murders and ethnic cleansing and its likes whether inter-state or intra-state. Writers like Michael Walzer have argued that human right is more important than sovereignty. He writes that humanitarian intervention is justified when it is a response (with reasonable expectations of success) to acts that shock the moral conscience of mankind (adopted from Seybolt 2007:12).

8. Humanitarian military intervention in Libya

Political scientists and other scholars alike have shown great interest in the application of force in the Libyan humanitarian intervention. Their views have not totally shifted from the age long debate dividing scholars into the Interventionist group and the Non-interventionist group. While the Interventionists view the NATO intervention in Libya as necessary to protect the Libyan civilian population and to further prove that the international community can say never again Holocausts, Cambodias, and Rwandas; not just as rhetorical level but realistically and practically implement measures put in place to check mass atrocities. The Non-

interventionists oppose the NATO intervention in Libya. They condemn it as the Trojan Horse of Western neo-imperialism (Weiss 2011:5). They see the intervention in Libya variously as implementing regime change, sending messages to Iran, bombing for democracy, keeping oil prices low or pursuing other self-interest.

9. Interventionist

Weiss (2011) in his work R to P Alive and Well after Libya shows enough support for NATO intervention in Libya. He believes that after the diplomatic work has been done there is an equally important role for the military which is basically what diplomats cannot do. He obviously draws inspiration from the Clausewitzian believe that war is the continuation of politics by other means. He writes that

> the shibboleth of Western imperialism is a distraction when there are foundations across the global South on which to build a case for robust humanitarian action; in this regards, the support of the Arab League and the African Union for outside intervention in Libya is noteworthy and perhaps a harbinger the Responsibility to Protect requires that diplomats succeed in securing agreement either on preventive measures or on the deployment of military force. In the latter case, diplomats stand aside after they succeeded, and soldiers do what diplomats cannot halt mass atrocities (Weiss 2011:5).

Frost and Rodin (2011:1) argues that critics of the Libya operation often lump it together with the Iraq and Afghanistan invasions as liberal interventionism He argues that it is different from them as those interventions were explicitly aimed at regime change but the Libyan operation was guided and limited by the UN Security Council to the single goal of civilian protection (Frost & Rodin 2011:1).

Qutait (2011) in her essay The Price of the Divide on Libya: Why I support the No Fly Zone. She argues that some anti-interventionists are intent on justifying their stance at all costs, to the extent of looking or minimizing the atrocities committed against Libyan citizens by the Gaddafi regime, so as to bolster arguments against the intervention (Qutait 2011:1). She further opposed the positions of anti-interventionist who accuse the West of double standards and selective intervention. She argues that the case of Libya was obviously different from other Arab countries experiencing revolution like Tunisia, Egypt etc. she argues that unlike in other Arab countries, where regimes at least made a pretence of understanding the demand for greater freedom, in Libya there was a blatant demonization of protesters as rats and cockroaches (Qutait 2011:2). In the same vein, (Thakur 2011) summarized the set of issues involved in framing international intervention in Libya into three. These are the military capacity, legal authority and political legitimacy to intervene in Libya. He argues that only the West has the requisite assets and operational capacity for military intervention in Libya (Thakur 2011:18); so the responsibility fell on the West to handle that. The legal authority was provided by the UNSC resolution while the political legitimacy was achieved with the support of the Arab League and African Union.

10.   Non-interventionist

Friedman (2012) in his article Intervention in Libya and Syria isn't humanitarian or liberal submitted that Libyan intervention by NATO has delivered nothing but political chaos. He avers that advocates of intervention underestimate coercions contribution to political order. Friedman reviewed three rationales for military intervention in Libya and declared all three failures. One was to show other dictators that the international community would not tolerate the violent suppression of dissenters (Friedman 2012:1). He submits that the reversal domino theory has obviously failed to teach leaders like Bashar al-Assad of Syria anything but to brutally nip opposition movements in the bud before they coalesce, attract foreign arms and air support, and kill you or, if you're lucky, ship you off to the Hague (Friedman 2012:1). The second rationale was to establish liberal democracy. He argues that Libya lacks the traditional building blocks of liberal democracy and that foreign military intervention impedes democratization. Thirdly, he examines the rationale of maintaining regional peace which the Libyan intervention has failed to do but instead helped in destabilizing Mali. He explains that Gaddafis fall pushed hundreds of Tuareg tribesmen that fought on his side back to their native Mali, where they promptly reignited an old insurgency (Friedman 2012:1). In the same vein, (Gardner 2011) argues that the intervention in Libya was not all together humanitarian or strictly to protect the Libyan civilian populace but a goal of regime change. Attempts to achieve this goal through international sanctions and through the backing of insurgents has represented the predominant thrust of America and European policy since 1969 after Colonel Gaddafi seized power by staging a coup d'état against King Idris (Gardner 2011:2). He argues that the

