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JUST WAR TRADITION AND NATO'S LIBYA CAMPAIGN: WESTERN IMPERIALISM OR THE MORAL HIGH GROUND?

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ABSTRACT

Colonel Qaddafi's flagrant disregard for his own population in the face of a fledgling rebellion in March 2011 stiffened international resolve and resulted in intervention through the US-led Operations Odyssey Dawn and the NATO-led Operation Unified Protector. Through the lens of the Just War Tradition, seven moral principles and a quantitative Just War Index are used to assess the UN Security Council authorized use of force. The resultant analysis is contrasted against the unilateral and unsanctioned use of force in 1986 against Libya by the US under Operation Eldorado Canyon. The end result demonstrates that the 2011 intervention exhibited a high degree of justness both in an absolute sense and relative to its 1986 counterpart.

JUST WAR TRADITION AND NATO'S LIBYA CAMPAIGN: WESTERN IMPERIALISM OR THE MORAL HIGH GROUND?

"We will come house by house, room by room . . . We will find you in your closets. We will have no mercy and no pity."

Colonel Muammar Qaddafi – to the
Rebels of Benghazi 17 March 2011¹

INTRODUCTION

Colonel Qaddafi's flagrant disregard and disdain for his own population in the face of a fledgling rebellion stiffened international resolve and resulted in NATO's intervention. As the smoke clears from Libya in the first half of 2012, the exuberant celebrations of the Libyan people, fuelled by the Fall 2011 ousting of the Qaddafi regime, have given way to worry for what lies ahead. While the fear and despotism that characterized Qaddafi's nearly 42-year reign may be gone, so too is the stability that was afforded by his iron-fisted rule. Many Libyans no longer have a home in which to live;² others suffer from injuries incurred during the fighting or from the loss of family and friends. At this stage the prospect of freedom, domestic security, and a representative government offer a glimmer of hope in the aftermath of the rebellion. The rebels, initially celebrated as heroes and martyrs after fighting and winning a tumultuous and bloody eight-month battle against Qaddafi's forces, are now seen as often as not as

¹ United States, U.S. Department of State, "Statement Regarding the Use of Force in Libya," Harold Koh, Legal Advisor at the American Society of International Law Annual Meeting, 26 March 2011, <http://www.state.gov/s/l/releases/remarks/159201.htm>; Internet; accessed 11 February 2012.

² United Nations Human Rights Council, "Report of the International Commission of Inquiry on Libya," A/HRC/19/68, 2 March 2012, 50. <http://www.ohchr.org/EN/HRbodies/HRC/RegularSessions/Session19/pages/ListReports.aspx>; Internet; accessed 6 March 2012.

potential threats to the ultimate goals of the rebellion.³ Faced with these complexities, it is only natural that some international observers are pondering the question of whether or not this conflict was worth fighting.⁴

This cost/benefit question is one of the issues that the Just War tradition attempts to answer. The issues raised by the NATO intervention are common to many cases regarding the decision to use force and encompass far more than net benefit. The ethical “justness” of any war may be determined through the application of a broader set of principles formed over time through moral reflection on the innumerable conflicts that characterize human history. The principles used to make this determination are based on the following questions asked from a global perspective, that is to say with all significant viewpoints and outcomes considered.

Was there a just cause for the use of force?

Did a legitimate authority authorize its use?

Were decision makers driven by the right intent?

What was the net benefit of the use of force?

Was the use of force the last resort?

Were non-combatants protected from harm?

Were the means used to achieve objectives proportional to the objective itself?⁵

³ J. David Goodman, “Rights Group Says Libya’s Militias Are ‘Out of Control,’” *The New York Times*, 16 February 2012. <http://thelede.blogs.nytimes.com/2012/02/16/rights-group-says-libyas-militias-are-out-of-control/>; Internet; accessed 22 April 2012.

⁴ Halevy, Efraim, “What the Libyan Intervention May Have Cost Us,” *The New Republic*, March 5 2012. <http://www.tnr.com/article/politics/101320/tk-libya>; Internet; accessed 22 April 2012.

⁵ A. Walter Dorn, “Just War Index: Comparing Warfighting and Counterinsurgency in Afghanistan,” *Journal of Military Ethics* 10, no. 3 (September 2011): 242-262; <http://www.tandfonline.com/doi/abs/10.1080/15027570.2011.608499>; Internet; accessed 18 January 2012.

While there are seldom absolute answers to any of these questions, they provide a relatively objective framework from which an ethical assessment of the use of force may be developed. The Just War tradition provides a framework through which these questions may be answered.

UK based authors David Fisher and Nigel Biggar provided some of the earliest Just War assessments of the Libyan intervention as part of a larger discussion on the Iraq War in May 2011 while Harry van der Linden of Butler University provided a more complete treatment in January 2012.⁶ However, given the relative recency of the Libyan intervention, it is unsurprising that the literature remains relatively sparse on the subject. Given this fact and the continuing fallout from the intervention there remains a requirement for further reflection. By analyzing the events in Libya through the lens of the Just War tradition it will be shown that the 2011 United Nations (UN) sponsored intervention was on balance, ethically just. That is not to say that given the benefit of hindsight the decision-making process and execution could not have been improved or even that future assessments with the benefit of additional information will come to the same conclusion. However, given what is known today, the decision to resort to the use of force and the manner in which it was used was ethically and morally justified, though less justified by some criteria.

⁶ David Fisher, and Nigel Biggar, "Was Iraq an Unjust War? A Debate on the Iraq War and Reflections on Libya," *International Affairs* 87, issue 3 (May 2011): 707; <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2346.2011.00997.x/full>; Internet; accessed 18 January 2012; Harry van der Linden, "Barack Obama as Just War Theorist: The Libyan Intervention," *Scholarship and Professional Work – LAS*, Paper 234, 1 April 2012. http://digitalcommons.butler.edu/facsch_papers/234; Internet; accessed 26 April 2012.

In order to develop an understanding of how this conclusion was reached it is first necessary to build a basic understanding of the Just War tradition. Just War tradition will be explained in terms of its Christian and Western origins in order to provide the reader with a clear understanding of the limits of the framework's objectivity, namely the notion of Western democratic ideals and the rule of law. The tradition's purpose will also be articulated in order to ascertain the value that may be derived from its application to the Libyan conflict. While the tradition does not consist of a fully agreed upon list of assessment criteria, the seven selected (Just Cause, Legitimate Authority, Right Intent, Net Benefit, Last Resort, Right Conduct, Proportionality of Means) will be characterized to provide a complete understanding of how each criterion will contribute to the overall assessment of the Libyan intervention. Each criterion will be scored numerically based on the Just War Index (JWI) model in order to ease the interpretation of individual criterion results and to contribute to an overall assessment.

Once the Just War framework is established, the analysis will begin with an assessment of five criteria related to the decision to use force, commonly grouped together as the *jus ad bellum* criteria: Just Cause, Legitimate Authority, Right Intent, Net Benefit, and Last Resort. The first criterion of Just Cause will consider objections to the intervention based on state sovereignty concerns, weighed against the actions of the Qaddafi regime against its own people. Legitimate Authority will then use the UN Security Council (UNSC) decisions as a starting point to determine the extent of legitimacy afforded the intervention in considering the various international standpoints taken. The discussion will then focus on the notion of Right Intent and the possible ulterior motives behind the decision to go to war. The focal point of Right Intent will be

the notion of regime change and whether or not the concept was in fact endorsed and whether or not its implementation contributed to international peace and security. The final *jus ad bellum* criterion is Last Resort. Under Last Resort the actions of the coalition will be scrutinized to determine if the rush to action was warranted or whether or not reasonable alternatives still existed, including the possibility of negotiation. With the *jus ad bellum* criteria assessed, the discussion will turn to the *jus in bello* criteria relating to the conduct of the war.

The first *jus in bello* criterion of Right Conduct is intended to focus on non-combatant protection. In this vein, the actions of the coalition will be evaluated both in terms of the practical measures taken to avoid collateral damage and contrasted with the actual results on the ground. Finally, Proportionality of Means will focus on the grand strategy of the conflict to ensure that the means used from a global perspective were reasonable in light of the ultimate objectives of the intervention.

With both the *jus ad bellum* and *jus in bello* criteria assessed for NATO's actions in 2011, a brief Just War analysis will be conducted for the 1986 Libyan bombing by US President Reagan with the result serving to provide a contrasting ethical perspective to the 2011 intervention. Prior to drawing final conclusions, an accounting of the principle opposition to the Libyan intervention will be offered. With a basis for comparison and opposing perspectives in hand, final ethical conclusions for the 2011 intervention will be developed through the consolidation of the Just War Criteria into an overall assessment including a numerical average score, the JWI.

JUST WAR TRADITION

It is hard to imagine a decision more ethically challenging than that of going to war. Each situation is complex and unique and demands serious thought on the part of political leaders and military commanders. While national interest is assured consideration in any decision to use violence, to rely on national interest alone risks the marginalization of moral considerations and the potential for reversion to a Clausewitzian state of total war.⁷ To be considered just by today's standards any war must by definition be a limited war⁸ and the means by which those limits are set necessitate serious reflection grounded not only in national and international politics, but also in the realm of morality. Just War tradition provides a basic moral framework for making such decisions, though it is not a formulaic panacea that may be applied thoughtlessly.

Undoubtedly, an individual's ideological perspective will shape the application of Just War tradition. To situate Just War tradition within the spectrum of moral philosophies, a comparison between pacifist and realist viewpoints is instructive. While pacifists share Christian roots with early Just War theorists, pacifism rejects the use of force under all circumstances citing moral considerations exclusively. At the other end of the spectrum lie the realists whose viewpoint places almost total emphasis on national interest, at times in a fashion that subjugates moral considerations. The philosopher Thucydides eloquently characterized the realist perspective by positing “. . . they that

⁷ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: BasicBooks, 1992), 23-24.

⁸ *Ibid.*, 122.

have odds of power exact as much as they can, and the weak yield to such conditions as they can get.”⁹ The Just War tradition attempts to resolve the inherent clash between morality and self-interest. Prominent Just War theorist James Turner Johnson attempts to characterize the Just War compromise between pacifism and realism noting “. . . the concept of just war does not begin with a ‘presumption against war’ focused on the harm which war may do, but with a presumption against *injustice* focused on the need for responsible use of force in response to wrongdoing.”¹⁰ From this perspective it is clear that the Just War tradition attempts to strike a reasonable balance between the two moral perspectives resulting in a *practical* approach that recognizes the complexities of the international political system rather than relying exclusively on a particular ideology.¹¹

The ability to apply the tradition to practical situations allows for a value-added contribution to the development of the international political, moral, and legal systems. Just War criteria may be applied before, during, or after a conflict and though their application may not affect the conduct of a current conflict, the value of the Just War consideration often comes in its ability to affect future wars.¹² Just as moral reflection on the world’s failure in Rwanda provided a meaningful contribution to the development of the “Responsibility to Protect” (R2P), so too will the events in Libya help shape how future interventions are acted upon.

⁹ *Ibid.*, 5.

¹⁰ James Turner Johnson, “Power, and the International Order,” in *Morality and Contemporary Warfare* (New Haven, CT: Yale University Press, 1999), 35.

¹¹ James Turner Johnson, “The Utility of Just War Categories for Moral Analysis of Contemporary War,” in *Can Modern War Be Just?* (New Haven, CT: Yale University Press, 1984), 15-17.

¹² Walzer, *Just and Unjust...*, xvii.

How the world acts upon circumstances like the Libyan uprising may generally be dissected into two broad categories. *Jus ad bellum* is the term used to describe any principle that governs the decision to go to war while *jus in bello* represents the set of criteria related to the conduct of the conflict. While these notions are useful in aiding the reader's understanding of Just War criteria, their usefulness does not extend beyond this point. There exists no standardized list of criteria to be used with the Just War tradition which is indicative of the inherent interrelation amongst the criteria. What is most important for the reader is to understand the particular approach selected.¹³

The criteria selected for analysis in this case are based upon the work of Dr. Walter Dorn of the Canadian Forces College and his paper *Just War Index: Comparing Warfighting and Counterinsurgency in Afghanistan*.¹⁴ The premise for selecting this particular approach was that the criteria appear to have been reduced to the minimum set required to achieve a reasonable degree of mutual exclusivity. That is to say it would be difficult to make the case that any one of the criteria may be absorbed into the other. For example, some Just War approaches define a criterion based on the notion of Reasonable or Probable Chance of Success. Under the selected approach this criterion is easily subsumed within the Net Benefit criterion. What then are the criteria to be used?

Subsequent analysis will employ seven principles, five of which are grouped here as *jus ad bellum* and two as *jus in bello*. The first criterion is Just Cause whose premise is often based on the notion of countering aggression. Countering aggression plays a

¹³ A.J. Coates, *The Ethics of War* (New York: St. Martin's Press, Inc., 1997), 9.

¹⁴ Dorn, *Just War Index*...

central theme to Just Cause owing to its direct equation to being an unadulterated crime that “. . . challenges rights that are worth dying for.”¹⁵ The second criterion of Legitimate Authority has origins in St. Augustine’s desire to eliminate what amounted to private warfare. The concept has developed over time to represent international authority amongst nation-states as governed by the UN Charter and the decisions of the UNSC. While the principles of Just Cause and Legitimate Authority are generally fairly simple to assess owing to their relatively public nature, the notion of Right Intent is more difficult.

