

NATO AND THE RESPONSIBILITY TO PROTECT IN LIBYA: REASSESSING THE INTERVENTION

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INTRODUCTION

The Arab Spring¹ was a success in Libya. The NATO forces had intervened in Benghazi, Libya on March 19, 2011 to implement the United Nations Security Council (UNSC) resolution 1973. This was in response to the crackdown on protestors, arbitrary detention and torture by the people at the helm of the Socialist People's Libyan Arab Jamahiriya. The official agenda of NATO included protection of civilians, establishing a no-fly zone, ban on flights, enforcement of arms embargo and assets freeze. Operation Unified Protector, undertaken by the NATO forces, successfully achieved the listed agenda. Moreover, it helped local rebel groups to topple the government of President Muammar Gaddafi, ending 42 years of his despotic rule.

The United Nations (UN)—through its mission in Libya—remains active to oversee democratic transition in the country in the post-Gaddafi era. But, the situation, far from getting normal, is turning worse as the civil war in Libya continues. The United Nations Office for the Coordination of

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1. Arab Spring can be described as a series of anti-government protests against authoritarian governments in the Arab world which commenced in the early 2010s, paving the way for democracy in countries like Tunisia, Libya and Egypt.

The year 2021 marks a decade of the Libyan Arab Spring. Thus, it becomes crucial to reassess NATO's intervention in Libya which was carried out to fulfil the UNSC-granted mandate of R2P.

Humanitarian Affairs report from April 2020 on Libya highlights killings and displacement of civilians in the ongoing civil war in Libya.² The Responsibility to Protect (R2P) actions had not visualised the country turning into turmoil and civil war. But, far from being stable, affairs in Libya portray chaos and disorder. By assessing the current situation in Libya, the World Bank notes:

The Libyan economy has now been hit by four, overlapping shocks: an intensifying conflict, which suffocates economic activity; the closure of oil fields, which puts its major income-generating activity largely on hold; decreasing oil prices, which reduce income from surviving oil fields; and the COVID-19 pandemic, which further threatens the economy, with almost 3,500 cases and 75 deaths confirmed by August 2020.³

The year 2021 marks a decade of the Libyan Arab Spring. Thus, it becomes crucial to reassess NATO's intervention in Libya which was carried out to fulfil the UNSC-granted mandate of R2P. Considering the current lawlessness in Libya and its negative impacts on the Mediterranean and European security, this paper attempts to assess NATO's role during the Libyan Revolution in 2011 in the light of the notion of R2P. It looks into the theoretical underpinnings of territorial sovereignty and humanitarian intervention which led to the emergence of the notion of R2P. It delves into the UNSC's decision to bestow R2P on NATO and how the transatlantic organisation, i.e., NATO, became the primary actor in the intervention in Libya. Further, it analyses NATO's actions in Libya with respect to the mandate granted by the UNSC. And

2. Relief Web, "Libya Situation Report, 29 April 2020—Libya", United Nations Office for the Coordination of Humanitarian Affairs, April 29, 2020, at <https://reliefweb.int/report/libya/libya-situation-report-29-april-2020>. Accessed on January 25, 2021.
3. See "The World Bank in Libya", at <https://www.worldbank.org/en/country/libya/overview>. Accessed on January 31, 2021

finally, it looks into the post-intervention scenario in the south-eastern Mediterranean country where fissures among NATO allies, like France and Italy, over controlling the situation in Libya have been exposed.

WHY IS THERE A NEED TO REASSESS?

The United Nations Secretary General, Antonio Guterres, made a startling remark on the situation in Libya by calling it a “scandal” in February 2020.⁴ He made such a remark on account of violation of the Security Council’s arms embargo and failure of the peace process and governance in Libya.⁵ The Mediterranean nation has been in turmoil since the 2011 Arab Spring which led to toppling Gaddafi’s regime. This was concomitant with NATO’s Operation Unified Protector which aimed at enforcing UNSC resolutions 1970 and 1973.

As far as legitimate governing entity is concerned, the United Nations (UN) recognised the Government of National Accord (GNA) as the official government of Libya which was an outcome of the UN-brokered Libyan Political Agreement (LPA) in December 2015.⁶ The UN-backed al-Sarraj GNA was intended to provide stability to war-torn Libya. But the required stability still remains far from being achieved. Fayeze al-Sirraj heads the GNA based in Tripoli since March 2016, but, despite being recognised internationally as Libya’s legitimate government, its authority remains restricted. In May 2014, the Libyan National Army (LNA) came into existence as an anti-Islamist armed group consisting of numerous eastern Libyan militias like the Tripoli Revolutionary Council, the Sawa’iqa Brigade, the Qa’qa Brigade and the

In May 2014, the Libyan National Army (LNA) came into existence as an anti-Islamist armed group consisting of numerous eastern Libyan militias like the Tripoli Revolutionary Council, the Sawa’iqa Brigade, the Qa’qa Brigade and the Zintani Revolutionaries Military Council.