inability to overthrow Gaddafi through clandestine means during the Cold war resulted in attempts to co-opt him in the Post-cold war period. He concludes that the 2011 Libyan crisis provided the opportunity to overthrow the Gaddafi regime under the guise of the responsibility to protect (Gardner 2011:2) and that these Western led regime change in Libya was mainly galvanize by the US and European self interest. These interest he concludes includes the French interest in developing a stronger European security and defence umbrella over the Euro-Mediterranean and the opening of Libyan oil wealth to the US and Europe (Gardner 2011:6).

 Amitai Etzioni (2012) argues that intervention undermines the most elementary foundation of the international order the Westphalia norm and what he referred to as a sociological mess is left behind at the end of the intervention (Etzioni 2012:1). He further argues that the only exception to this non-intervention posture are cases in which large numbers of human beings are being killed, maimed and tortured but this intervention should not be aimed at a regime change. He believes that Libya qualified for the exception to non intervention posture but when Gaddafi offered to negotiate, the offer would have been given a chance. The rejection of this offer had passed the threshold that separates a humanitarian intervention justified under R2P from forced regime change, which are much more difficult to justify because they lead to more casualties and greater socio-political upheaval (Etzioni 2012:1). Yash Tandon believes that along with the ethical appeal of humanitarian intervention comes it pitfalls, dangers and risky side. He argues that intervention are more often than not based on realpolitik considerations and cynical manipulation of the doctrine by big powers to legitimize imperial wars and gross interference in the sovereign affairs of smaller and vulnerable nations (Tandon 2011:1). He submits that the principle of humanitarian intervention is not yet a mature principle as it is still subject to the manipulations by the big power for their interest. He advocates that genocide or violations of human rights in Africa should be handled by the African Union as these are strategic and humanitarian challenges that Africa must face by themselves (Tandon 2011:7).

(Reifer 2011) in his opposition to humanitarian intervention in Libya writes that when it comes to the Western powers, for those who remember history, the rhetoric of humanitarian intervention can be easily dismissed. The track record of the West, which includes supporting brutal dictators acting against defenceless civilians in Egypt, Bahrain, Yemen and Saudi Arabia, makes a mockery of their current claims to have humanitarian intent in Libya (Reifer 2011:2). He argues the Western military intervention in the third World is often problematic, leads to worsening of violence and brings more harm to the civilian population (Reifer 2011:2). He stressed Noam Chomsky's conclusions that the major strategic aim of US in the Arab Middle East has always been the regions tremendous oil resources, control over which has long been a major lever of world power. This remains the great prize in the jockeying for control of the great powers in the region still (Reifer 2011:2). His arguments show that interventions by the West in the Third World countries are often driven by self-interest and hardly humanitarian.

In an interview of Noam Chomsky by Stephen Shalom and Michael Albert on the Libyan crisis, he argued that NATO intervention in Libya was guided by Western interest in oil control. As much as Gaddafi gave the West access to oil but reliability and dependability of the leader is very important. This explains why the intervention was in Libya and not in other Arab countries that had the same uprising. He writes that

> with regard to the Middle East the primary concern has been, and remains, its incomparable energy resources. Control of these would yield substantial control of the world while control over oil is not the sole factor in Middle East policy; it provides fairly good guidelines, right now as well. In an oil-rich country, reliable dictator is granted virtual free rein Libya is a different case. Libya is rich in oil, and though the US and UK have often given quite remarkable support to its cruel dictator, right to the present; he is not reliable (http://www.zcommunications.org/noam-chomsky).