Right Intent may be viewed from two perspectives; some view it as necessitating the total absence of ulterior motives while others allow them with caveats. The former viewpoint is too restrictive in that it essentially ignores the fact that conflict will usually affect the interests of various parties. What is critical to a moral reasoning perspective is that “[j]ustice and interest are not mutually exclusive. . . The real issue is whether the interest . . . is legitimate, and whether that legitimate interest is relevant to the case for war.”¹⁶ This perspective essentially allows for national interests to be served from the decision to go to war, but the end result must benefit not just a particular party, but also the interests of peace and international security.

To consider the overarching interests of peace and international security the notion of Net Benefit is introduced. Regrettably, the decision to apply violence will always result in a degree of evil, be it human or material, but given the practical viewpoint of the Just War tradition the focus of the criterion is the degree of

¹⁵ Walzer, *Just and Unjust...*, 53.

¹⁶ Coates, *The Ethics of...*, 162.

proportionality between the resultant good and evil outcomes. In determining the outcome the assessment must be conducted inclusive of neutrals, belligerent parties, and the international community as a whole.¹⁷ It is not only the impact to the international community that matters, but also its opinion. Also highly subject to international opinion is the principle of Last Resort.

Acceptance of the moral tragedy resulting from war implies a responsibility to turn to violence only as a Last Resort. This translates into a willingness to attempt to resolve differences principally via peaceful means. A realist may argue that negotiation or sanctions merely prolong or worsen an inevitable conflict citing cases like the appeasement of Adolf Hitler prior to World War II. This line of reasoning is not valid in all cases as evidenced by the fall of apartheid in South Africa or the current shift towards democracy in Burma. The key term is reasonable. As long as there is reasonable hope that a conflict may be resolved without resorting to violence then resorting to war cannot be justified.¹⁸ If all criteria to this stage have been met then the principles of *jus ad bellum* are complete.

Under *jus in bello* are the concepts of Right Conduct and Proportionality of Means. Right Conduct is an explicit recognition of non-combatant protection. Though also recognized explicitly in international law, this principle is often ignored. At its most extreme, the policy of Mutually Assured Destruction (MAD) threatens the extinction of humankind. In conventional wars, the principle becomes more nuanced. While an

¹⁷ *Ibid.*, 168.

¹⁸ Richard J. Regan, *Just War: Principles and Cases* (Washington, D.C.: The Catholic University of America Press, 1996), 6.

armed soldier is clearly a combatant, what of the case where the soldier drops his weapon and surrenders? The litmus test to be applied is explained by ethicist A.J. Coates who states “. . . ‘innocent’ in this context means ‘harmless’ rather than ‘blameless.’”¹⁹ Even this definition leaves room for interpretation if one considers the notion of a factory worker in a war-making nation. Is a factory worker harmless if he/she contributes to the economy of a belligerent? What if it is a munitions factory? For the purposes of Right Conduct in Libya, the definition provided is suitable. The ability to assess Right Conduct is tightly bound to the means by which force is controlled and applied, however, this same concern factors directly into the broader principle of Proportionality of Means.

Proportionality of Means is to *jus in bello* what Net Benefit (sometimes referred to as Proportionality of Ends) is to *jus ad bellum*. Just War tradition demands that “. . . moral analysis . . . be informed by an empathic awareness of military and political realities. In applying the criterion . . . military objectives are to be understood strategically and not just tactically.”²⁰ To elucidate through a simple example, if a country had as an objective to evacuate its citizens from an internal conflict in a foreign country it would be roundly unjust to destroy the belligerent’s capital for the purpose of distracting them from the evacuation operation. With the *jus ad bellum* and *jus in bello* criteria defined, there is a requirement to ensure that they are assessed as objectively as possible.

¹⁹ Coates, *The Ethics of...*, 235.

²⁰ *Ibid.*, 209.

The ability to objectively apply the Just War tradition requires an understanding of its origins. Philosophers, theologians, canonists, and military practitioners have all made meaningful contributions. The end result is a not only a rich and varied tradition that has gradually morphed over time, but also a tradition grounded in a particular perspective. Just War tradition is “. . . a body of wisdom deeply and broadly rooted in Western ideals, institutions, and experiences.”²¹ In today’s context this also means an assumption of democracy providing some context to the often contentious proceedings of the UNSC, especially with respect to Chinese and Russian perspectives. In applying the Just War tradition, this perspective must be understood within its moral context and so too must the bias of the individual assessor.

The inherent subjectivity of the criteria speaks to the need for a degree of quantification to be applied. Dr. Dorn developed a means to address this need that he dubbed the JWI.²² Table 1 provides the breakdown of the JWI over its range from -3 to +3.

Table 1 – JWI Index

Score	Description
+3	Strongly Just
+2	Moderately Just
+1	Slightly Just
0	Neutral
-1	Slightly Unjust
-2	Moderately Unjust
-3	Strongly Unjust

²¹ Johnson, *Politics, Power...*, 22-23.

²² Dorn, *Just War Index...*

The JWI framework allows the criteria to be assessed without the assumption of a binary yes/no answer thus recognizing that no category can ever be judged in an absolutist fashion. In order to provide a slightly greater degree of granularity, scoring will be done within the defined range with increments of 0.5. The numerical approach will also allow for an overall ethical judgment of the mission through an averaging of all scores. Armed with an understanding of Just War tradition the discussion begins with an assessment of the Just Cause used for intervention in Libya in the winter of 2011.

JUST CAUSE

The situation in Libya originated on 16 February 2011 with demonstrations in the eastern city of Benghazi undoubtedly inspired by the “Arab Spring” uprisings in neighbouring Tunisia and Egypt. After nearly 42 years of rule in Libya, Colonel Muammar Qaddafi feared the threat to his power and responded swiftly and brutally with his security forces. Within a matter of days protests had spread across the country to Qaddafi’s base of power in Tripoli where reports indicated that his security forces and mercenaries from neighbouring African countries were firing indiscriminately at unarmed protesters.²³ Despite his attempts to deny the existence of, and quickly quell the protests, they continued to grow resulting in an escalation of regime violence culminating

²³ David D. Kirkpatrick, “In Libya Capital, Long Bread Lines and Barricades,” *The New York Times*, 26 February 2011. <http://www.nytimes.com/2011/02/27/world/africa/27libya.html>; Internet; accessed 20 February 2012.

in airstrikes and the use of cluster munitions.²⁴ Throughout February, the protests developed into an armed insurrection spurred by the regime’s brutal response, defections from the army, and the formation of a formal opposition group titled the Transitional National Council (TNC). In a short time the world’s attention was focused on the actions of the regime and the need to respond.

To provide an overview for the subsequent discussion, Table 2 provides an overview of events relevant to the Libyan intervention.

Table 2 – Chronology of Events in the Libyan Uprising

Date (2011)	Event
February 15/16	Rioting in Benghazi is triggered by the arrest of Fethi Tarbel, a human rights activist
February 17	“Day of Rage” is organized to commemorate the 2006 killing of protesters in Benghazi
February 24	Militias take control of Misrata and continue westward march. Hundreds of protesters have been killed by security forces.
February 26	UNSC passes UNSCR 1970 imposing an arms embargo, travel ban, asset freeze, and ICC referral on the Qaddafi regime
March 5	The Transitional National Council declares itself the representative of Libya
March 17	The UNSC passes UNSCR 1973 authorizing a no-fly zone and “all necessary measures” to protect civilians. Qaddafi forces have recaptured most territory and Qaddafi himself threatens to clear Benghazi “house by house”
March 19	Operation Odyssey Dawn commences with first strikes
March 22	Pro-Qaddafi forces lay siege to the city of Misrata including blocking food and medicine
March 24	Operation Unified Protector under NATO takes on enforcement of no-fly zone
March 29	London Conference convenes to provide political direction to the intervention
June 27	ICC issues arrest warrants for Qaddafi, son Saif al-Islam, and intelligence chief Abdullah al-Senussi
August 21	Rebels seize control of Tripoli
August 27	Several senior Qaddafi regime members flee to Algeria
September 16	UNSC authorizes the formation of the UN Support Mission in Libya (UNSMIL)
October 20	Qaddafi is captured then later confirmed dead after his convoy was struck outside of Sirte by NATO.

²⁴ C.J. Chivers, “More Evidence of Cluster-Bomb Use Discovered in Libya,” *The New York Times*, 13 February 2012, <http://atwar.blogs.nytimes.com/2012/02/13/more-evidence-of-cluster-bomb-use-discovered-in-libya/?scp=1&sq=more%20evidence%20of%20cluster-bomb%20use%20discovered%20in%20libya&st=cse>; Internet; accessed 17 February 2012.

October 31	Operation Unified Protector ends along with NATO's involvement.
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Only 10 days after the initial protests the UNSC responded by expressing disgust at the “. . . gross and systematic violation of human rights, including the repression of peaceful demonstrators . . . deaths of civilians, and . . . the incitement to hostility and violence against the population made from the highest level of the Libyan government.”²⁵ Key to the UN's response was the phrase “gross and systematic”. Unfortunately, violent suppression of protests is not uncommon in a number of countries, nor was it unique even to the timeframe under discussion with Bahrain having killed a small number of protesters.²⁶ What set Libya apart was the scope, intent, and escalation of Qaddafi's reactions coupled with a long history of oppression.

The three Bahraini protesters being shot to death were in stark contrast to Tripoli where anti-aircraft guns were being fired at unarmed protesters.²⁷ When coupled with the use of mercenaries and aircraft-delivered cluster munitions it was clear that there was no intent to restrain the response to what began as peaceful protests. A 2012 report by the UN Human Rights Council concluded that Qaddafi's forces committed a wide range of abuses including “. . . murder, torture, rape, and attacks on civilians and civilian

²⁵ United Nations Security Council, “Resolution 1970: Peace and Security in Africa,” S/RES/1970(2011), 26 February 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement>; Internet; accessed 18 January 2012.

²⁶ “Clinton Criticises Bahrain Over Protester Clashes,” *BBC News*, 16 March 2011, <http://www.bbc.co.uk/news/world-us-canada-12762500>; Internet; accessed 20 February 2012.

²⁷ Kirkpatrick, “In Libya Capital...”

objects and protected buildings, medical units and transport . . . indiscriminate attacks, arbitrary arrest, and recruitment and use of child soldiers.”²⁸

Many of these abuses occurred prior to UN intervention with the report noting that 200 bodies were delivered to morgues in Tripoli alone between 20-21 February with the nature of the injuries indicating the use of large caliber weapons and intent to kill.²⁹ Unfortunately, accurate casualty figures during the period are not readily available but estimates for the first few weeks of the uprising ranged anywhere from 1,000 to 10,000 killed.³⁰ If there was any doubt regarding the potential for the situation to escalate and the body count to rise, Qaddafi himself erased that doubt when in March he proclaimed “We will come house by house, room by room . . . We will find you in your closets. We will have no mercy and no pity.”³¹ With the UN having responded initially with only an arms embargo, asset freeze, and travel ban the pressure to do more continued to grow.

By 16 March heavily armed government forces had advanced to the outskirts of Benghazi, the stronghold of what was now an armed insurrection. To this point, Qaddafi had demonstrated a willingness to use indiscriminate force and now stood poised to crush the rebellion. Fearing the assault was imminent, the International Committee of the Red Cross withdrew from Benghazi expressing concern for the fate of civilians while the newly formed TNC and Libya’s defected ambassador to the UN pleaded for support for a

²⁸ UNHRC, Report of the International . . . , 22.

²⁹ *Ibid.*, 54.

³⁰ James Downie, “When Numbers Lie: Why Isn’t There an Accurate Death Toll in Libya?” *The New Republic*, 1 April, 2011. <http://www.tnr.com/article/world/86090/libya-death-toll-war-qaddafi>; Internet; accessed 14 March 2012.

³¹ United States, U.S. Department of State, “Statement Regarding the Use of Force in Libya,” remarks made at the American Society of International Law Annual Meeting, 26 March 2011, <http://www.state.gov/s/l/releases/remarks/159201.htm>; Internet; accessed 11 February 2012.

no-fly zone to prevent a genocide.³² While some, including Qaddafi himself, may contend that a government has the right to defend itself, the argument rang hollow in the face of an entirely disproportionate response and when the means used fomented much of the problem. Being convinced of the seriousness of the situation, the UN acted decisively.

UNSC resolution 1973 (2011) “*Authorizes* Member states . . . acting nationally or through regional organizations . . . to take all necessary measures . . . to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi . . .”³³ The reasons cited reflect the continued and systematic methods employed by Qaddafi including an explicit recognition of a heavy civilian toll and an escalation of violence against both civilians and journalists through arbitrary detention, torture, summary executions, and disappearances.³⁴ The resolution also made direct reference to the Libyan government’s responsibility to protect its citizens. The reference is critical to Just Cause, especially given the moral authority provided under the auspices of the 2005 UN World Summit declaration on R2P. The declaration was endorsed by more than 150 world leaders and is reserved only for the most heinous of violations including genocide, war crimes, ethnic cleansing, and crimes against humanity.³⁵ The measures implemented under UNSCR 1973 authorized a no-fly zone

³² “Libya: Red Cross Pulls Out of Benghazi Fearing Attack,” *BBC News*, 16 March 2011, <http://www.bbc.co.uk/news/world-africa-12767759>; Internet; accessed 20 February 2012.