4. E. Farge and R. Campos, “U.N. Secretary General says Libya situation a ‘scandal’”, Reuters, February 4, 2020, at <https://www.reuters.com/article/us-libya-security/u-n-secretary-general-says-libya-situation-a-scandal-idUSKBN1ZY0ZW>. Accessed on January 20, 2021.

5. Ibid.

6. “Libyan Political Agreement”, United Nations Support Mission in Libya, 2015, at <https://unsmil.unmissions.org/sites/default/files/Libyan%20Political%20Agreement%20-%20ENG%20.pdf>. Accessed on January 21, 2021.

Zintani Revolutionaries Military Council. The retired Gaddafi-era general, KhalifaHaftar, leads the self-styled LNA that allegedly receives support of countries like France, Egypt and the UAE.⁷ Since April 20, 2019, the LNA has been inflicting armed attacks on the UN-backed government in Tripoli over its legitimacy. Thus, there is more than one centre of power which competes for sole legitimate control over Libyan territory.

After the demise of Gaddafi with NATO intervention in 2011, the initial power vacuum in Libya was accompanied by lawlessness in parts of the country. The current skirmishes between the LNA and the GNA have not only affected Libyan citizens but have created numerous security challenges for the European continent as well. The Islamic State (IS) found a fertile ground for resurgence in the fractured Libyan polity.⁸ Al Qaeda in the Islamic Maghreb (AQIM)⁹ Libya found favourable conditions in Libya to expand its areas of operation due to the security vacuum created in the post-Gaddafi era after 2011. Both the notorious organisations have been using southern Libya as a strong base to export terror to the neighbouring countries as well as for attacks in Libya. This has affected the global community's initiatives in bringing peace to the already tensed Sahel region, lying to Libya's south in the African continent. European power France is carrying out Operation Barkhane in Sahel to oust the AQIM and other terrorist organisations from Sahel, but the chaos in Libya has added convolutions to the already complex geopolitical environment of the region.¹⁰

Libya after NATO's intervention has become a major transit route that facilitates a surge of migrants from Africa to reach safer European shores. This onrush of migrants had comparatively remained in check under Gaddafi

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7. A. E. Yaakoubi, "Haftar's Ally UAE Says 'Extremist Militias' Control Libyan Capital", Reuters, May 2, 2019, at <https://www.reuters.com/article/us-libya-security-emirates/haftars-ally-uae-says-extremist-militias-control-libyan-capital-idUSKCN1S80AO>. Accessed on January 22, 2021.
 8. "Islamic State in Iraq and the Levant—Libya Security Council", United Nations, March 4, 2020, at <https://www.un.org/securitycouncil/content/islamic-state-iraq-and-levant-libya>. Accessed on January 24, 2021.
 9. The AQIM is a militant terrorist organisation operating in the Maghreb and Sahel regions of Africa.
 10. E. Pavlovska, "UN Chief Warns of Impact on Sahel Region from Libya War", *New Europe*, January 24, 2020, at <https://www.neweurope.eu/article/un-chief-warns-of-impact-on-sahel-region-from-libya-war/>. Accessed on January 20, 2021.

who was the sole authority in Libya.¹¹ Multiple power fights for supremacy in Libya have left illegal migration unchecked, contributing to European worries.¹² Similarly, the European Union (EU)'s energy security has stakes in the stability of Libya. For instance, in 2018, crude oil imports of the European Union from Libya amounted to 6.7% of its total oil imports.¹³ Thus, the EU has larger stakes in stability in Libya.

TERRITORIAL SOVEREIGNTY Vs HUMANITARIAN INTERVENTION: THEORETICAL BACKGROUND

One of the dilemmas that the R2P concept poses is: the conflict between the two notions of 'Territorial Sovereignty' and 'Humanitarian Intervention'. This conflict is not new to world politics. Hugo Grotius, a Dutch jurist, in his celebrated work of 1625, *On the Law of War and Peace*, states that the primary purpose of states in reacting to human rights violations when using force abroad is to prosecute violations of international standards.¹⁴ Though he did not mention the term "humanitarian intervention" or "responsibility to protect", his work supported defying territorial sovereignty and use of force against a domestic establishment by foreign actors for maintaining international morality.