11.   Responsibility to Protect and its implementation in the 2011 Libyan crisis

Following the uprising in the Middle-East and the subsequent ousting of the leaders of Tunisia and Egypt, protests started around the major cities of Libya. The protests started in early February with the protesters calling for a change in the Libyan system of governance and a total overhaul of the 42 year old regime of Colonel Mummar Ghaddafi. This protest was met with stiff resistance from the government forces. The hitherto peaceful protest quickly turned into violent. With eruption of violence, series of actions were taken by the international community to quell the crisis. Responses from the international community included those of the United Nations, Regional bodies, North Atlantic Treaty (NATO), International Criminal Court (ICC). We have divided these responses into two, namely, Non-military response and the Military response.

12.   Diplomatic response to Libyan crisis

On the 20th of February, the Human Right Watch reported that the estimated death toll of 4 days of protests in Libya had reached a frightening minimum death of 233. The UNWatch also published urgent NGO appeal to the world leaders to stop atrocities in Libya. This included a list of 22 NGOs calls for a stop of violence in Libya (http://www.blog.unwatch.org/   index   .php/2011/02/20/urgent-ngo-appeal-to-world-leaders-to-preventr-atrocities-in-libya/).

The spokesman of the UN Secretary-General issued a statement on the 21st of February that the Secretary-General was outraged at press reports that the Libyan authorities have been firing at demonstrators from warplanes and helicopters and therefore warned that if confirmed; it would constitute a serious violation of international humanitarian law (UN SG/SM/13408 AFR/2119), and therefore called for an end to hostilities.

The Arab League Chief, Amr Moussa led an emergency session in Latra on the 22nd of February 2011 to discuss Libya. He said violence against protesters must come to an end. The League of Arab States went ahead to suspend Libya's participation until the violence was stopped. The Special Adviser on the Prevention of Genocide and the R2P issued a press release on the situation in Libya. He said that the secretariat was alarmed at the level of violence and reminded the Libyan government of its 2005 world summit pledge to protect its population by preventing genocide, war crimes, ethnic cleansing and crime against humanity as well as their incitement (UN 2011). The UN High Commissioner for Human Rights, Nari Pillay called on the authorities to stop using violence against demonstrators which may amount to crime against humanity (Bellamy & Williams 2011:839). The UN Under-Secretary for Political Affairs, B Lynn Pascoe briefed the United Nations Security Council on the situation in Libya. The Security Council welcomed the League of Arab States (LAS) statement and the Human Right Council call on the Libyan government to adhere to the first pillar of the doctrine of R2P which is to protect the Libyan citizens. They further requested the Libyan government to respect human rights and international humanitarian law, and to allow immediate access for international human right monitors and humanitarian agencies. They urged the Libyan government to allow peaceful assembly (SC/10180/AFR/2120).

On the 23rd of February, the African Union's Peace and Security Council condemned the excessive use of force by the Libyan authorities against peaceful protesters in violation of the fundamental human right and aspirations for a democratic government (Bellamy & Williams 2011:839).The UN Secretary-General, Mr Ban KI-Moon while briefing the Security Council on the 25th of February, urged them to take immediate steps to protect the civilians in Libya. He stressed on the need to provide real protection for the Libyan civilians and stop the violence. He urged the Security Council to take far reaching actions including sanctions that will halt the violence. At the same meeting, Abdurrahman Mohamed Shalgham, Libya's Permanent Representative thanked the UNSC and the UN Secretary-General for their concern but stressed that the Libyan situation was very volatile as he compared Colonel Gaddafi's actions to those of infamous dictators such as Cambodia's Pol Pot who were willing to sacrifices large portions of the population in order to hold on to power. He recalled that Ghaddafi had accused protesters of using drugs and exclaimed "either I rule you or I kill you" (SG/SM/13418 SC/10186 AFR/2124). He urged the UN to save Libya by passing a courageous resolution. Earlier on the same day, the Human Rights Council passed resolution A/HRC/RES/S-1S/1. It included among other things, a decision to immediately dispatch an independent international commission of inquiry to investigate all alleged human rights violations/crimes, it authenticity and perpetrators. It also urged the UN General Assembly to suspend Libya from the Human Right Council.