³³ United Nations Security Council, “Resolution 1973: The Situation in Libya,” S/RES/1973(2011), 17 March 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement>; Internet; accessed 18 January 2012.

³⁴ *Ibid.*

³⁵ Irwin Cotler and Jared Genser, “Libya and the Responsibility to Protect,” *The New York Times*, 28 February 2011. <http://www.nytimes.com/2011/03/01/opinion/01iht->

for the purpose of protecting the civilian population and for all necessary measures for the protection of civilians.³⁶ In making the determination to act, the UN was able to draw upon Libya's modern history, though it offered mixed messages.

As political leaders struggled to determine whether or not firm action was required, modern history provided a litany of behaviour that ran contrary to the ideals of the UN. The 1986 Lockerbie bombing, the 1989 Union des Transports Aeriens (UTA) 772 bombing, and the 1996 massacre of 1000 inmates at the Abu Salim prison were all crimes connected directly to the Qaddafi regime.³⁷ Internally, Qaddafi had oppressed and controlled Libyans through the banning of foreign language education, restricting travel, eliminating political parties, criminalizing minority cultures like the Berbers, and developing a variety of personally controllable internal security organizations.³⁸ Despite these atrocities, more recent history provided indications that Qaddafi was open to changing his ways, at least to the extent that allowed for normalization of external relations even if not meeting the full ideals of the UN Charter.

The regime's gradual transition to a more internationally responsible posture allowed for leeway to question whether the UN should rush towards a violent solution to

[edcotler01.html?_r=1&scp=1&sq=libya%20and%20the%20responsibility%20to%20protect&st=cse;](#) Internet; accessed 20 February 2012.

³⁶ UNSC, "Resolution 1973..."

³⁷ "Libya ICC: Gaddafi Co-Accused," *BBC News*, 27 June 2011, <http://www.bbc.co.uk/news/world-africa-13416319>; Internet; accessed 28 January 2012; Khalil I. Matar and Robert W. Thabit, *Lockerbie and Libya: A Study in International Relations* (Jefferson, NC: McFarland & Company, Inc., 2004), 9.

³⁸ Doug Saunders, "With Gadhafi's Death, Libyans Face an Unknown Rebirth," *The Globe and Mail*, 20 October 2011, <http://www.theglobeandmail.com/news/world/africa-mideast/with-gadhafis-death-libyans-face-an-unknown-rebirth/article2207789/>; Internet; accessed 14 January 2012; Dirk Vandewalle, *A History of Modern Libya* (Cambridge, UK: Cambridge University Press, 2006), 150-152; Edwin Lane, "After Gaddafi, Libya's Amazigh Demand Recognition," *BBC News*, 23 December 2011, <http://www.bbc.co.uk/news/world-africa-16289543>; Internet; accessed 28 January 2012.

the internal strife. Perhaps less extreme measures would encourage Qaddafi to enact comparable internal reforms. Unfortunately, most of the regime's efforts were outwardly aimed with the exclusive purpose of developing the economy. While moderate voices, including Qaddafi's own son Saif al-Islam, emerged preaching internal reform, the reality did not match the rhetoric.³⁹ The only context then upon which the UNSC could situate its response was based on the relevant external reforms enacted.

Chief amongst the improvements made were Qaddafi's 2003 decision to abandon weapons of mass destruction (WMD), halt support for terrorism, and liberalize its economy.⁴⁰ Naturally such overtures are important, but meaningless unless followed by action. Qaddafi demonstrated his seriousness by joining the Organization for the Prevention of Chemical Weapons (OPCW) and destroying 45% of his chemical weapons, handing over two suspects from the Lockerbie bombing, and paying compensation to the families of both the UTA and Lockerbie bombings.⁴¹ Qaddafi went a step further by supporting the United States and its war on terror after the attacks of 9/11.⁴² While such moves were certainly reflective of a normalization of world relations with Libya, they still do not negate the brutal repression of civilian protesters. Over and above Libya's past, the Chinese and Russians put forth arguments against the justness of an intervention based on state sovereignty concerns.

³⁹ Vandewalle, *A History of . . .*, 190-192.

⁴⁰ Yehudit Ronen, *Qaddafi's Libya in World Politics* (Boulder, CO: Lynne Rienner Publishers, Inc., 2008), 2,6.

⁴¹ "Libya's WMD Stockpiles are Secure: Pentagon," *Defense News*, 24 August 2011, <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011108240303>; Internet; accessed 26 January 2012; "Libya Compensates Terror Victims," *BBC News*, 31 October 2008, <http://www.bbc.co.uk/2/hi/americas/7703110.stm>; Internet; accessed 22 February 2012.

⁴² Yahia H. Zoubir, "The US and Libya: The Lengthy Road to Reconciliation," in *Handbook of US-Middle East Relations: Formative Factors and Regional Perspectives*, ed. Robert E. Looney, 262-280 (London: Routledge, 2009), 270.

While the Chinese and Russians certainly expressed concern over the deaths of protesters, the larger concern of state sovereignty derived from foreign policy principles grounded firmly in non-intervention.⁴³ Chinese objections were alluded to in the formal remarks on UNSCR 1973 where Chinese representative Li Baodong stated “. . . the United Nations Charter must be respected and the current crisis must be ended through peaceful means.”⁴⁴ Upon close examination, this concern may be explained both in terms of its political context and in relation to international law.

State sovereignty was initiated as a concept in the Treaty of Westphalia in 1648 and further entrenched within the UN Charter under Article 2(4) which states “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state . . .”⁴⁵ This statement is regularly leveraged by both countries to prevent the UNSC from intervening in state affairs. When put in context, the Chinese form of government relies on authoritarianism to control its populace. Any overt Chinese support for UN intervention in a country risks opening itself to criticism for the manner in which it handles its own internal conflicts including Tiananmen Square, Tibet, or Taiwan. Russia too relies on a

⁴³ Alex J. Bellamy, and Paul D. Williams, “The New Politics of Protection? Côte d’Ivoire. Libya and the Responsibility to Protect,” *International Affairs* 87, issue 4 (July 2011): 843; <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2346.2011.01006.x/pdf>; Internet; accessed 14 March 2012; Michael Emerson, “The Responsibility to Protect and Regime Change,” *Centre for European Policy Studies Commentary*, 1 December 2011. <http://www.ceps.eu/book/responsibility-protect-and-regime-change>; Internet; accessed 14 March 2012.

⁴⁴ United Nations Security Council, 6498th Meeting, “Security Council Approves ‘No-Fly Zone’ Over Libya, Authorizing ‘All Necessary Measures’ to Protect Civilians, By Vote of 10 in Favour with 5 Abstentions,” SC/10200, 17 March 2011. <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>; Internet; accessed 7 March 2012.

⁴⁵ United Nations, *Charter of the United Nations*, Chapter 1, Article 2.4. <http://www.un.org/en/documents/charter/chapter1.shtml>; Internet; accessed 8 March 2012.

significant degree of authoritarianism and an allowance of UN intervention in Libya not only risks the loss of an arms market, but also further condemnation for the manner in which Russia handles internal strife, particularly in Chechnya. The Russian and Chinese concerns are firmly grounded in the national interest and as such do not sufficiently address the moral issues surrounding the killing of Libyan protesters. This, however, provides context for the objection but does not directly address the argument put forth related to state sovereignty.

While the UN heavily weighs any decision to intentionally violate state sovereignty, it also recognizes that a sufficiently just cause may warrant intervention.

Article 2(7) of the UN Charter specifies:

Nothing in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state . . . but this principle shall not prejudice the application of enforcement measures under Chapter VII.⁴⁶

Under UNSCR 1973 Chapter VII authority was invoked authorizing both a limited violation of Libya's sovereignty while also "[r]eaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya."⁴⁷ In essence, the UN recognized that a limited intervention in Libya characterized by the absence of an "occupation force" remained compatible with the long-term preservation of Libyan sovereignty.

⁴⁶ United Nations, *Charter of the United Nations*, Chapter 1, Article 2.7.
<http://www.un.org/en/documents/charter/chapter1.shtml>; Internet; accessed 8 March 2012.

⁴⁷ UNSC, "Resolution 1973..."

In considering the reasons for establishing Just Cause to intervene in Libya, the core concern was not Libya's history, it was the systematic, indiscriminate, and unrestrained decimation of Libyan citizens. The moral principle of civilian protection, as embodied in R2P, necessitated intervention and the legal protection afforded by Article 2(7) of the UN charter provided ample support to counter the sovereignty concerns raised by Russia and China.

Just Cause: +2.5

While there was little doubt regarding the moral requirement for intervention in Libya, a Just Cause alone is not sufficient for the use of violence. An appropriate authority must formally sanction the use of violence.

LEGITIMATE AUTHORITY

The notion of Legitimate Authority in today's context continues to evolve towards an increasing role for international organizations. While state sovereignty and regional entities, including NATO and the EU, continue to play important roles the UN provides the sole widely recognized source of international legitimacy for interference within the affairs of a sovereign state. The UN Charter provides basic the framework for international law that includes governance of scenarios that may warrant a limited violation of state sovereignty. While the UNSC itself does not have the military strength to unilaterally enforce its laws, it derives moral authority from the UN's near universal membership and from legal principles painstakingly developed under the consent of

member states; legal principles that have largely incorporated the Just War tradition and the R2P.⁴⁸

Regardless of scenario, any international use of force that violates state sovereignty must either be a clear act of self-defence as identified in Article 51 of the UN Charter or must be authorized by the UNSC as specified by Chapter VII. In March 2011, the moral considerations in Libya were considered clear by many, but even if the assumption of Just Cause was assumed Chapter VIII of the UN Charter prohibits the use of force by any country unless authorized by the UNSC. It is in this context that Legitimate Authority in Libya must be judged.

The implementation of UNSCR 1970 and 1973 in February and March 2011 respectively provide a clear starting point for an assessment of Legitimate Authority. While the resolutions provided an initial and definitive air of legitimacy to the subsequent military and political intervention within Libya, the degree of unity within the international community also contributes to Legitimate Authority. In fact, the texts of the two resolutions were both influenced by and impacted the degree of unity within the international community.

The two resolutions obliquely invoked the notion of R2P by reminding the Libyan authority of its duty of care towards its citizens, but did not explicitly transfer that responsibility to the international community. They did however use strong language by allowing for “all necessary measures” to protect civilians, referred the situation to the

⁴⁸ Dorn, *Just War Index...*

ICC, and specifically forbade an occupation force.⁴⁹ Despite the passing of the measures, support for their methods and intent were far from universally accepted, particularly UNSCR 1973.

UNSCR 1973 passed with ten votes in the affirmative and five abstentions. The most ardent supporters of the Lebanese-sponsored resolution were the US, UK, France, and the Arab members of the Council. The prior request by the Arab League calling on the Security Council “. . . to bear its responsibilities . . . and to impose immediately a no-fly zone . . . and to establish safe areas . . .”⁵⁰ was a momentous shift in Arab League behaviour whose significance had a profound impact on the legitimacy accorded to the Libyan campaign. Analyst Fareed Zakaria noted that “[i]n the 66 years since its founding, the Arab League has served as a shield for dictators and rarely produced anything but windy rhetoric about Arab solidarity and Palestine.”⁵¹ Undoubtedly, the events of the Arab Spring were a significant influence on the Arab League’s behaviour but this does only increase its significance. Despite the Arab League’s backing, support in the Security Council was not universal.

Germany and the so-called BRIC (Brazil, Russia, India, and China) all abstained from the vote on UNSCR 1973. While the abstentions did not stop the resolution from passing, they were certainly indicative of doubt regarding the call to action. The

⁴⁹ UNSC, “Resolution 1973...”

⁵⁰ Council of the League of Arab States, “The Implications of the Current Events in Libya and the Arab Position,” 12 March 2011. <http://responsibilitytoprotect.org/Arab%20League%20Ministerial%20level%20statement%2012%20march%202011%20-%20english%281%29.pdf>; Internet; accessed 6 March 2012.

⁵¹ Fareed Zakaria, “Why Are We in Libya?” *Time* 177, issue 13 (4 May 2011): 32-35; <http://www.ebscohost.com>; Internet; accessed 19 January 2012.

Germans were leery of even a no-fly zone and felt that any military intervention had the potential for involvement in a protracted military engagement.⁵² The Russians and Indians both expressed concern that the measure was moving too quickly and the Russians felt that the resolution would have unforeseen political consequences.⁵³ Brazil and India for their part were both wary of western motivation given historic US interventions in Latin America and UK colonization of India while Brazil also had significant oil interests in Libya.⁵⁴ Regardless of their motivations, the abstentions ultimately served to degrade the degree of unity, and therefore legitimacy, afforded by UNSCR 1973. Legitimacy however, is not only dependent upon the legal process that leads to the passing of a resolution, but also upon the degree of unity and range of support offered during its implementation.