Inviolability of territorial sovereignty of nation-states holds prominence among several concepts in international law. It is the notion of territorial sovereignty which connotes non-interference in the internal affairs and functioning of a nation-state, and implies independence in decision-making as well. The notion has got reflected in Article 2(4) of the UN Charter which states that "all Members shall refrain in their international relations from the threat or

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11. I. Traynor, "EU keen to strike deal with Muammar Gaddafi on immigration", *The Guardian*, September 1, 2010, at <https://www.theguardian.com/world/2010/sep/01/eu-muammar-gaddafi-immigration>. Accessed on January 20, 2021.
 12. P. Fragues and C. Fandrich, "Migration after the Arab Spring", *European University Institute*, 2015, at <https://cadmus.eui.eu/bitstream/handle/1814/23504/MPC-RR-2012-09.pdf?sequence=1&isAllowed=y>. Accessed on January 21, 2021.
 13. K. Hope, "Oil prices, Libya and everyday petrol. How is the EU affected?", *Euronews*, May 3, 2019, at <https://www.euronews.com/2019/05/03/oil-prices-libyan-tensions-and-everyday-petrol-how-is-the-eu-affected>. Accessed on January 20, 2021.
 14. H. Grotius and S. C. Neff, *Hugo Grotius on the law of war and peace* (Cambridge University Press, 2012).

use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”¹⁵

The term ‘intervention’ carries different connotations which make the concept a debatable one. Intervention could mean providing economic stimulus to a country facing economic slowdown, healthcare-related donations in times of pandemics, as well as military intervention in times of internal turmoil. Such interventions carried out in consonance with the government of the receiving country could be perceived as a gesture of humanity and/or goodwill at times. A tough nut to crack is an intervention which is carried out against government for alleged humanitarian reasons. If such interventions take militaristic overtones, or insinuate regime-change programmes, such actions become controversial. The world faced such dilemmas of humanitarian intervention post-Cold War where governments in countries like Somalia, Rwanda, Bosnia-Herzegovina and Kosovo failed to protect their own populations from atrocities or genocide, or committed atrocities on their own populations. In these cases, humanitarian interventions when undertaken faced criticism, and when not undertaken were denounced. Thus, there arose a need to resolve the dilemma faced in dealing with the notion of “humanitarian intervention”.

The then-Secretary General of the United Nations, Kofi Annan, while addressing the last General Assembly of the 20th century, highlighted dilemmas posed by the international community in tackling the issues of normative debate between humanitarian intervention and state sovereignty.¹⁶ This was followed by an important development by the Canadian government which sought to fill glitches concerning legal and moral aspects of humanitarian intervention. The publication of International Commission on Intervention and State Sovereignty (ICISS) report promoted “Responsibility to Protect” over Humanitarian Intervention, thereby reflecting on the theme of “just

15. See *Charter of the United Nations*, at <https://www.un.org/en/charter-united-nations/>. Accessed on January 31, 2021.

16. “Secretary-General Presents His Annual Report to General Assembly”, United Nations, September 20, 1999, at <https://www.un.org/press/en/1999/19990920.sgsm7136.html>. Accessed on January 19, 2021.

cause”.¹⁷ The report highlights the “international dilemma” faced over conflicting sovereignty issues and responsibility to protect through necessary outside intervention. It conceived this “sovereignty-intervention debate” in the form of R2P, giving it a more humane and necessary characteristics. This report is believed to be used for supporting the base argument for carrying out “Responsibility to Protect” in Iraq in 2003, but failed to garner consensus even among NATO allies.¹⁸ The notion of R2P received further concretisation at the UN in its 2005 World Summit Outcome document. It called upon the nation-states to protect their own populations from atrocities and, if needed, the international community could undertake R2P through the UN.

Thus, R2P supports the idea that sovereignty does not alone grant a right to nation-states to defend their territorial integrity, but it also emphasises their duty to protect their own populations. Thus enters the debate between what is more important over what—“sovereignty” or “responsibility to protect civilians”. It states that the former could be compromised for the latter, and the world community has a larger role to play in fulfilling the responsibility in any part of the world.

In Libya, the NATO-led coalition received a green signal from the UNSC to legitimately intervene on humanitarian grounds, which was not the case during Iraq in 2003 and Rwanda of 1994, where the Alliance could not receive the consent of the UNSC. With such a responsible mandate, the NATO-led coalition intervened in Libya in March 2011. The next section enquires into the evolution of NATO’s role in “Responsibility to Protect” and its intervention in Libya for fulfilling its UNSC-granted mandate in 2011 through Operation Unified Protector.

NATO AS A DESIRABLE ACTOR FOR R2P

The debate over humanitarian intervention has been hovering on the lack of consensus among countries, pertaining to questions like “how

17. G. Evans, M. Sahnoun et al., *The Responsibility to Protect* (Ottawa, Canada:International Development Research Centre, 2001).

18. “NATO and the 2003 campaign against Iraq”, NATO, April 3, 2008, at https://www.nato.int/cps/en/natohq/topics_51977.htm. Accessed on January 18, 2021.

The establishment of NATO was based on the bedrock of collective security enshrined in Article 5 of the organisation’s charter post-World War II. It was argued that the collective Alliance was established to stop “communist encroachment” into the capitalist, liberal democratic West, especially Western Europe.

to intervene?” whereby addressing the means of intervention, “when to intervene?” and, most importantly, “who should intervene?”.