The 26th of February witnessed a unanimous adoption of resolution 1970 by the UNSC under the Chapter VII, Article 41 of the United Nations Charter. The United Nations Security Council Resolution (UNSCR) 1970 among other things demanded were an immediate end to the Libyan violence and urged the Libyan authorities to respect human rights and international human rights law. The UNSCR 1970 further referred the situation in Libya since 15th February 2011 to the Prosecutor of the International Criminal Court, placed Arms embargo on Libya, placed Travel ban and Asset freeze on Ghaddafi, his family and close aligns (S/RES/1970 2011). Thou the United Nations Security Council members voted unanimously for Resolution 1970, it is important we note the comments by the representatives of Lebanon and the Russian Federation who stressed the importance of affirming the sovereignty and territorial integrity of Libya. Also, the Chinese representatives said he had supported the resolution taking into account the special circumstances in Libya (SC/10187/Rev.1). Despite the unanimous vote for resolution 1970 at the Security Council, some members had reservations hinging on the infringement and protection of sovereignty and territorial integrity of Libya. However, the UN Secretary-General expressed appreciation and welcomed the adoption of resolution 1970 by the Security Council. He had hoped that the sanctions imposed will speed the transition to a new system of governance that will have the consent and participation of the people (SG/SM/13420/SC/10188 AFR/2125).

On March 1, 2011, the UN Secretary-General addressed the General Assembly. He briefed on the situation in Libya and highlighted his support for Human Rights Council's call for the General Assembly's suspension of Libya's membership so long as the violence continues. Ban Ki-Moon showed great concerns for the protection of Libyan civilians and the growing number of refugees. He called for the unity of the international community and for a collective effort "to provide real protection for the people of Libya – first, to halt the violence and, second, to deal with the growing humanitarian emergency" (SG/SM/13425 GA/11051 AFR/2130). After the address by the Secretary-General, there was a vote on a resolution sponsored by the Arab and African states of the General Assembly on the Human Right Council. The UN General Assembly unanimously suspended Libya's membership of the UN Human Right Council citing the government use of violence against protesters (http://www.aljazeera.com/ news/africa/2011/03/201131202637185959.html).

On the 7th of March, the Gulf Cooperation Council called for a no fly zone over Libya (responsibilitytoprotect.org/index-php/crisis-in-libya), while the Arab league called for the same no fly zone on the 12th of March. The Arab league requested that the Security Council to impose a no fly zone over Libya and announced that it was recognizing the rebel movement as Libya's legitimate government. The Arab league Secretary-General Amr Moussa announced the league's decision in Cairo describing it as a preventive measure with the goal of protecting Libyan citizens (http://www.washingtonpost.com/world/arab-league-asks-un-for-no-fly-zone-over-libya/2011/03/12/ABoieOR_story_html).

The UN Security Council adopted Resolution 1973 on the 17th of March at its 6498th meeting after considering the March 8 final communiqué of the Organization of Islamic Conference, March 10 African Union establishment of an ad-hoc High Level Committee on Libya, March 12 call for a no-fly-zone by the league of Arab States and March 16 call by the UN Secretary-General for a ceasefire. The resolution among other things authorized member states of the UN to take all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya, also captured in the resolution is the approval of a no-fly-zone, re-enforcement of the arms embargo, travel ban and asset freeze in resolution 1970 (S/RES/1973 2011).

The UN Security Council adoption of resolution 1973 (2011) was by a vote of 10 in favour to none against with 5 abstentions (Brazil, China, Germany, India and Russian Federation). It is importance to review the contributions and roles played by the members of the Security Council especially the five permanent members often referred to as P5 (France, United Kingdom, United States, China and Russia). These five members wield many powers as they are the only members who possess the powers to veto. A review of the roles of the P5 shows that France with support from United Kingdom and later the United States pushed for the immediate action of the Security Council. The Foreign Minister of France, Alain Juppe in his introduction of the resolution said that "the situation on the ground is more alarming than ever, marked by the violent re-conquest of cities that have been released" and that it was important for the Security Council to act to protect the aspirations of the Libyan people obviously being trampled by the Ghaddafi-led regime. The International community had employed different measures to prevail on the Ghaddafi-led government to back down on the use of excessive force against Libyans but all to no avail. The UN General Assembly had suspended the country from the Human Rights Council and the UNSCR 1970 had called for an immediate end to the violence and had referred the situation in Libya to the International Criminal Court but these measures had been ignored and violence against Libyan civilians increased astronomically. He stressed that the urgent need of protecting the Libyan civilian population had resulted in the resolution which authorized the Arab league and those member States wishing to do so to take all necessary measures to protect areas that were being threatened by the Ghaddafi-led government. He emphasized the importance of time as every hour increased the weight on the shoulders of the international community. The call on the Security Council to act was hinged on the protection of Libyan civilian population (UNSC/10200/2011:2).