UNSCR 1973 called for action by “ . . . Member states . . . or through regional organizations or arrangements, and acting in cooperation with the Secretary-General . . . [and] requests the Member states of the League of Arab states to cooperate with other Member states . . . ”⁵⁵ The US, UK, and France immediately launched the week-long Operation Odyssey Dawn ostensibly to degrade Libya’s integrated air defense system, but included direct strikes on Qaddafi’s forces as well. The hurried move to action without a broad military organization, though necessitated by the plight of Libyans in Benghazi, ultimately contributed to an initial degradation of support for the mission.

⁵² UNSC, 6948th Meeting, “Security Council Approves . . .”, SC/10200.

⁵³ *Ibid.*

⁵⁴ Jeferson Ribeiro, “Brazil Says Believes Libya Will Respect Contracts,” *Reuters*, 23 August 2011, <http://www.reuters.com/article/2011/08/23/us-brazil-libya-idUSTRE77M4VT20110823>; Internet; accessed 26 February 2012; Barbara Plett, “UN Security Council Middle Powers’ Arab Spring Dilemma,” *BBC News*, 7 November 2011, <http://www.bbc.co.uk/news/world-middle-east-15628006>; Internet; accessed 26 February 2012.

⁵⁵ UNSC, “Resolution 1973...”

While there was potential for added legitimacy through the early inclusion of Arab nations,⁵⁶ tangible support was initially withheld owing to the inherent difficulty of forming an ad hoc coalition. For example, the United Arab Emirates and Saudi Arabia initially withheld the provision of direct military support over American pressure on the Saudis over their aid to Bahrain in suppressing Arab Spring inspired protests.⁵⁷ While the initial difficulties were overcome, even action by regional organizations was fraught with political difficulties.

During Operation Odyssey Dawn, the relationship amongst international supporters of the resolution was highly fractious even as the prospect of NATO succession was being discussed. The Arab League was initially critical of the military response stating that the airstrikes were beyond the scope of the resolution.⁵⁸

Furthermore, France objected vociferously to the possibility that NATO would take over the mission citing the need to have the support of Arab countries while Turkey, who had originally objected to any intervention by NATO, reversed course after approval of UNSCR 1973 and welcomed NATO in order to blunt France's influence.⁵⁹

⁵⁶ Ivo H. Daalder, and James G. Stavridis, "NATO's Victory in Libya: The Right Way to Run an Intervention," *Foreign Affairs* 91, no.2 (2012); <http://www.proquest.com>; Internet; accessed 9 March 2012.

⁵⁷ Mark Landler and Steven Erlanger, "Obama Seeks to Unify Allies as More Airstrikes Rock Tripoli," *The New York Times*, 22 March 2011, http://www.nytimes.com/2011/03/23/world/africa/23libya.html?_r=1&scp=1&sq=obama%20seeks%20to%20unify%20allies%20as%20more%20airstrikes%20rock%20tripoli&st=cse; Internet; accessed 13 February 2012.

⁵⁸ "Arab League: Protection of Civilians in Libya is Priority," *BBC News*, 20 March 2011, <http://www.bbc.co.uk/news/world-africa-12801823>; Internet; accessed 25 February 2012.

⁵⁹ "Libya: Turkey's Troubles with NATO and No-Fly Zone," *BBC News*, 25 March 2011, <http://www.bbc.co.uk/news/world-africa-12864742>; Internet; accessed 26 February 2012.

The importance of using NATO was reinforced when Italy, whose bases ultimately served as the primary staging area for Operation Unified Protector, and Norway both hesitated to support the mission unless it was NATO led.⁶⁰ Even Poland, who declined to participate directly, contributed by selling precision munitions to other NATO countries.⁶¹ Despite the complexity associated with the transition to NATO leadership and with the integration of a coalition that included non-NATO members, the salient point is that UNSCR 1973 alone did not represent a panacea of legitimacy. The significant fractures within the coalition before and after UNSCR 1973 approval ultimately weakened the mission's Legitimate Authority. Furthermore, owing to the severe constraints of the UNSC construct, the UN could not resolve these disagreements so alternatives would need to be found. The principals recognized this concern and action was taken to ensure clear and broad-based political consensus was sought.

The response was the London Conference on Libya which met on 29 March 2011 less than two weeks after the passing of UNSCR 1973. The concluding statement optimistically read, "This Conference has shown that we are united in our aims..."⁶² The conclusion was supported by representation from 40 different countries including former abstainer Germany as well as representation from the European Union (EU), NATO, Arab League, and Organization of the Islamic Conference (OIC). The relatively broad attendance provided ongoing credibility to the mission, however, notably absent

⁶⁰ Landler and Erlanger, "Obama Seeks to..."

⁶¹ Daalder, "NATO's Victory in Libya..."

⁶² North Atlantic Treaty Organization (NATO), London Conference on Libya, *Chair's Statement*, 29 March 2011, http://www.nato.int/nato_static/assets/pdf/pdf_2011_03/20110927_110329_London-Conference-Libya.pdf; Internet; accessed 18 January 2012.

were the African Union (AU) and Saudi Arabia.⁶³ The presence of the AU and Saudi Arabia were important as they represented African, as well as some Arab and Muslim perspectives which carried the potential to lend additional credibility to the coalition's actions. The Saudi absence may be explained in part over the aforementioned concerns regarding its intervention in Bahrain. The AU's origins and funding were deeply associated with Qaddafi himself⁶⁴ and thus it was unlikely that the AU would lead any effort to denounce him. While the mission remained in its infancy with the outcome and continued support far from assured, the conference subsequently agreed to form the Libya Contact Group.

The first meeting of the Libya Contact Group occurred on 13 April 2011 hosted in Doha by Qatar. The selection of the venue reinforced the importance of Arab involvement in the political process while the addition of the AU as an observer represented an improvement in its scope. The total number of nations represented this time however was only 21.⁶⁵ Despite the dwindling attendance, the Libya Contact Group would continue to meet regularly until 1 September 2011 when the group was rebranded the Friends of Libya as the focus turned towards post-conflict requirements. The Libya Contact Group served an important role in the maintenance of Legitimate Authority early in the conflict by providing an open forum for the development of consensus-based

⁶³ Patrick Wintour, "London Libya Conference Leaves Gaddafi's Fate Undecided," *The Guardian*, 29 March 2011, <http://www.guardian.co.uk/world/2011/mar/29/london-libya-conference-leaves-gaddafi-fate-undecided?INTCMP=SRCH>; Internet; accessed 26 February 2012.

⁶⁴ David Pugliese, "The Libya Mission One Year Later: Into the Unknown," *The Ottawa Citizen*, 17 February 2012, <http://www.ottawacitizen.com/news/Libya+mission+year+later+Into+unknown/6172099/story.html>; Internet; accessed 18 February 2012.

⁶⁵ North Atlantic Treaty Organization (NATO), Libya Contact Group, *Chair's Statement*, 13 April 2011, http://www.nato.int/nato_static/assets/pdf/pdf_2011_04/20110926_110413-Libya-Contact_Group-Doha.pdf; Internet; accessed 18 January 2012.

political direction. Of note from the closing statements of both the London Conference and the Libya Contact Group is a dearth of references to the United States.

Only a decade ago, the world reacted with disdain to US President George W. Bush's famous tag line "Either you are with us, or you are with the terrorists"⁶⁶ in reference to the so-called War on Terror. The statement was representative of the administration's unilateralist actions on the world stage. The invasion of Afghanistan and Iraq left a legacy of divisiveness that lingered, particularly in the minds of Muslim and Arab nations. Libya itself was the recipient of such unilateral action in 1986 when then President Ronald Reagan authorized Operation El Dorado Canyon, a series of air and missile strikes designed to punish Qaddafi and his support for terrorism. The bombings were widely condemned by most Arab and Western European nations.⁶⁷ The significant fallout of such unilateral action was not lost on future administrations. During a visit to Chile on 21 March 2011 President Barack Obama noted that in the past the US had acted "... unilaterally and without full international support..." and as a result bore the full political, military, and financial costs of those decisions.⁶⁸ In addressing the situation in Libya, President Obama implemented the lessons learned from these failures.

Although far from immune to acting out of concern for the national interest, the approach to the Libyan situation was a marked improvement. While supportive of

⁶⁶ United States, The White House, *Address to a Joint Session of Congress and the American People*, 20 September 2001. <http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html>; Internet; accessed 4 April 2012.

⁶⁷ Nicholas Laham, *The American Bombing of Libya: A Study of the Force of Miscalculation in Reagan Foreign Policy* (Jefferson, NC: McFarland & Company, Inc., 2008), 6-7.

⁶⁸ "Libya: US to Reduce Role in Military Campaign," *BBC News*, 21 March 2011, <http://www.bbc.co.uk/news/world-africa-12813757>; Internet; accessed 13 February 2012.

UNSCR 1973 and directly involved in Operation Odyssey Dawn, President Obama made it clear that the US wanted a broad coalition in order to avoid being seen as an aggressor in yet another Muslim nation.⁶⁹ As a result, NATO was pressed to lead the effort with Canadian Lieutenant-General Charles Bouchard appointed as the Commander. Given his three previous tours with the American military, including one as Deputy Commander of NORAD in Colorado Springs, he was a trusted officer who would allow for some separation of American interests from the conflict. Despite heavy domestic criticism from the right wing of the political spectrum President Obama's approach gained a much higher level of trust in the Arab world and consequently a significant increase in the legitimacy in implementing UNSCR 1973.⁷⁰

In considering Legitimate Authority as a whole, the successful passing of UNSCR 1973 with the eventual full support of the Arab League provided a sound starting point despite the presence of a significant number of abstentions. The inclusive political process implemented through the London Conference on Libya and the Libya Contact Group helped to ensure continued broad support for action in the critical initial months of the war even though there remained significant players including the AU who remained at the periphery. Such broad support was only possible owing to the subdued role played by the US under an uncharacteristically multilateral approach.

Legitimate Authority: +2.0

⁶⁹ Pugliese, "The Libya Mission..."

⁷⁰ Daalder, "NATO's Victory in Libya..."

The discussion on Legitimate Authority noted significant dissent amongst a number of nations both in terms of support for the UN resolutions and for the execution of the mission once authorized. A significant portion of the objections were directly related to suspicions of ulterior motives.

RIGHT INTENT

As stated previously, the Just War tradition interpretation being used does not preclude ulterior motives for the decision to resort to violence; it does however require that moral considerations be satisfied. To do so means those ulterior motives must serve not only the interested party, but also the interests of peace and international security. In reviewing the principle objections to coalition actions post-UNSCR 1973, the primary concerns center on the belief that regime change, rather than protection of civilians was not only an ulterior motive, but the primary motive. The examination of Right Intent must determine whether or not regime change was in fact a primary motive, and if so, what its impact was on peace and international security.

Prior to the approval of UNSCR 1973, several countries alluded to the possibility of an unpredictable political end state. Russian objections from Vitaly Churkin were captured in the minutes of the 17 March Security Council minutes where he opined: “Work on the resolution was not in keeping with Security Council practice, with many

questions having remained unanswered, including how it would be enforced and by whom, and what the limits of engagement would be.”⁷¹

Despite these reservations, several coalition nations acted immediately and decisively under Operation Odyssey Dawn followed closely by NATO only a week later. The airstrikes began with a focus on Libyan air defences which could threaten NATO aircraft but rapidly expanded to targeting those that threatened civilians, which were assessed to be Qaddafi’s forces. Only days into the war the Arab League objected to the scope of the airstrikes with Secretary General Amr Moussa stating “What is happening in Libya differs from the aim of imposing a no-fly zone.”⁷² As the war progressed abstainers China, Russia, and Brazil would join in condemning the coalition accusing it of attempting to effect regime change rather than focusing on the stated mandate.⁷³ While the Arab League would continue to support the coalition, the question becomes: did the evidence support these claims?

The initial focus on the suppression of enemy air defences is easily justifiable under the mandate of enforcing a no-fly zone. Forces acting under UN authorization are entitled to protect themselves and an active air defence coupled with hostile intent warrants its removal. The expansion of the target list to include ground formations may also be justified under the mandate to protect civilians, as it was clear that Qaddafi’s

⁷¹ UNSC, 6948th Meeting, “Security Council Approves . . .”, SC/10200.

⁷² Edward Cody, “Arab League Condemns Broad Western Bombing Campaign in Libya.” *The Washington Post*, 20 March 2011. http://www.washingtonpost.com/world/arab-league-condemns-broad-bombing-campaign-in-libya/2011/03/20/AB1pSg1_story.html; Internet; accessed 21 April 2012.

⁷³ United Nations Security Council, 6531st Meeting, *Minutes*. S/PV.6531, 10 May 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N11/330/32/PDF/N1133032.pdf?OpenElement>; Internet; accessed 7 March 2012.

military was targeting civilians indiscriminately.⁷⁴ There is, however, evidence of other actions carried out by coalition members that are more difficult to justify.