The establishment of NATO was based on the bedrock of collective security enshrined in Article 5 of the organisation’s charter post-World War II. It was argued that the collective Alliance was established to stop “communist encroachment” into the capitalist, liberal democratic West, especially Western Europe. NATO’s evolved doctrines of “collective security” and “massive retaliation” could guarantee peace on the war-devastated European

soil to a larger extent even when the USSR replied in 1954 by forming the Warsaw Pact.¹⁹ NATO witnessed no direct confrontation with its enemy during the Cold War thereby maintaining peace on the European continent. With the end of the Cold war and dissolution of the visible enemies like the USSR and its Warsaw Pact, the *raison d’être* of NATO became questionable.

The Alliance began finding a new purpose with an “improving security environment” post-Cold War which was reflected in the Alliance’s New Strategic Concept of 1991.²⁰ By keeping the notion of “collective security” intact, the Alliance began searching for new overarching goals in political as well as military-related matters. This development was followed by the Partnership for Peace programme, opening possibilities for enlarging NATO’s operational areas which led to augmentation in its membership post-1997.²¹

19. The Warsaw Pact was a joint treaty of security signed in Warsaw, Poland in May 1955, during the Cold War, between the Soviet Union and seven other socialist republics of Central and Eastern Europe in the East Bloc in reaction to West Germany’s integration into NATO.

20. “The Alliance’s New Strategic Concept”, NATO, November 8, 1991, at https://www.nato.int/cps/en/natohq/official_texts_23847.htm. Accessed on January 17, 2021.

21. “Partnership for Peace programme”, NATO, March 23, 2020, at https://www.nato.int/cps/en/natohq/topics_50349.htm. Accessed on January 20, 2021.

After this, discussions over the idea of NATO's involvement in non-Article 5 (which includes humanitarian intervention) areas also gained ground. The Alliance's Strategic Concept documents of 1999 and 2010 provided further impetus to focus on non-Article 5 areas and venture into broader humanitarian assistance and R2P by overstating NATO's evolutionary character.

NATO's "first major crisis response operation" was undertaken by its Implementation Force in Bosnia and Herzegovina in 1995 while responding to the post-Cold War chaotic spillover of the crisis arising from the disintegration of Yugoslavia.²² It was followed by the deployment of a new Stabilization Force (SFOR) in December 1996 to oversee civilian normalcy in the Balkan nation-state.²³ Overall, NATO was viewed to be successful in bringing peace to the Western Balkans by not only aiding by initial military campaign in 1995 but also through its SFOR by facilitating a peace-building mission.

NATO's engagement with the UN in crisis-management operations in post-Cold War complex security environment has remained noticeable. It can be argued that no other alliance of nations has received such strong UN mandates like the NATO post-1991. The organisation has got the UN mandate in the Western Balkans, Afghanistan and Libya to deal with the crisis having different natures like ethnic-conflicts, terrorism and humanitarian emergencies calling for R2P as well.²⁴ The 2011 crisis in Libya was very much on the European continent's Mediterranean border. NATO, being militarily and logistically well-equipped, comprised of countries that could have direct effect of the spillover of crisis, was a preferred organisation to answer the

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22. "Peace support operations in Bosnia and Herzegovina", NATO, April 26, 2019, at https://www.nato.int/cps/en/natolive/topics_52122.htm. Accessed on January 18, 2021.

23. Ibid.

24. See NATO, *Relations with the United Nations*, at https://www.nato.int/cps/en/natohq/topics_50321.htm. Accessed on January 30, 2021.

UNSC resolution 1973 calling for R2P by guaranteeing a no-fly zone over Libya, arms embargo as well as carrying out air operations in Benghazi.

The notion of R2P is based on norms and morals that aim to protect vulnerable populations from incidences of atrocities and human rights violations. It possesses humanitarian underpinnings and such a right is exercised to avert mass killings, loss of life and property, and to maintain peace and order. Scholars have criticised NATO's involvement in the R2P operations as they believe that NATO is majorly a military and hard power-oriented organisation, whereas the acts of R2P carry non-military undertones. For instance, Andrea Carati in her work on R2P, NATO and Libya argues that the normative framework of the R2P does not go well with the militaristic nature of NATO, making the transatlantic organisation an ineffective tool for carrying out R2P operations. In summing up her arguments, she states:

The main argument is that NATO cannot be a solution to the problem of who should intervene, even though its interventions can be occasionally consistent with R2P principles. Measuring the legitimacy of NATO's interventions according to Just War criteria or appreciating its military effectiveness is not sufficient. There are more constitutive and inescapable limitations of assigning enforcement of a universal norm under the auspices of a universal organization to a particularistic and exceptionally powerful alliance. The case of NATO's intervention in Libya makes the incongruities between NATO and the R2P apparent.²⁵