The Security Council then adopted the resolution 1973. As at the adoption of this resolution, the 10 non-permanent members of the Council were Lebanon, Germany, India, Brazil, Bosnia and Herzegovina, Columbia, Portugal, South Africa, Gabon and Nigeria. Five members (Russia, China, Germany, India and Brazil) abstained from voting on the resolution while the others voted for its adoption. Note that Russia and China simply abstained from voting instead of blocking it to show their dissatisfaction. It is worthy of note at this point that there had always been division in the P5 when its regarding Intervention in Sovereign States and the implementation of the doctrine of R2P. This was evident even in the 2005 World Summit as the Security Permanent members like China and Russia refused to fully embrace R2P, France and United Kingdom embraced it but the United States supported it half-heartedly. In their individual responses, China advocated "for the status-quo by hedging on the International community's responsibilities, requesting further discussion and deferring to the Security Council". Russia argued that "there is not sufficient understanding of the concept of R2P and that the UN is capable of responding to crises under current situation" and that it would undermines that Charter so therefore advocated a change in name to 'Responsibility to Protect Civilian Population'. France embraced R2P

and urged that it should highlight the international community's duty to step in through the Security Council. It further stated that "France respects the issue of sovereignty, but believes that there must be limits on the scope of State sovereignty" and it envisaged a robust doctrine as it believes that "sometimes talking is not enough and the international community should consider the use of force as a last resort". The United Kingdom in its endorsement argues that "this was not about the West trying to find excuses to intervene" but that an "internationally agreed framework was needed to protect the vulnerable" which must be done on a case by case basis. The United Kingdom further stated that "only in extreme cases would military force be used". The United States was supportive of R2P though its statement never referred to 'responsibility'; it also used a weak language with respect to considering reaction" (http://www.reformtheun.org).

This line of division in the P5 was still evident in the adoption of UNSCR 1973 (2011). While France, United Kingdom and the United States represented by Alain Juppe, Mark Lyall Grant and Susan Rice respectively embraced and voted in favour of the resolution, China and Russian Federation represented by Li Baodong and Vitaly Churkin respectively did not fully embrace the resolution but refused to veto the resolution. The representatives that supported the resolution argued that they did so because Ghaddafi's regime was not responsive to the initial UNSCR 1970. China who abstained from voting stressed that it was deeply concerned about the deteriorating situation in Libya. However, the United Nations Charter must be respected and called for a peaceful resolution of the crisis. Li Baodong emphasized that China was always against the use of force when other means were not fully exhausted. He said there were questions yet to be answered concerning the implementation of the resolution, so therefore, it has serious difficulty with the resolution however had refused to block its passage based on the request of the Arab league and the African union. The Russian Federation on its part also had some fundamental questions bothering on how and by whom the measures specified in the resolution will be enforced and what the limits of engagement would be. Russian Federation did not block the resolution but was convinced that immediate ceasefire was the best way to stop the loss of lives.

Despite the different opinions about the effectiveness of resolution 1973, the resolution was passed by the Security Council, without any of the Permanent 5 blocking it on the 17th of March 2011.

13.   Military response to Libyan crisis

The United Kingdom, French and United States took military action under Operation Odyssey Dawn on the 19th and 20th of March 2011. The operation transited from an individual State affair to that of an alliance led by NATO although with some initial disagreement on which State was to lead the NATO military operation. NATO formally took charge of the operation under the code name Operation Unified Protector (OUP) at 0600 hours on 31 March 2011 (Taylor 2011:1). It is important to note that the entire 28 United Nations member making up NATO participated in the approval and overall direction of Operation Unified Protector but not all played active operational roles. Also, several non-NATO members participated in OUP which made the operation not solely a NATO operation but a NATO-led operation (Olson 2012:1-2). Based on the UNSCR 1973 request for the United Nations member States wishing to participate in the Libyan operation to do that with the cooperation with the League of Arab States, NATO got active operational support from Arab States like Turkey, Qatar and United Arab Emirate (Taylor 2011:17).