Evidence shows that at a minimum France, Qatar, Canada, Poland, and Egypt all supplied arms to rebel forces.⁷⁵ Included in that support were mini-UAVs, anti-tank missiles, trucks, rifles, ammunition, and communications gear. In one instance, NATO quickly released a ship caught by the Canadian frigate HMCS Charlottetown delivering weapons to rebels. NATO quickly released the ship ostensibly because it was delivering weapons from one location in Libya to another and thus did not technically violate the arms embargo. The general justification provided for such support was that it aided in the protection of civilians since Qaddafi was the primary threat. The illegal provision of arms to rebels and the type of rationalization depicted by HMCS Charlottetown's scenario helped to stoke sentiment that the coalition's main goal was in fact regime change; so too would evidence that NATO was coordinating its efforts directly with the rebel forces.

While the NATO position was that coordination with the rebels went beyond its mandate of protecting civilians, this position does not appear to entirely reflect the reality on the ground. Evidence from various sources indicated that there was at least a degree of coordination. Rebels overtly stated that NATO helped to achieve tactical objectives on the ground through coordinated bomb-strikes while also openly acknowledging that

⁷⁴ UNHRC, "Report of the International . . .", 51.

⁷⁵ David Pugliese, "Canada Helped NATO Enable Ouster of Gadhafi from Libya," *The Ottawa Citizen*, 19 February 2012.
<http://www.ottawacitizen.com/news/Canada+helped+NATO+enable+ouster+Gadhafi+from+Libya/6176566/story.html>; Internet; accessed 19 February 2012.

their ability to do communicate with NATO was byzantine and time consuming at best.⁷⁶ The UK further acknowledged that NATO was providing intelligence and reconnaissance information to the rebels.⁷⁷ Such evidence appears to indicate that any coordination was kept at a distance in order to avoid the appearance of overt support for anti-Qaddafi forces. When framed in a historical context, there were a variety of other reasons for skepticism regarding the coalition's intentions.

Any US involvement in the Middle East is fraught with political baggage given longstanding accusations of involvement in the region strictly for economic interest. In recent history accusations claiming that Operation Iraqi Freedom was for the purpose of securing access to Iraq's oil reserves were commonplace and fuelled by deep Arab mistrust of American intentions. Unsurprisingly, similar rationales were applied to the Libyan intervention.

Given Libya's 1.6 million barrels per day total pre-war production, it was not an insignificant player on the world energy market but its significance to the US pales in comparison to Saudi Arabia's (over 1 million barrels per day to US alone) not even appearing in the top 15 oil exporters to the US according to 2011 figures. The recent economic liberalization of Libya under Qaddafi and the supporting role played by the US during the mission also contribute to the discrediting of any thought that US economic

⁷⁶ Pugliese, "Canada Helped NATO..."; Steven Sotloff, "All Confused on the Western Front: NATO's and Libya's Rebels Don't Jibe," *Time*, 21 June 2011, <http://www.time.com/time/world/article/0,8599,2078831,00.html>; Internet; accessed 8 March 2012.

⁷⁷ Tim Castle, "NATO Giving Rebels Intelligence in Gaddafi Hunt – UK's Fox," *Reuters*, 25 August 2011. <http://af.reuters.com/article/libyaNews/idAFL5E7JP08I20110825>; Internet; accessed 21 April 2012.

interest drove the Libyan intervention. There were, however, other historical interests that may have contributed to the willingness to support regime change.

The notion of “finishing the job” is one that warrants some reflection. In the first Gulf War, the US stopped short of removing Saddam Hussein from power only to return in 2003. Similarly, the US attacked Afghanistan-based terrorist training camps run by Osama Bin Laden in 1998 only to return in 2001 to eliminate the government who continued to harbour Bin Laden.⁷⁸ Operation El Dorado Canyon in 1986 was a response to terrorism targeted towards Americans. Though Qaddafi had renounced terrorism, it is highly unlikely that Americans forgot Qaddafi’s past and considered him to be a responsible and trusted ally thus providing a third situation where an opportunity presented itself to “finish the job”. Other partners in the coalition also had their own motivations to act that diverted from altruistic origins.

The UK, as one of the 2011 intervention’s staunchest supporters, was also very aware of Qaddafi’s history of funding the Irish Republican Army (IRA) and the hero’s welcome afforded to the convicted Lockerbie bomber in 2009.⁷⁹ There was also speculation that staunch Canadian supporter of the mission Prime Minister Harper was driven by the desire to maintain close relations with the US. French motivations under President Sarkozy are alleged to have been grounded in sensitivity to criticism over his

⁷⁸ Raymond Bonner, and Steve LeVine, “After the Attack: The Guerrillas; ‘We Are Freedom Fighters,’ Says a Leader of Militants,” *The New York Times*, 27 August 1998. <http://www.nytimes.com/1998/08/27/world/after-attack-guerrillas-we-are-freedom-fighters-says-leader-militants.html>; Internet; accessed 2 March 2012.

⁷⁹ Pugliese, “Canada Helped NATO...”; John F. Burns, “New Questions in Lockerbie Bomber’s Release,” *The New York Times*, 22 August 2009. http://www.nytimes.com/2009/08/22/world/europe/22lockerbie.html?_r=1&scp=1&sq=New%20Questions%20in%20Lockerbie%20Bomber%E2%80%99s%20Release&st=cse; Internet; accessed 2 March 2012.

government's close ties to the toppled Tunisian regime and a need to establish himself prior to an election.⁸⁰ All told, there were a variety of Western interests that served to obscure the motivations beyond those stated under Just Cause, but was there truly sufficient evidence to support the notion that the West's ultimate objective was regime change?

Before making the determination of whether or not regime change was the coalition's policy, it must first be determined what the scope of UNSCR 1973 allowed for. The text itself while allowing for "all necessary measures" also "[s]tresses the need to intensify efforts to find a solution to the crisis which responds to the legitimate demands of the Libyan people . . . with the aim of facilitating dialogue to lead to the political reforms necessary to find a peaceful and sustainable solution."⁸¹ The text may be interpreted in a permissive or restrictive fashion and which interpretation is applied depends upon the political and moral perspective of the reader. From the perspective of Western values the question becomes: was it possible to accomplish the mission of protecting civilians without regime change?⁸²

In reviewing the statements made by the principle players within the coalition following the passing of UNSCR 1973 it is clear that regime change became a clear policy objective shortly after UN authorization for action and that NATO would be the indirect means of effecting the policy. The US and Canada openly called for removal of

⁸⁰ Margaret O'Brien Steinfels, "Hazardous Means: Libya & The Ambiguity of Humanitarian Intervention," *Commonweal Magazine*, 17 June 2011. <http://commonwealmagazine.org/hazardous-means>; Internet; accessed 16 February 2012.

⁸¹ UNSC, "Resolution 1973..."

⁸² Fisher and Biggar, "Was Iraq an Unjust War?...", 707.

Qaddafi only days into the war followed shortly by members of the London Conference, Libya Contact Group, and NATO.⁸³ The significance of public endorsement by such a broad coalition, with UN representation, suggests that it was not felt that the goals of the UNSCR could be met with Qaddafi in power. His conduct prior to UN action provided the initial impetus for this conclusion, but his actions throughout the war including the denial of sewage treatment, electricity, water, fuel, and food to certain rebel held areas strengthened the calls for his removal.⁸⁴ The means by which he was ultimately removed however raised additional questions.

Given the overt calls for the removal of Qaddafi, the moral assessment of Right Intent also warrants a discussion as to whether or not he was also a direct target for assassination or as it is referred to contemporarily, “targeted killing”. The UK provided relevant fodder in the first few days of the war with Defence Secretary Liam Fox stating that Qaddafi was a possible target only to be contravened by Prime Minister Cameron who cited the limitations of the UN resolution.⁸⁵ The confusion would persist with Lieutenant General Charles Bouchard, the NATO Joint Task Force Commander, stating repeatedly in April 2011 that the campaign targeted only command and control (C2) nodes, not individuals.⁸⁶ Shortly thereafter, Admiral Locklear, Commander of NATO

⁸³ Pugliese, “Canada Helped NATO...”; NATO, “London Conference on Libya”, 29 Mar 11; NATO, “Libya Contact Group”, 13 Apr 11; North Atlantic Treaty Organization (NATO), Working Lunch of NATO Ministers of Defense, *Statement on Libya*, 8 June 2011. http://www.nato.int/cps/en/natolive/news_75177.htm; Internet; accessed 23 January 2012.

⁸⁴ North Atlantic Treaty Organization (NATO), Statement by Oana Lungescu, NATO Spokesperson and Colonel Roland Lavoie, Operation “Unified Protector” military spokesperson, *Press Briefing on Libya*, 27 September 2011. http://www.nato.int/cps/en/natolive/opinions_78535.htm; Internet; accessed 11 February 2012.

⁸⁵ BBC, “Libya: US to Reduce...”

⁸⁶ North Atlantic Treaty Organization (NATO), Statement by Carmen Romero, NATO Deputy Spokesperson and Lieutenant General Charles Bouchard, Commander of the Operation Unified Protector,

Joint Operations Command, remarked in June that the alliance was “. . . actively targeting and trying to kill the Libyan leader.”⁸⁷

The most relevant incident, however, was the 20 October 2011 NATO strike on Qaddafi’s convoy of civilian vehicles that ultimately resulted in his capture and subsequent death at the hands of rebel forces. While the NATO Secretary General, Anders Fogh Rasmussen, adamantly stated that Qaddafi was not specifically targeted British reports indicated that Qaddafi’s presence in the convoy was known based on cell phone intercepts.⁸⁸ When the overall conflict is assessed, what is clear is that there were some grounds to believe that a progressively more aggressive approach was being taken towards the central issue of regime change. While UNSCR 1973 did not explicitly address regime change, the subsequent political direction of the coalition broadened the goal by calling for regime change. The coalition then provided indications that the goal may have been further constricted with a move towards regime change via targeted killing.

In considering Right Intent it was clear that the coalition felt it necessary to effect regime change early in the conflict thus confirming the suspicions of China and Russia. Not only was regime change stated openly, but various actions, including the covert supply of arms and intelligence to the rebels, confirmed the intent with Qaddafi’s own

Press Briefing on Libya, 26 April 2011. http://www.nato.int/cps/en/natolive/opinions_72902.htm; Internet; accessed 11 February 2012.

⁸⁷ Pugliese, “Canada Helped NATO...”

⁸⁸ North Atlantic Treaty Organization (NATO), *Press Conference by NATO Secretary General on the Latest Developments in Libya and Operation Unified Protector*, 21 October 2011. http://www.nato.int/cps/en/natolive/opinions_79807.htm; Internet; accessed 11 February 2012; Pugliese, “Canada Helped NATO...”

behaviour serving to strengthen the coalition's position. While a variety of domestic political considerations may also have played into various coalition members' decision-making processes, those considerations ultimately served the stated political aims of the coalition and the UN. Regime change proved to be the only realistic method, however indirect, of achieving the protection of civilians and a representative political process, owing to Qaddafi's refusal to acknowledge any of the goals that the UN and NATO set for his government. Unfortunately, the lack of formal discussion over regime change while deliberating UNSCR 1973 served to reduce an otherwise positive ethical standing under Right Intent. By masking whether or not Qaddafi was considered a military target, failing to make explicit calls for his capture and subsequent trial through the ICC the coalition left itself open to accusations that its methodology also helped void the opportunity to bring Qaddafi to justice and fulfill all of the aims of UNSCR 1973.

Right Intent: +1.0

The principles of Just Cause, Legitimate Authority, and Right Intent represent reflections on historical decisions. A Just War assessment for Libya also requires an analysis of the principle of Net Benefit which necessitates a look at the present and future.

NET BENEFIT

Assessing Net Benefit for Libya requires that the full set of positive and negative outcomes be weighed against each other. To obtain a positive result, the Net Benefit

should be in favour of the good achieved in a global context. For the purposes of this assessment the human costs, chance for democracy, sectarian strife, human rights, economic prospects, proliferation of weapons, financial costs, and global political impact will each be assessed. Of all the areas to be assessed the human costs are invariably afforded, and justifiably so, the highest public profile.

Casualty figures from the conflict varied widely depending on who was providing the data with estimates ranging from 2,000 to 30,000.⁸⁹ The World Health Organization reported the lower figure while the TNC provided the higher. These figures are representative of all deaths from the war including rebels, pro-Qaddafi forces, and civilians. While tragic, it must also be considered that many of these casualties would have occurred even if the UNSC had not intervened or, if the civil war had continued longer, the casualty count may even have been higher. In order to ascertain the relevance to Net Benefit, a reasonable focus is exclusively on civilian casualties. Accepting the notion that the battle between the rebels and Qaddafi would have occurred and resulted in civilian casualties regardless of UNSC intervention, the relevant figures are the civilian casualties caused and prevented directly by the coalition.

The UNHRC recently released a report indicating that NATO was responsible for the deaths of 60 civilians.⁹⁰ These figures appear to corroborate earlier estimates of 40-70 killed from *The New York Times* and 50-100 killed from the UK based Royal United

⁸⁹ "Counting the Cost of NATO's Mission in Libya," *BBC News*, 31 October 2011, <http://www.bbc.co.uk/news/world-africa-15528984>; Internet; accessed 28 January 2012.

⁹⁰ UNHRC, Report of the International . . . , 17.