WHOSE RESPONSIBILITY TO PROTECT?: 2011 LIBYA, NATO'S MANDATE AND R2P PRINCIPLES

The United Nations has an overarching role to play in world peace and security. The 2005 UN World Summit Outcome document lays emphasis on "responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity" by highlighting to undertake

25. Andrea Carati, "Responsibility to protect, NATO and the problem of who should intervene: reassessing the intervention in Libya", *Global Change, Peace & Security*, October 13, 2017, vol. 29, no. 3, pp. 293-309, DOI: 10.1080/14781158.2017.1384719

sufficient means for R2P as per Chapters VI and VIII of the UN Charter. Chapter VIII of the UN Charter talks about “*pacific settlement*” of local disputes and role of regional organisations in such crisis situations. Article 53 (1) of the charter states the following:

The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council. ...²⁶

In the past, the UNSC had authorised organisations like the Economic Community of West African States (ECOWAS) in Liberia²⁷ and Sierra Leone²⁸ for bringing about peace and stability in crisis-ridden situations. The case of the Organisation of American States (OAS) in Haiti²⁹ is also noteworthy. But inclusion of an organisation like NATO, which was established on the basis of collective defence, in the Chapter VIII organisations is still debatable.³⁰ The Chapter is itself silent on what an organisation established under it would be. Thus, the exclusion of mention of NATO, which was established in 1949 as a UN Article 51 organisation, in the UNSC resolution 1973 is justifiable.

Chapter VII of the UN authorises the use of force in response to any “*threat to peace, breach of the peace, or act of aggression*”³¹ and the UNSC resolution 1973 states that the situation in Libya posed “*a threat to international peace and security*”.³² In February 2011, the situation in Benghazi was appalling

26. See Chapter VIII of the United Nations charter, at <https://www.un.org/en/sections/un-charter/chapter-viii/index.html>. Accessed on January 30, 2021.

27. W. Ofuately-Kodjoe, “Regional organizations and the resolution of internal conflict: The ECOWAS intervention in Liberia”, *International Peacekeeping*, November 8, 2017, pp. 261-302.

28. Peter A. Dumbuya, “ECOWAS Military Intervention in Sierra Leone: Anglophone-Francophone Bipolarity or Multipolarity?”, *Journal of Third World Studies*, 2008, vol. 25, no. 2, pp. 83-102.

29. Heather Smith-Cannoy, “Defending Democracy? Assessing the OAS’s 2002 Diplomatic Intervention in Haiti”, *Civil Wars*, 2012, vol. 14, no. 3, pp. 431-50.

30. A. Abass, “Assessing NATO’s involvement in Libya”, United Nations University, November 27, 2011, at <https://unu.edu/publications/articles/assessing-nato-s-involvement-in-libya.html>. Accessed on January 17, 2021.

31. See Chapter VII of the United Nations charter, at <https://www.un.org/en/sections/un-charter/chapter-vii/index.html>. Accessed on January 31, 2021.

32. See United Nations Security Council, S/RES/1973 (2011), at [https://www.un.org/securitycouncil/s/res/1973-\(2011\)](https://www.un.org/securitycouncil/s/res/1973-(2011)). Accessed on January 31, 2021.

as Gaddafi had used “excessive force” against demonstrators as per the UNHRC. But looking at the current state of socio-political and economic status of Libya, it becomes important to question NATO’s defiance of the UN-granted mandate by undertaking air operations across Libya between April and October 2011 when it had fulfilled its mandate of protecting civilians in Benghazi earlier in March 2011. The then-British Defence Secretary, Liam Fox, has admitted that NATO had provided the rebels with intelligence and recognition to help track down Colonel Gaddafi.³³ A report by the British Parliament highlights the inessential elements of the NATO intervention in Libya as follows:

By the summer of 2011, the limited intervention to protect civilians had drifted into an opportunist policy of regime change. That policy was not underpinned by a strategy to support and shape post-Gaddafi Libya. The result was political and economic collapse, inter-militia and inter-tribal warfare, humanitarian and migrant crises, widespread human rights violations, the spread of Gaddafi regime weapons across the region and the growth of ISIL in North Africa.³⁴

It is further essential to analyse the aforementioned on the principles of R2P as laid down by the International Commission on Intervention and State Sovereignty and the 2005 World Outcome Document of the UN. Firstly, the preventive principle states that efforts should be made to prevent the crisis from transforming into a disaster and it should be the world community’s priority to prevent a conflict. Thus, the question arises—could the snowballing of the crisis in Libya have been avoided in 2011?

The Libyan Revolution amidst the Arab Spring began in mid-February 2011 where security forces of the ruling Gaddafi-government clashed with

33. “NATO helping rebels hunt Gaddafi: UK”, Reuters, August 25, 2011, at <https://www.reuters.com/article/us-libya-gaddafi-nato/nato-helping-rebels-hunt-gaddafi-uk-idUSTRE77O1SX20110825>. Accessed on January 18, 2021.