The Operation Unified Protector was initially for 90 days after which there was a 90 days extension from June to September 2011 and on 21 September 2011, there was a further 90 days extension but following the death of Colonel Ghaddafi on the 20th of October 2011, NATO's North Atlantic Council met and took a preliminary decision to end the Libyan operations on the 31st of October 2011 (Taylor 2011:25). Different writers like Shawn Fitzerald (2011:18-19) argues that the NATO-led operation had a significant boosting effect on the anti-government fighters. Some have even argued that NATO acted as the Anti-government fighters' Air force. However NATO officials have argued that the targeting policy of the Operation Unified Protector which it led was designed and implemented according to the United Nations Security Council's mandate to "protect civilian and civilian populated areas under threats of attack (UNSCR 1973). They insist that NATO only targeted and struck military forces, command, control and logistics that were either attacking or threatening to attack civilian or civilian populated areas (Olson 2012:2).

14. Analysis of responses to the Libyan crisis

This section addresses pertinent questions bordering on responses to the Libyan crisis. Firstly, **has the UNSC and the NATO-led intervention in Libya undermined Libya's sovereignty?** In addressing this question, it is important to understand what sovereignty is. This essay has earlier aligned itself with the definition which views sovereignty as the authority of a State to govern itself that authority comes from the people and then bestowed on a few representatives of the people now referred to as the government. It's now the responsibility of the

government to protect the source of its authority which is the people. So therefore, it is irresponsibility for a government not to protect its people. This is infact the first pillar of the doctrine of R2P; it stresses 'the protection of its population'. In the case of Libya, the work has shown enormous killings and threats to kill the Libyan population by the Ghaddafi-led Libyan government from whom as it were the Libyan State derives its sovereignty. It was therefore expedient that the International community respond and intervene to protect the sovereignty of Libya. The NATO-led intervention in Libya was therefore to uphold the sovereignty of Libya.

A second fundamental question centres on **determining if NATO was used for the purpose of regime change and not the protection of the Libyan civilians.** Drawing from the conclusions reached in our first submission, it is obvious that the NATO-led intervention was a necessity and that the primary aim was the protection of Libyan population. The background to the United Nations Security Council Resolution 1970, 1973 and the subsequent intervention shows how ruthless the Ghaddafi's regime had become in dealing with the anti-government protesters despite calls from the international community on both sides to stop the violence. The Libyan government vented so much violence on its own people and threatened to exercise more violence even on a house to house basis. NATO had to be activated in a bid to quell the violence. So it is evident that NATO's intervention was in response to the irrational killings in Libya. It is however difficult to ascertain if NATO had an initial secret motive or agenda to effect a regime change. However, as the intervention gathered momentum and given the stance of Ghaddafi on the one hand and the protesters on the other hand to continue the violence, a quick fix to the problem was a regime change. It is difficult to see how the violence could have stopped abruptly without a regime change considering the antecedents of the man called Ghaddafi. An African adage has it that 'it is the man who carries an ant infested wood to is house that has invited the Lizard also'. Ghaddafi's predisposition, actions and utterances towards the opposition was a clear invitation for the International community and by extension NATO to take action. In the Libya instance, it is difficult to separate between the protection of the Libyan population and a change in the Ghaddafi-led regime.

Lastly, we will look at a question which centres on **the sustainability of the principle Non-intervention of the UN Charter, Article 2#7 in a situation like that of Libya which had turned violent and holding threats of impending brutal killings.** The UN Charter that provides for the principle of non-intervention also provides for an exception to that principle in Article 41 and 42. The UNSC can intervene when the circumstances portend threat to international peace and security. The Libyan situation was capable of further escalating the insecurity and tension that permeate the already volatile Middle-East and North African region thereby causing a threat to international security. Again, the 2005 Responsibility to Protect principle had also redefined the concept of sovereignty and non-intervention. A sovereign State has as a follow-up to the sovereignty, the protection of its population but the Libyan government manifestly failed in this responsibility and so therefore, the international community had to take a collective action, in a timely and decisive manner to halt the violence through NATO intervention.

15. CONCLUSIONS

The recourse to the use of the doctrine of R2P has been found to be appropriate considering that the Libyan government had failed in the core duty of saving its people from harm. Calls from the international community for the government to live up to its task failed. Bearing this in mind, it was therefore appropriate for the United Nations Security Council to have urgently passed resolution 1973 allowing for all necessary measures to be taken to protect the Libyan population. This paper finds as appropriate the implementation of the doctrine of R2P in Libya up to the extent of protecting the Libyan population from further violence.