Services Institute (RUSI).⁹¹ While collateral damage cannot be considered ethically acceptable in an absolutist sense, a relativist perspective allows for some perspective. When compared to NATO's bombing campaign in Kosovo where estimates range from 200-500 killed, the number of casualties is relatively low. Numbers, however, can be deceiving. To complete the assessment an accounting of the prevention of civilian loss must also be provided.

The main factor to consider is the situation at the outset of UN intervention. With Qaddafi's forces poised to strike the rebel heartland of Benghazi, a city of more than 600,000, there was legitimate concern that Qaddafi's forces would have enacted a massacre or even genocide given his brutal history of repressing opposition. While figures cannot be accurately predicted, it can easily be concluded based on Qaddafi's rhetoric and conduct to that date that far more innocent people would have died in Benghazi than suffered from NATO airstrikes. Those conclusions are supported by Qaddafi's orders to suppress protests "... 'with all means necessary' ..."⁹² Orders that were carried out with vigour as protesters were bound, shot in the head and burned, the injured removed from hospitals, fuel and food supplies cut off, and scores more shot with large caliber weapons.⁹³ An additional consideration under human cost is the plight of refugees.

⁹¹ C.J. Chivers, and Eric Schmitt, "In Strikes on Libya by NATO, an Unspoken Civilian Toll," *The New York Times*, 17 December 2011. <http://www.nytimes.com/2011/12/18/world/africa/scores-of-unintended-casualties-in-nato-war-in-libya.html?scp=1&sq=In%20Strikes%20on%20Libya%20by%20NATO.%20an%20Unspoken%20Civilian%20Toll&st=cse>; Internet; accessed 23 January 2012; BBC, "Counting the Cost..."

⁹² UNHRC, Report of the International . . . , 7.

⁹³ *Ibid.*, 7-8.

The International Organization for Migration (IOM) estimated that 345,000 people left Libya.⁹⁴ While these figures cannot wholly or directly be attributed to the NATO intervention, their plight cannot be underestimated. The statistic masks the loss of employment, dignity, and possessions that inevitably accompany these statistics. Unlike casualties, however, the plight of refugees can be reversed. In December 2011 the head of UNSMIL, Ian Martin, said that there remained 63,000 people in need of assistance with a majority of personnel in the most heavily affected Qaddafi loyalist areas in Bani Walid and Sirte having returned home.⁹⁵ The gradual return of Libyans to their homes stands in contrast to recent reports indicating that upwards of a million Africans have left the country to return to their homelands.⁹⁶ The mass exodus of people from Libya resulted in predictable increases in crime, drug use, human smuggling, and armed conflict. The potential for their return to Libya remains uncertain owing to the continued instability of the country. Those who stayed or managed to return are now anticipating the possibility of a democratic future.

UNSCR 1973 explicitly stated that the end result of the war must respond to the legitimate demands of the people. According to the TNC's interim leader Mustafa Abdul Jalil in October 2011, this meant that “. . . Libyans will head for free legislative, parliamentary and presidential elections.”⁹⁷ This openly stated goal aligns with the

⁹⁴ “Special Report: Libya After Gadhafi,” *CBC News*, 7 December 2011.

<http://www.cbc.ca/news/world/story/2011/02/24/f-libya-topix.html>; Internet; accessed 22 January 2012.

⁹⁵ UN “Libyan Authorities Working to Respond to People’s High Expectations – UN Envoy,” *UN News Centre*, 22 December 2011.

<http://www.un.org/apps/news/story.asp?NewsID=40825&Cr=Libya&Cr1=>; Internet; accessed 16 February 2012.

⁹⁶ Pugliese, “Canada Helped NATO...”

⁹⁷ “Libya Crisis: Profile of NTC Chair Mustafa Abdul Jalil,” *BBC News*, 22 August 2011. <http://www.bbc.co.uk/news/world-africa-14613679>; Internet; accessed 28 January 2012.

Western, democratic ideals supported by the UN and the majority of the coalition members. Although few details were provided, UNSMIL stated that progress has been made towards the election of the National Congress which will be charged with the drafting of a new constitution and will form the basis of a successor government to the TNC.⁹⁸ News of progress towards democracy is a welcome development, but assurance of the outcome remains very much in doubt.

The TNC's commitment to democracy may be tenuous and its commitment to the rule of law doubtful. Already, the TNC drew criticism in January for welcoming Sudan's autocratic President, Omar Hassan al-Bashir, himself wanted by the ICC.⁹⁹ The TNC is also flouting the very same international law which paved the way for NATO intervention as it refuses to hand over Seif al-Islam el-Qaddafi to the ICC.¹⁰⁰ In addition, the requirement to draw electoral districts and the need to address minority rights in the constitution promise to exacerbate deep divisions within the country that were largely suppressed under Qaddafi's rule. Nowhere are the divisions more obviously manifested than in the hundreds of militias that continue to dominate the country.

As is the case in many Arab countries, Libya is characterized by a deeply entrenched tribalism. It is this tribalism that fuels loyalty to the many militias within the country and characterized the anti-versus pro-Qaddafi divisions during the rebellion. Building strong democratic institutions within Libya will require either some form of

⁹⁸ UN, "Libyan Authorities Working..."

⁹⁹ Pugliese, "Canada Helped NATO..."

¹⁰⁰ Marlise Simons, "Libya: Court Demands Handover of Qaddafi Son for Trial at Hague," *The New York Times*, 4 April 2012. <http://www.nytimes.com/2012/04/05/world/africa/seif-al-islam-el-qaddafi-ordered-to-trial-at-hague.html>; Internet; accessed 5 April 2012.

accommodation of tribalism or will need to generate a cultural change based on an appeal to a sense of Libyan nationalism.

Some analysts argue that appealing to nationalism is the solution, noting that the integrating effect of a high rate of urbanization (92%) and property ownership has diluted tribal influence to the point that Libyans will be primarily interested in stability and a more equal distribution of wealth.¹⁰¹ The opposing perspective argues that tribalism should be leveraged as it can provide the foundation for security forces as the central government develops. In addition, bringing tribal leaders into the political discussion will enable them to use their social standing in the community to exert influence over moral matters as the unruly transition to democracy unfolds.¹⁰² The reality in today's Libya argues in favour of the latter perspective.

With scores of militias still well armed and resistant to the central authority of the TNC, it is clear that the prospects for stability in Libya are dependent upon how the militias are handled. As an indication of the likely way ahead, the TNC has named rebel Commanders from Zintan and Misrata as Defence and Interior Ministers in an effort to generate consensus.¹⁰³ In parallel, it will be necessary to begin the process of rebuilding the police and army in order to counter the armed presence of the militias, as the current situation is untenable. Many of the militias have stated that the reason they have not

¹⁰¹ Doug Saunders, "Will Libya's Uniqueness Prove Its Undoing?" *The Globe and Mail*, 22 October 2011. <http://www.theglobeandmail.com/news/opinions/opinion/will-libyas-uniqueness-prove-its-undoing/article2209826/>; Internet; accessed 14 January 2012.

¹⁰² Ibrahim Sharqieh, "Imperatives for Post-Conflict Reconstruction in Libya," *Conflict Trends*, issue 4 (2011): 7-8; http://www.accord.org.za/downloads/ct/ACCORD_Conflict_Trends_2011_4.pdf; Internet; accessed 18 February 2012.

¹⁰³ Edwin Lane, "Libya's Rebels Without a Cause," *BBC News*, 15 December 2011. <http://www.bbc.co.uk/news/world-africa-16187211>; Internet; accessed 28 January 2012.

disarmed is due to the weakness of the central government. Once the central government demonstrates its strength it may lead to a cascading recognition of central authority enhanced by the credibility provided by democratic elections.

Democratic elections will be a difficult transition for Libyans in general, but there remain elements in society that oppose democracy outright. Qaddafi loyalists benefited from his rule for nearly 42 years and will see democracy as a weakening of their status in society. The fierce divisions are evidenced by the Qaddafi-loyal Warfallah tribe in Bani Walid who violently expelled TNC forces in January 2012 and the banding together of nearly 100 militias in the west of the country to counter the influence of the TNC who oppose the reintegration of Qaddafi loyalists into the government.¹⁰⁴

The other threat to Libyan society is Islamic fundamentalism. Qaddafi himself feared the rise of terrorist groups within Libya and it was this fear that drove him to leverage tribalism to counter terrorist group influence. Several countries have issued concerns that elements of al-Qaeda, the Libyan Islamic Fighting Group (LIFG), al-Qaeda in the Islamic Maghreb (AQIM), and Hezbollah all played a role in supporting the rebellion.¹⁰⁵ The likely existence of well-entrenched terrorist organizations remains a

¹⁰⁴ “Libya Government Yields to Tribe,” *The New York Times*, 25 January 2012. <http://www.nytimes.com/2012/01/26/world/africa/libya-government-yields-to-tribe-in-bani-walid.html?ref=muammarelqaddafi>; Internet; accessed 26 January 2012; “Libya: Western Militias Unite, Posing Challenge to Transitional Government,” *The New York Times*, 13 February 2012. <http://www.nytimes.com/2012/02/14/world/africa/libya-western-militias-unite-posing-challenge-to-transitional-government.html?scp=1&sq=libya:%20Western%20Militias%20Unite,%20Posing%20Challenge%20to%20Transitional%20Government&st=cse>; Internet; accessed 15 February 2012.

¹⁰⁵ Pugliese, “The Libya Mission...”

significant threat to the prospect of developing a fledgling democracy. Unfortunately, the most fertile ground for terrorist organizations is a divided nation with either a weak or complicit central government.

The only solution to both internal divisions and the threat of terrorism is likely to be based upon an open and inclusive national process of reconciliation similar to the models that have provided some success in Rwanda and South Africa. The process of reconciliation would likely be lengthy and painful, but would offer hope for uniting the country, staving off the possibility of terrorist influence, and laying the foundation for a country based on the rule of law and respect for human rights.

To date, the human rights record within post-Qaddafi Libya is dismal. Various militias have tortured and killed prisoners, have refused to allow trials to be conducted by the central government, and continue to oppress the entire population of the Western town of Tawergha whose 30,000 residents were driven to refugee camps and continue to be subjected to relentless raids to abduct young males.¹⁰⁶ The Tawerghan population is comprised largely of poor descendants of black slaves who supported Qaddafi whose

¹⁰⁶ Liam Stack, "Organizations Say Torture is Widespread in Libya Jails," *The New York Times*, 26 January 2012. <http://www.nytimes.com/2012/01/27/world/africa/groups-denounce-widespread-use-of-torture-in-libya.html?scp=1&sq=Organizations%20Say%20Torture%20is%20Widespread%20in%20Libya%20Jails&st=cse>; Internet; accessed 27 January 2012; "Delays in a Trial Show Libya's Legal Disarray," *The New York Times*, 15 February 2012. <http://www.nytimes.com/2012/02/16/world/africa/in-libya-a-trials-delays-reflect-judicial-disarray.html?scp=1&sq=Delays%20in%20a%20Trial%20Show%20Libya%E2%80%99s%20Legal%20Disarray&st=cse>; Internet; accessed 16 February 2012; Tarik Kafala, "'Cleansed' Libyan Town Spills Its Terrible Secrets," *BBC News Magazine*, 12 December 2011. <http://www.bbc.co.uk/news/magazine-16051349>; Internet; accessed 28 January 2012.

plight is symbolic of the lawlessness and atmosphere of vengeance that permeates the country. There are, however signs of hope for improvement.

The very same Tawerghan population is under the protection of rebels from Benghazi and Zintan although they remain in a refugee camp in Tripoli.¹⁰⁷ Furthermore, organizations including Amnesty International, Doctors Without Borders, the International Committee of the Red Cross (ICRC), and the United Nations High Commissioner for Human Rights (UNHCHR) have relatively unfettered access within the country providing the opportunity to alleviate suffering. Similarly, the newfound freedom being experienced by the Libyan press is providing the opportunity to expose those who may be violating human rights and holding them to account once central authorities exhibit the necessary will and strength.¹⁰⁸ Much will depend upon the results of the first elections and the path set within the development of the country's constitution.

Minorities like the Tawerghans and Berbers who have their own culture and identity as well as women in general, whose powers were limited under Qaddafi, will be carefully monitoring the TNC to ensure that their desires are met. The prospects for women's minority rights are mixed to date. A draft of the constitution mentions the Berbers only in general terms thus far while women head the Ministries of Health and

¹⁰⁷ Anthony Shadid, "Libya Struggles to Curb Militias as Chaos Grows," *The New York Times*, 8 February 2012. <http://www.nytimes.com/2012/02/09/world/africa/libyas-new-government-unable-to-control-militias.html?scp=1&sq=Libya%20Struggles%20to%20Curb%20Militias%20as%20Chaos%20Grows&st=cse>; Internet; accessed 11 February 2012.

¹⁰⁸ "Libya Profile," *BBC News*, 4 January 2012. <http://www.bbc.co.uk/news/world-africa-13754900>; Internet; accessed 28 January 2012.