34. See the UK Parliament report titled, “Libya: Examination of intervention and collapse and the UK’s future policy options”, at <https://publications.parliament.uk/pa/cm201617/cmselect/cmcaff/119/11902.htm>. Accessed on January 30, 2021.

protesters in Benghazi. These protests took the shape of a rebellion against Gaddafi by the establishment of the National Transitional Council (NTC) in Benghazi. This was a direct challenge to the ruling-authority in Libya which meant a threat to the security of the Arab Jamahiriya. The Gaddafi regime, sensing this strong threat, reacted with military force against its own population. When the UNSC decided to intervene and authorised NATO to fulfil the mandate granted by Resolution 1973, calls of ceasefire came from the Gaddafi regime. NATO had rejected Gaddafi's proposition for truce and ceasefire, and demanded that the Gaddafi regime should first stop the atrocities on civilians and then demand a ceasefire.³⁵ The Alliance was steadfast in carrying out its UNSC-given mandate. Thus, the responsibility to prevent and responsibility to avoid escalation of conflict were undertaken half-heartedly. The R2P mission which NATO was carrying out in Libya in 2011 had the mandate to protect civilians at large, and not just to safeguard that section of the population facing oppression from the Gaddafi regime. Atrocities committed by armed rebels against the Gaddafi regime remained unnoticed during NATO's Operation Unified Protector.

The mandate provided to NATO to carry out the R2P operation demanded a proportionate response to the atrocities carried out by Gaddafi in Libya. But were the "atrocities committed" properly verified by the UN or NATO before intervening or were they based on certain hollow media reports? Alan J. Kuperman addresses this question by stating:

Although the government did respond forcefully to the rebels, it never targeted civilians, nor resorted to "indiscriminate" force, as Western media reported. Indeed, their early press accounts exaggerated the death toll by a factor of ten. This error can be traced partly to the French physician in Benghazi, who extrapolated wildly from the tiny sample in his hospital. Shortly after returning home on 21 February, he estimated to the press that "more than 2,000 deaths" had occurred in Benghazi and its surroundings

35. "NATO powers reject Gaddafi's ceasefire offer", *France 24*, April 30, 2011, at <https://www.france24.com/en/20110430-nato-powers-refuse-gaddafi-ceasefire-offer-libya>. Accessed on January 12, 2021.

On October 31, 2011, NATO's mandate in Libya ended after almost seven months of enforcing arms embargo, a no-fly zone and protection of civilians. The Alliance also provided necessary aid and intelligence to the rebellious groups to track down and kill Gaddafi.

during his stay. In reality, Human Rights Watch has documented only 233 deaths across all of Libya before he left the country.³⁶

NATO IN THE AFTERMATH OF R2P IN LIBYA

During his visit to Brasilia, Brazil in March 2011, former President of the United States, Barack Obama had said, "Our consensus was strong, and our resolve is clear. The people of Libya must be protected, and in the absence of an immediate end to the violence against civilians our coalition is prepared to act, and to act with urgency."³⁷ Five years

down the line, the former President in an interview to the Fox News in April 2016, when asked about his "worst mistake", replied, "Probably failing to plan for the day after, what I think was the right thing to do, in intervening in Libya."³⁸

On October 31, 2011, NATO's mandate in Libya ended after almost seven months of enforcing arms embargo, a no-fly zone and protection of civilians. The Alliance also provided necessary aid and intelligence to the rebellious groups to track down and kill Gaddafi. Thus, by fulfilling the necessary mandate granted by the UNSC, NATO went beyond its mandate and helped topple the Gaddafi regime, creating a power vacuum in the North African country. The then-NATO Secretary General Anders Fogh Rasmussen had said, "If requested we can assist the new Libyan government in the

36. Alan J. Kuperman, "NATO's intervention in Libya: A humanitarian success?", in Aidan Hehir and Robert Murray (eds.), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention* (Palgrave Macmillan, 2013), ch. 9, p. 195.

37. "US launches military action against Libya: Obama", *NDTV* and *PTI*, March 19, 2011, at <https://www.ndtv.com/world-news/us-launches-military-action-against-libya-obama-450531>. Accessed on January 22, 2021.

38. D. Tierney, "The Legacy of Obama's 'Worst Mistake'", *The Atlantic*, April 18, 2016, at <https://www.theatlantic.com/international/archive/2016/04/obamas-worst-mistake-libya/478461/>. Accessed on January 21, 2021.

transformation to democracy, for instance with defense and security sector reform, but I wouldn't expect new tasks beyond that."³⁹ Thus, there is no denying the fact that the Alliance was ready to take up a crucial role in promotion of democracy through reforms in the defence sector in the aftermath of Operation Unified Protector.