On the review of the intent and appropriateness of the NATO-led Operation Unified Protector, this research submits that as a follow-up to the UNSC Resolution 1973, it was appropriate for NATO to rise to the occasion. The implementation of a no-fly zone over Libya needed the capability and capacity of an organisation like NATO. Again, for the cause of further legitimizing the Libyan intervention, the NATO alliance and the support from some Arab States was needed. There is also the question of the actual intent of NATO in the intervention; considering the aerial bombardment of strategic military formations etc. This essay aligns with NATO position that in taking necessary measures to protect civilians and civilian populated areas, it was of necessity that the capability of the Ghaddafi-led regime to initiate massive attack on the Libyan population be halted. These NATO's targets were military formations that had the capability either directly or indirectly to initiate and execute such attacks that are detrimental to NATO's mandate of securing civilian and civilian populated areas.

The UNSC Resolution 1973 mandate was aimed at the protection of the Libyan population from violence and subsequent halting of hostilities. To this extent, the implementation of the doctrine of Responsibility to Protect in Libya was a success. The cruel killing of the civilian population by the Libyan forces was stopped and the violence was brought down to an appreciable level. Although the process of halting the violence had to

regrettably include the death of Colonel Ghaddafi, this paper adjudges the implementation of R2P successful thus far while the process of rebuilding and reconstructing Libya remains on the way.

It is often anticipated that the divergent interpretation of intervention and sovereignty by the different members of the UNSC, especially the Permanent 5 members always affect international community's response to crises around the world. In the case of Libya, this essay observed that 2 of the P5 –Russian Federation and China, refused to block UNSCR 1973, instead they abstained from voting thereby giving the way for a robust implementation of R2P in Libya. On this basis, this paper submits that the Libyan case did not provide for the kind of Security Council politics that was anticipated to impede R2P implementation in Libya.

The summary of our findings has led us to some conclusions based on the Libyan experience. We advocate that R2P should always be invoked and implemented in the face of killings and impending mass slaughter of civilian populations around the world. It is appropriate as provided by the Libyan example. It is practicable and implementable although with adjustments based on case by case with a guaranteed success in the protection of vulnerable populations around the world.

The International Community must always rise up to the challenge of maintaining peace and security and providing protection for vulnerable civilian populations around the world especially when their State has manifestly failed in this regard. The International Community must rise above just the slogan of 'never again' to actually implementing measures to check the kind of atrocities that took place in Rwanda.

The reality of R2P is that when dialogue and diplomacy fails in stopping atrocities, the military option becomes imperative. The process of implementing R2P can continue to meet with failure unless it is evident that there is the option and possibility of force. Libya has become a reference point that when the process of negotiation fails, there is the military option to enforce the protection of vulnerable civilian population. This will likely increase the success rate of the negotiation and diplomatic phase of R2P.

This essay has also shown that the P5 and the UN in general can rise above primordial sentiments, individualism and self-centred interest to pursue a collective goal to protect humanity. The details provided in this essay shows that the UN focussed and stressed vehemently on the humanitarian issues imminent in Libya while they tried to address the country's crisis. Decisions, resolutions and actions taken were humanitarian based even those taken by the members of the Security Council who abstained from voting on Resolution 1973. This proves that the UN can and should always act in the interest of vulnerable civilian population.

This essay haven focussed on the implementation of R2P in the 2011 Libyan crisis and the controversies it has elicited therefore makes the following recommendations:

1. The doctrine of Responsibility to Protect was observed to have been conceived with good intent and its adoption in the 2005 World Summit was appropriate and therefore, it requires all the support necessary for it to succeed.
2. The International Community must keep an open mind towards the doctrine and work out ways to enhance its implementation.
3. The members of the UNSC, especially the P5 must continue to show great commitment to the course of protecting vulnerable civilian populations in crisis affected States through timely adoption of Responsibility to Protect based resolutions.
4. The UN must at all times show it capability of dealing with crisis in any part of the world without underling interest and political leanings.
5. It is important that basic implementation strategy be spelt out by the Security Council in any R2P resolution. This will avert ambiguity in its implementation process.
6. R2P must be implementable in every part of the world overtaken by crisis without prejudice.
7. Though it is appropriate and practicable to define R2P implementation on a case by case basis, it is however important to spell out a basic implementation strategy that will be common to all future implementations.
8. The adoption and implementation of R2P must be devoid of all forms of UN politics. The protection of civilian population in any crisis must be done primarily with humanitarian interest in focus.

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