Social Affairs, but are falling well short of the 40% quota being demanded by the women's rights group Women for Libya.¹⁰⁹ More ominous however were statements made in October 2011 by the head of the TNC Mustafa Abdul Jalil that restrictions on polygamy would be lifted and that the new legal system would be based on Sharia law. Jalil's statements demonstrate the influence that conservative Islamists, who were repressed under Qaddafi, may have in the new Libya.¹¹⁰

The new Libya is also facing tough demands on the economy. While some estimates indicate that up to \$100 billion dollars may be held in foreign banks and oil production climbed above 60% of pre-war capacity by January 2012, the real challenge for the government is to avoid spending the money inefficiently and to avoid corruption. Current Prime Minister Abdurrahim el-Keib has openly stated that they are unsure of the best manner in which to direct available funds into the economy to improve the ground-level situation.¹¹¹ In January, Tripoli port workers went on strike and, in a country where two thirds of the population is under 30, it is expected that the 22% youth unemployment rate will only rise as it did in Tunisia and Egypt after the cessation of hostilities.¹¹² That is not to say that no action has been taken.

¹⁰⁹ Lane, "After Gaddafi..."; Caroline Hawley, "Libyan Women Battle For Empowerment," *BBC News*, 13 December 2011. <http://www.bbc.co.uk/news/world-africa-16160671>; Internet; accessed 28 January 2011.

¹¹⁰ Craig R. Black, "Muammar Qaddafi and Libya's Strategic Culture," in *Know Thy Enemy: Profiles of Adversary Leaders and Their Strategic Cultures*, ed. Barry R. Schneider and Jerrold M. Post, 257-258. Washington, D.C.: US Government Printing Office, 2003.

¹¹¹ Shadid, "Libya Struggles to Curb..."

¹¹² Katy Watson, "Libya's New Battle is Getting Young People Into Jobs," *BBC News*, 11 December 2011. <http://www.bbc.co.uk/news/uk-16110295>; Internet; accessed 28 January 2012.

Prime Minister el-Keib has announced a program to recruit up to 75,000 former fighters into the new security services and other jobs while others would be provided the opportunity to take vocational training.¹¹³ The International Monetary Fund (IMF) and World Bank are also aiding the Prime Minister by advising how to set up effective financial management frameworks. Other international organizations are also keenly interested in aiding Libya to regain control over weapons in the country.

The principle concerns regarding weapons centre on chemical weapons, nuclear material, and the proliferation of small arms and Man-Portable Air Defense Systems (MANPADS). Libya joined the Chemical Weapons Convention, thereby becoming a member of the Organization for the Prohibition of Chemical Weapons (OPCW), in 2004 and began the process of destroying its chemical weapons stockpiles. After the Libya war, the fear was that the 11.25 tons of mustard gas that had not yet been destroyed could fall into the hands of terrorists. Fortunately, the NTC has secured the mustard gas, including some undeclared stock, and has committed to submitting a plan for its destruction by 29 April 2012 to the OPCW.¹¹⁴

Similarly, Libya had declared its intent to forego all WMD. Fortunately, the International Atomic Energy Association (IAEA) declared in December 2011 that all relevant nuclear material had been accounted for.¹¹⁵

¹¹³ Moni Basu, "Libyans Face Tough Challenges in Building a New Nation," *CNN*, 26 January 2012. <http://www.cnn.com/2012/01/26/world/africa/libya-challenges/index.html?iref=allsearch>; Internet; accessed 27 January 2012.

¹¹⁴ "Gadhafi Regime Had Undeclared Chemical Weapons, Group Says," *Defense News*, 20 January 2012. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2012301200004>; Internet; accessed 26 January 2012.

¹¹⁵ UN, "Libyan Authorities Working..."

The issue of small arms and MANPADS provides less cause for celebration. Out of a total of 20,000 MANPADS only about 5,000 have been secured to date although the TNC has committed fully to search for and secure the remainder.¹¹⁶ Without a NATO ground presence during the war, the ability to enforce an arms embargo remained restricted to air and sea. As a result, border countries including Chad, Sudan, Mali, and Niger have all expressed concern that arms and personnel have crossed their borders and landed in the hands of terrorist groups.¹¹⁷ Their fears were confirmed when Tuareg fighters, who were armed and active in Gaddafi's Libya, brought their weapons and experience to Mali where they joined with Islamists to capture large swaths of territory in the northern reaches of the country.¹¹⁸ The potential impacts of the Libyan intervention are not restricted to the region, however, as the prosecution of a war also comes with a financial burden to the belligerents.

The current global fiscal climate is one of austerity and waging war can have a significant impact on the fiscal situation of involved nations. The estimated monthly US costs for the war in Afghanistan is estimated at \$6.7 billion per month, a sum so significant that it has contributed significantly to American political discourse in the last

¹¹⁶ "5,000 Surface-to-Air Missiles Secured in Libya," *Defense News*, 11 December 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011112110304>; Internet; accessed 13 January 2012; "U.N. to Join Hunt for Rogue Weapons in Libya, Group Says," *Defense News*, 2 December 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011112020313>; Internet; accessed 13 January 2012.

¹¹⁷ Tim Witcher, "Libya Arms Threaten to Infiltrate Africa Conflicts" *Defense News*, 21 October 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011110210305>; Internet; accessed 26 January 2012.

¹¹⁸ Daniel Brode, "Rebels on the Rise in Northern Mali," *The New York Times*, 3 April 2012. http://www.nytimes.com/2012/04/04/opinion/rebels-on-the-rise-in-northern-mali.html?_r=1; Internet; accessed 21 April 2012.

several years. By comparison, the Libyan conflict is estimated to cost the US a relatively paltry sum of \$60-80 million per month.¹¹⁹ The conclusion is thus that the fiscal burden for intervention in Libya will not have significant long-term implications. While financial considerations may not have played a significant role at the international level, the political costs have already been dramatic.

The effects of the Arab Spring continue to spread with the most dramatic results currently being seen in Syria. The al-Assad family has ruled the country since 1971 and President Bashar al-Assad has brutally repressed popular uprisings for over a year. While the international outcry, including from the Arab World, has been loud the ability of the UNSC to affect any meaningful solution to the crisis has been stymied by China and Russia. While both countries have economic and political interests in maintaining the status quo, the stated reasons for opposition to any meaningful form of intervention stem from the regime change in Libya.¹²⁰ Just as R2P was producing meaningful results in Libya and thus beginning to attrite for the world's failure in Rwanda, the future prospects for humanitarian intervention have dimmed considerably.

In considering the overall effects of the Libyan conflict, much remains undecided. While the human costs of intervention were relatively light and the plight of displaced persons improving, the long-term issue of implementing democracy remains uncertain.

¹¹⁹ Micah Zenko, "Compared to Iraq and Afghanistan, the War in Libya Is Cheap," *The Atlantic*, 11 August 2011. <http://www.theatlantic.com/international/archive/2011/08/compared-to-iraq-and-afghanistan-the-war-in-libya-is-cheap/243483/>; Internet; accessed 21 April 2012.

¹²⁰ Ellen Barry, "As Nations Line Up Against Syrian Government, Russia Sides Firmly with Assad," *The New York Times*, 27 January 2012. <http://www.nytimes.com/2012/01/28/world/europe/russia-sides-firmly-with-assad-government-in-syria.html?scp=1&sq=As%20Nations%20Line%20Up%20Against%20Syrian%20Government,%20Russia%20Sides%20Firmly%20with%20Assad&st=cse>; Internet; accessed 29 January 2012.

The ongoing sectarian strife has no short-term solutions, but the reconciliation processes used in Rwanda and South Africa offer a possible solution. Human rights violations are still prevalent in the country although they are being openly reported through direct access by independent observers which was not possible during Qaddafi's rule.

Furthermore, there are nascent efforts to implement a stronger central government that respects the rule of law including protection of minority rights. The same government is working with UNSMIL to implement economic reform and to secure WMDs, but will have little ability to alter the effects of small arms proliferation including the potential to fuel terrorism. On the international stage, the policy of regime change has stalled efforts to further the R2P principle for contemporary conflicts like Syria.

Net Benefit: +0.5

In considering the possibility of using force, the principle of Net Benefit is amongst the most difficult to consider for decision makers owing to the impossibility of accurate prediction of second and third order effects. This decision making process is further complicated when it is hurried.

LAST RESORT

The principle of Last Resort demands that prior to the decision to use force, all other *reasonable* avenues must be exhausted. While the term reasonable is highly subjective, as a minimum there should be a burden of proof on the potential aggressor to state and justify the decision to transition from peaceful to violent means. In Libya, the

transition from the start of popular protests to UNSCR 1973 lasted only 30 days with a flurry of activity in between.

Given the international legitimacy of the UN, it must be determined if the UN response was measured and progressive. The UNSC's first formal response was provided on 26 February 2011 with the passing of UNSCR 1970. The resolution condemned the violence and called for an arms embargo, travel ban, asset freeze, and ICC referral.¹²¹ The resolution also took specific note of prior condemnations from the Arab League, the AU, and the OIC. Also critical to the interpretation of UN intent was the closing words which read that the UN would “. . . keep the Libyan authorities' actions under continuous review and that it shall be prepared to review the appropriateness of the measures contained in this resolution . . .”¹²² This final statement included qualifications that specifically allowed for either a de-escalation or strengthening of the measures being taken thus providing Qaddafi with the ability to respond positively and diffuse the situation.

As the situation progressed towards the passing of UNSCR 1973 on 17 March, several organizations provided statements that would influence the UN's decision to escalate measures against Libyan authorities. On 8 March, the OIC “called upon the Libyan authorities to immediately end the military operations targeting civilians” and highlighted the humanitarian crisis asking the international community to “move

¹²¹ UNSC, “Resolution 1970...”

¹²² *Ibid.*

promptly and provide necessary and urgent humanitarian assistance”¹²³ By 10 March 2011 the AU added its voice by calling for “an urgent African action”¹²⁴ The AU also called for the formation of an ad hoc committee to engage member nations and regional organizations to resolve the crisis and enact the necessary political reforms. While both communiqués made clear the urgency of the situation, legitimated the Libyan people’s aspirations for reform, and called for humanitarian assistance, both also outright rejected foreign military intervention as an option.

On 12 March the Arab League provided similar conclusions with one dramatic difference when it asked for the immediate establishment of “. . . a no-fly zone on Libyan military aviation, and to establish safe areas in places exposed to shelling as a precautionary measure . . .”¹²⁵ Armed with disparate opinions, the UN allowed the situation on the ground to further progress in the hope that the mounting pressure from regional organizations would persuade Qaddafi to desist. But by 16 March Qaddafi’s forces had ignored all calls to halt attacks and had successfully positioned themselves just outside of the rebel stronghold of Benghazi for a final assault.

The UN chose to act on 17 March to prevent what was expected to be a massacre. Just War theorist David Fisher agreed with the UN decision to act arguing that the

¹²³ Organization of Islamic Cooperation, “Final Communiqué Issued by the Emergency Meeting of the Committee of Permanent Representatives to the Organization of the Islamic Conference on the Alarming Developments in Libyan Jamahiriya,” http://www.oic-oci.org/topic_detail.asp?t_id=5022&x_key=; Internet; accessed 6 March 2012.

¹²⁴ Peace and Security Council of the African Union, “Communiqué of the 265th Meeting of the Peace and Security Council,” PSC/PR/COMM.2(CCLXV), 10 March 2011. http://www.au.int/en/sites/default/files/COMMUNIQUE_EN_10_MARCH_2011_PSD_THE_265TH_MEETING_THE_PEACE_AND_SECURITY_COUNCIL.pdf; Internet; accessed 6 March 2012.

¹²⁵ Council of the League of Arab States, “The Implications of . . .”, 12 March 2011.

principle of Last Resort had been met and the decision was made “. . . just in time to prevent the slaughter that would have occurred.”¹²⁶ Not all would agree with Fisher’s assessment.

The Russian and Chinese hesitation to authorize resolutions against Syria are based in part on the belief that the UN is acting too hastily and on sensitivity to the results in Libya.¹²⁷ Could the UN have improved its response prior to the passing of UNSCR 1973? In retrospect, the decision to refer the matter to the ICC as part of UNSCR 1970 may have been premature. While UNSCR 1970 welcomed the recommendation of the Human Rights Council resolution A/HRC/RES/S-15/1 to investigate the matter, the consequences of the decision “. . . to refer the situation in the Libyan Arab Jamahiriya . . . to the Prosecutor of the International Criminal Court”¹²⁸ may have acted contrarily to the more immediate concern of preventing a massacre in Benghazi. Qaddafi may perhaps have viewed the referral as the end of any alternative to a form of dignified self-preservation and thus hardened his resolve to fight to the bitter end.

The Chairman of the AU Commission, Jean Ping, would also suggest that the UNSC’s response was flawed owing to what he viewed as an early abandonment of diplomacy. After the UNSC denied AU representatives permission to travel to Libya for

¹²⁶ Fisher, “Was Iraq an Unjust...”, 702.

¹²⁷ Jaime FlorCruz, “Why China Didn’t Back U.N. Plan for Syria,” *CNN*, 9 February 2012. <http://www.cnn.com/2012/02/09/world/asia/syria-china-florcruz/index.html?iref=allsearch>; Internet; accessed 13 February 2012; Mark Urban, “Russia Aims to Keep Syria Options Open After UN Veto,” *BBC News*, 6 February 2012. <http://www.bbc.co.uk/news/world-16917466>; Internet; accessed 13 February 2012.