NATO has been revered as a peacekeeper of the western Balkans for over a decade after the 1992-1995 war in Bosnia-Herzegovina. It was the first-ever military involvement of NATO since its inception in 1949. Its SFOR mission assisted reconstruction in the war-torn Balkan nation-state and ended its mandate

in 2004.⁴⁰ The situation in Libya in the post-2011 period was abysmal with multiple armed militias aiming to secure power by violent means. The UN established the UN Support Mission in Libya (UNSMIL) for post-conflict reconstruction in Libya. But the goal of disarming of multiple militias in Libya remains far from achieved. The Gaddafi regime was the only institution in the Mediterranean country which had kept the Libyan polity regimented, and its collapse in 2011 led to the collapse of governance as well. The UNSC, NATO and the world community at large have fulfilled their responsibility to protect in Libya in 2011, but remained short of fulfilling their responsibility in rebuilding the war-torn nation, which has now entered a new phase of civil war.

The situation in Libya in the post-2011 period was abysmal with multiple armed militias aiming to secure power by violent means. The UN established the UN Support Mission in Libya (UNSMIL) for post-conflict reconstruction in Libya. But the goal of disarming of multiple militias in Libya remains far from achieved.

39. L. Charbonneau, "U.N. ends mandate for NATO operations in Libya", Reuters, October 27, 2011, at <https://www.reuters.com/article/us-libya-un-idUSTRE79P6EC20111027>. Accessed on January 20, 2021.

40. "Peace Support Operations in Bosnia and Herzegovina", NATO, April 26, 2019, at https://www.nato.int/cps/en/natolive/topics_52122.htm. Accessed on January 24, 2021.

NATO's intervention in Libya was the first major military operation carried out by the organisation in the post-2008 financial crisis⁴¹ period. The crisis had compelled many European member states in NATO to curb their defence spending, thereby increasing the burden shared by the US and Canada. The 2011 Libya intervention happened in this backdrop where NATO allies were facing financial constraints. This gave a momentum to the debate on "equal burden sharing" among the allies that was heightened during American President Trump's tenure in the White House. The then-NATO Secretary General, Anders Fogh Rasmussen, in an opinion piece, spoke about equal burden sharing among the NATO allies, urging the European nations in particular to contribute proactively in NATO's capacity enhancement by pooling in additional financial resources. He stated:

The mission in Libya has revealed three important truths about military intervention today. First, to those who claimed that Afghanistan was to be NATO's last out-of-area mission, it has shown that unpredictability is the very essence of security. Second, it has proved that in addition to frontline capabilities, such as fighter-bombers and warships, so-called enablers, such as surveillance and refueling aircraft, as well as drones, are critical parts of any modern operation. And third, it has revealed that NATO allies do not lack military capabilities. Any shortfalls have been primarily due to political, rather than military, constraints. In other words, Libya is a reminder of how important it is for NATO to be ready, capable, and willing to act.⁴²

The transatlantic organisation has been criticised for its silence with regard to the situation in Libya post-2011. NATO disappeared from Libyan soil after the intervention, and remained a fairly silent spectator to the developments which followed the fall of the Gaddafi regime. In a very recent

41. The 2008 subprime mortgage crisis was a period of global financial recession caused due to liquidity crunch in the global financial markets. It is often considered to be "the worst economic crisis since the Great Depression of the 1930s".

42. Anders Fogh Rasmussen, "NATO After Libya", *Foreign Affairs*, July/August 2011, at <https://www.foreignaffairs.com/articles/libya/2011-07-01/nato-after-libya>. Accessed on January 25, 2021.

development, the present NATO Secretary General Jens Stoltenberg assured that the organisation “remains committed to providing advice in the area of defence and security institution building, taking into account political and security conditions [in Libya].”⁴³

To add to the chaos, France and Italy, European neighbours and allies in NATO, have been continuously bidding to shape the reconciliation process in Libya. France, under the leadership of President Emmanuel Macron, hosted the Paris talks in May 2018 where rival Libyan factions had agreed to create a political framework to hold elections on December 10, 2018.⁴⁴ Besides competing for diplomatic primacy, what drives the French for its quest for a bigger role in Libya is the expansion of its energy interests in the Libyan energy market. The French energy giant, Total, competes with the dominant Italian company, ENI, for larger capital gains in the Libyan oil extraction industry. Moreover, French concerns also relate to Libya being used as a terrorist hub for operations being carried out in the conflict-prone Sahel region where France is already engaged through Operation Barkhane.⁴⁵

Libya’s former coloniser, Italy, competes for political dominance in Libya for two basic reasons: to secure its oil and gas supplies, and to curb the influx of migrants into Italy, arriving mainly from the African continent through Libya. The populist coalition government of the country has been outspoken about its anti-immigrant policy and promoting stability in Libya to control the influx of refugees entering Italy via the Mediterranean Sea. Rome prioritises checking migrants’ influx from western Libya and has been a supporter of the UN-recognised government in Tripoli; however, Paris supports Haftar as it views the general as a reliable partner to curb

43. “NATO Secretary General Discusses Security Issues with Turkish Foreign Minister”, NATO, January 22, 2021, at https://www.nato.int/cps/en/natohq/news_180795.htm. Accessed on January 23, 2021.

44. John Irish and Marine Pennetier, “Libyan Factions Agree to Dec. 10 Elections at Paris Talks”, Reuters, May 29, 2018, at <https://www.reuters.com/article/libya-security-meeting/update-3-libyan-factions-agree-to-dec-10-elections-at-paris-talks-idUSL5N1T0393>. Accessed on January 26, 2021.

45. Operation Barkhane is an anti-terrorist operation undertaken by France which is ongoing since 2014 in the Sahel region, lying to the south of Libya on the African continent.

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terrorism which largely affects France on its own soil as well as hinders its external operations.⁴⁶ Thus, scholars and researchers are agreed that “the European efforts have been uncoordinated and driven partly by their own vested interests”.⁴⁷ External mediation efforts have proved to be futile and, thus, peace remains elusive for Libya. Even the Arab world’s faultlines are becoming visible in Libya. The once stable and independent country is now becoming a battleground for external players in the Arab world to continue their rivalries, giving rise to conditions like proxy wars. The lack of

consensus of major external actors on pertinent issues such as the roles of domestic actors, terrorism and the refugee crisis in Libya makes stability in the country elusive.

CONCLUSION

The R2P in Libya raises genuine questions over generating international consensus for R2P, the functioning of democratic institutions like the UN, nature of R2P (whether military, peacekeeping or simple mediation) and the role of organisations like NATO in fulfilling such mandates. The ongoing crisis in Libya is far more abominable than what it was during the 2011 Libyan Revolution. Over the years, the crisis has become internationalised by the involvement of foreign powers with their own vested interests, supporting varying factions in Libya.

Scholars have been critical of NATO’s R2P operation in Libya as some describe it as motive driven by regime change. Gaddafi was critical of western

46. Andrew England and Heba Saleh, “Libya: the battle for peace in a failing state”, *Financial Times*, January 10, 2019, at <https://www.ft.com/content/993cb870-0d2c-11e9-a3aa-118c761d2745>. Accessed on January 26, 2021.

47. *Ibid.*

liberal democracy as, according to him, it was incompatible with the developing countries, especially the Arab Jamahiriya. Moreover, Gaddafi had been criticised by the West on numerous occasions for his absolutist ways of governance. Using chemical weapons against his own people, torturing kidnapped people to death and using People's Bureaus (Libyan embassies abroad) for advocating Libya's interests were a few of the many inhuman and notorious acts undertaken by the Gaddafi

regime. However, in 2011, a UN report had adulated the Arab Jamahiriya for prioritising human rights and granting legal protection to its citizens.⁴⁸ The same report had commended the Gaddafi regime for bettering women's rights and educational opportunities, among other things.⁴⁹ Libya, today, faces a grave humanitarian crisis, worse than what it was nine years back. The ongoing civil war in Libya—with the GNA and LNA forces at the forefront—questions the world community's reluctance to undertake R2P operations at such a pressing time.

The catastrophe which Libya is facing today has no straightforward solutions. Introducing and building democracy seems to be more difficult than carrying out R2P operations. Therefore, Responsibility to Protect should be followed by "responsibility to reconstruct and rebuild". These reconstruction efforts should include helping the affected nation in coming up with institutions of democracy and justice delivery mechanisms. Constitutional discourse should be adopted as per the existing socio-economic, demographic and territorial characteristics of the concerned country.

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48. *Report of the Working Group on the Universal Periodic Review Libyan Arab Jamahiriya* (United Nations Human Rights Council, 2011), retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/100/97/PDF/G1110097.pdf?OpenElement>. Accessed on January 18, 2021.

49. *Ibid.*

Moreover, the legitimacy and democratic functioning of institutions such as the United Nations and NATO are questioned. It becomes a matter of utmost importance to respect international conventions and abide by international law. The cost of such operations is humongous and, at times, dismal; assuring stability in the intervened states is not guaranteed. The international community should learn from the live examples of Iraq, Syria and Libya and plan for the aftermath well before intervening, for long-lasting peace. Strengthening institutions of democracy at the global level through strong reforms has become crucial. Human Rights remain a subjective term, and it becomes necessary to encourage research on Human Rights in the Third World to do away with Western biases. Libya has a lesson to offer. World leaders should learn that not all political problems in the world have the same solutions. If they continue to ignore it, many Libyas would take place in future. Meanwhile, the crippled nation-state of Libya awaits its moment in world politics.