¹²⁸ UNSC, “Resolution 1973...”

negotiations on 18 March 2011, the AU invited Qaddafi and the rebels to Addis Ababa, Ethiopia on 25 March in a further attempt at diplomacy.¹²⁹ While Qaddafi accepted and sent representatives, the rebels did not.

Ultimately, the UN decision to act was based on the perception that there was an immediate threat of serious escalation in what was already a confirmed and universally recognized urgent humanitarian situation. The decision to act was made quickly, but also progressively providing Qaddafi and the rebels the opportunity to diffuse the situation if they so chose. While the UN was undoubtedly sensitive to AU and OIC hesitancy to involve military options, the UN was also sensitive to the human costs of glacial action including failures to act quickly and decisively as in Bosnia, Rwanda, and Darfur.¹³⁰ Despite the frantic pace of activity between 15 February and 17 March, it is acknowledged that the inclusion of the ICC referral in UNSC 1970 may have had detrimental effects on Qaddafi's mindset resulting in an artificial hastening of events on the ground.

Last Resort: +2.0

With the *jus ad bellum* criteria completed, the conduct of the conflict post UNSCR 1973 will now be assessed under the guise of the *jus in bello* criteria.

¹²⁹ "Libya: Uganda Freezes Libyan Assets Under UN Sanctions," *BBC News*, 25 March 2011. <http://www.bbc.co.uk/news/world-africa-12860837>; Internet; accessed 21 April 2012.

¹³⁰ Dan Bilefsky, and Mark Landler, "As U.N. Backs Military Action in Libya, U.S. Role is Unclear," *The New York Times*, 17 March 2011. <http://www.nytimes.com/2011/03/18/world/africa/18nations.html?scp=1&sq=As%20U.N.%20Backs%20Military%20Action%20in%20Libya,%20U.S.%20Role%20is%20Unclear&st=cse>; Internet; accessed 25 February 2012.

RIGHT CONDUCT

The principle of Right Conduct is associated with what is often the most tragic and highly publicized aspect of the use of force, that of non-combatant casualties and related infrastructure. In order for any use of force to be considered just, it should demonstrate that all efforts were made to avoid the deliberate targeting of civilians, civilian infrastructure, and ideally that non-combatants were not harmed even in the course of striking legitimate military targets. In Libya's case it may be tempting to compare coalition forces those of Qaddafi's regime. To do so would be improper as any use of force must be judged with regard to absolute, not relative, moral considerations.¹³¹ The coalition, therefore, must be assessed independently and objectively based on international standards.

An excellent starting point is to examine the rules of engagement (ROE) used by NATO. While the specifics of ROEs are often classified, what is known is that they had to be approved by a broad coalition of nations.¹³² Given the need for such consensus and the fact that a number of nations were non-NATO and of Arab origin, the ROE aired on the side of caution. While the inference is a useful starting point, more evidence is

¹³¹ Coates, *The Ethics of...*, 147.

¹³² United States, U.S. Department of State, *Background Briefing on the North Atlantic Council's Meeting on Libya*, 26 March 2011, <http://www.state.gov/r/pa/prs/ps/2001/03/159211.htm>; Internet; accessed 8 March 2012.

required to determine the degree of justness associated with the coalition's actual conduct.

NATO explained that there were two types of targeting used: deliberate and dynamic. Deliberate targeting benefitted from advanced planning based on target identification by intelligence analysts, vetting of targets by targeting specialists, matching of targets to weapons (including size and fusing considerations), periods of surveillance to determine "patterns of life", and at times the dropping of leaflets to warn civilians of the potential for attack.¹³³ Dynamic targeting, by its very nature, was not predisposed to the same degree of preparation.

Dynamic targets, as the name suggests, were targets of opportunity and as such were not able to leverage the same degree of expert support. According to Lieutenant-General Bouchard, the additional risk was recognized and mitigated through extreme caution and restraint noting that there were hundreds of instances where targets were not struck and that "[o]nly when we had a clear shot would we take it."¹³⁴ He also noted that Canadian aircraft had a software modification that provided a visible cue of the likely blast radius allowing the pilot to further mitigate the potential for collateral damage. A recent UN Human Rights Council (UNHRC) investigation also offered the conclusion that NATO forces only struck built-up areas on rare occasions and "... took extensive

¹³³ Chivers, "In Strikes on..."

¹³⁴ *Ibid.*

precautions to ensure civilians were not killed.”¹³⁵ Not all of the UNHRC conclusions, however, were positive.

Despite the fact that Qaddafi’s forces were proven to have exaggerated civilian casualties from NATO attacks, going as far as moving children’s bodies from a morgue to a bombing site,¹³⁶ NATO did cause collateral damage. Of the 60 killed and 55 injured who were directly attributed to NATO in the report, the single worst case was in the town of Majer where 34 were killed and 38 injured after a site there was struck with a 500 lb GBU-12 bomb.¹³⁷ The Majer incident also raised legitimate concern about a specific NATO practice of striking a target more than once. In this, and other instances, rescuers rushed to the scene to help the wounded resulting in additional casualties when the second strike occurred. When confronted with this scenario NATO admitted the problem with a spokesperson noting “That’s a valid point to take into consideration in future operations.”¹³⁸ There were other concerns that contributed to the potential for collateral damage.

Though UNSCR 1973 authorized military intervention it provided specific constraints by “. . . excluding a foreign occupation force of any form on any part of Libyan territory . . .”¹³⁹ This limitation was rightly motivated under the premise of protecting Libyan sovereignty, but, when coupled with the inability or at minimum difficulty to communicate with ground forces, resulted in the addition of significant risk

¹³⁵ UNHRC, “Report of the International . . .”, 18.

¹³⁶ *Ibid.*, 17.

¹³⁷ *Ibid.*, 164.

¹³⁸ Chivers, “In Strikes on . . .”

¹³⁹ UNSC, “Resolution 1973 . . .”

for collateral damage. With NATO's ability to gather current and accurate intelligence information already curtailed, NATO force composition compounded the problem.

Operation Unified Protector identified a critical shortage of targeting specialists as well as intelligence, surveillance, and reconnaissance (ISR) assets like Predator drones.¹⁴⁰ Though the US appears to have filled the gap with its own assets, of note is the fact that the first two American Predator drones were not authorized for use until late April leaving NATO with a weaker ISR capability in the critical opening month of the conflict.¹⁴¹ In stark contrast, the number of Predator drones used in Afghanistan in 2010 was reported to have been at least 20 providing a dramatic contrast in coverage.¹⁴² The UNHCR report was inconclusive regarding the linkage between the ISR shortages and collateral damage owing to a lack of information from NATO.

The lack of information and ground presence contributed to another criticism regarding civilian casualties from NATO operations. When casualties did occur, NATO initially did not acknowledge them based on the premise that they would only acknowledge casualties if NATO had investigated. Given that NATO was not authorized to have a ground presence, by definition there could never be an acknowledged civilian casualty.¹⁴³ This posture created a perception that NATO was hesitant to take responsibility for its actions which ran counter to the positive perception that its

¹⁴⁰ Daalder, "NATO's Victory in Libya..."

¹⁴¹ "Libya: US to Deploy Armed Drones – Robert Gates," *BBC News*, 22 April 2011. <http://www.bbc.co.uk/news/world-africa-13166441>; Internet; accessed 7 March 2012.

¹⁴² Christopher Drew, "Drones Are Playing a Growing Role in Afghanistan," *The New York Times*, 20 February 2010. <http://www.nytimes.com/2010/02/20/world/asia/20drones.html?scp=1&sq=drones%20are%20playing%20a%20growing%20role&st=cse>; Internet; accessed 7 March 2012.

¹⁴³ Chivers, "In Strikes on..."

painstaking targeting efforts were attempting to create. When considering that NATO also implemented policies in Afghanistan that provided compensation to victims of its actions when warranted, the Libyan policy appears to represent a step back.

Nearly as important to the coalition as civilian casualties was the avoidance of damaging civilian infrastructure. In Iraq, military commanders determined that “. . . the economic infrastructure of Iraqi society – all of it was a legitimate military target: communication and transportation systems, electric power grids, government buildings of every sort, water pumping stations, and purification plants.”¹⁴⁴ In Libya, NATO specifically avoided this type of infrastructure thus avoiding the general collapse of basic services upon which civilians are so dependent.¹⁴⁵ The evidence is no clearer than in the relatively quick recovery of the oil sector upon which so much of the Libyan economy depends. The absence of extensive damage caused by NATO means that the difficulties experienced within post-intervention Libya are exclusively the result of the vacuum created after Qaddafi’s lengthy reign.

In considering Right Conduct as a whole, the UNHRC report provides a very succinct conclusion, “[t]he Commission found NATO did not deliberately target civilians in Libya.”¹⁴⁶ In considering that NATO dropped only 8,000 bombs amongst 17,939 armed sorties during the operation, used exclusively precision guided munitions, and used meticulous planning whenever circumstances and the “fog of war” allowed, the results were impressive if not perfect. The lack of ISR assets and a presence on the

¹⁴⁴ Walzer, *Just and Unjust...*, xx.

¹⁴⁵ Chivers, “In Strikes on...”

¹⁴⁶ UNHRC, “Report of the International...”, 18.

ground represented a NATO limitation and may have contributed to the tragic loss of civilians. A tragedy that NATO should have acknowledged as an unintended consequence of its actions. The avoidance of critical civilian infrastructure contributed to a reduction in risk to civilians and to a quicker recovery for the Libyan economy.

Right Conduct: +2.0

In considering Right Conduct, the actions were analysed from a tactical perspective within the specific context of its impact on civilians. In considering the final *jus in bello* criterion of Proportionality of Means, the coalition's actions are scrutinized yet again but from a strategic perspective.

PROPORTIONALITY OF MEANS

The key to assessing the principle of Proportionality of Means is to focus analysis on the strategic impact of the methods used to execute the mission versus the stated objectives. The dependency between objective and means is fundamental since “what seems disproportionate in respect of one set of aims will seem entirely fitting in respect of another.”¹⁴⁷ As has been the case for many historical conflicts, the stated war aims for the Libyan intervention changed over time thus complicating the assessment.

The initial UN mandate under UNSCR 1973 called for the protection of civilians, the implementation of a no-fly zone, an arms embargo, a travel ban, an assets freeze, and

¹⁴⁷ Coates, *The Ethics of...*, 289.

“ . . . a solution to the crisis which responds to the legitimate demands of the Libyan people.”¹⁴⁸ The latter portion of the mandate led to a declaration on 13 April 2011 by the Libya Contact Group that “Qadhafi and his regime had lost all legitimacy and he must leave power allowing the Libyan people to determine their own future.”¹⁴⁹ While this latter political conclusion was a departure from the UNSC’s stated mandate, the analysis will consider whether or not regime change via special forces action may have provided a more proportionate response than what was actually carried out. The discussion begins with an assessment of the impact of a restrained American role in the execution of the NATO mission.

As discussed under Right Intent, one of the most striking differences between Libya and other conflicts in the Middle East including Iraq and Afghanistan is the subdued presence of the US. While Right Intent looked at this issue from the perspective of motivations and interests, Proportionality of Means is concerned with how a “lead from behind” approach impacted the actual execution of the conflict. President Obama faced criticism, primarily from hawkish Republicans including Senators John McCain and Mitt Romney, that a more aggressive US role centred on additional air power would have served to significantly shorten the conflict.¹⁵⁰ While this notion would have aligned well with the thinking of famed Prussian General Helmuth von Moltke who believed “the

¹⁴⁸ UNSC, “Resolution 1973...”

¹⁴⁹ NATO, “Libya Contact Group”, 13 Apr 11.

¹⁵⁰ Peter Grier, “Has Obama’s Approach to Libya Been Vindicated?” *Christian Science Monitor*, 22 August 2011. <http://www.csmonitor.com/USA/Foreign-Policy/2011/0822/Has-Obama-s-approach-to-Libya-been-vindicated>; Internet; accessed 23 January 2012.

greatest kindness in war is to bring it to a speedy conclusion . . . ”¹⁵¹ the evidence does not necessarily support this conclusion for Libya.

While it did take seven months to fully subdue Qaddafi’s forces, it is difficult to conclude that additional assets would have had a significant effect. The coalition already had 260 air assets available of virtually all varieties¹⁵² and, as previously noted, the only weaknesses identified by NATO were in the areas of ISR and targeting and those weaknesses were overcome.¹⁵³ In addition, the speed of the intervention was secondary to its principled execution. Strict ROEs and the avoidance of collateral damage were far more important to the coalition than the addition of strike assets. The avoidance of collateral damage was a central theme to the overall conduct of the air campaign which raises questions regarding whether or not alternative methods, including the capture or killing of Qaddafi via special forces, may have been a more proportionate option.

The “targeted killing” of political leaders is controversial at best with respect to international law, but law invariably lags behind the Just War tradition debate. What then can be said in terms of contemporary Just War tradition? Whit Kaufman of the University of Massachusetts considered this very question and concluded that “. . . the presumption must be against assassination, given its resemblance to premeditated

¹⁵¹ Walzer, *Just and Unjust* . . . , 131.

¹⁵² North Atlantic Treaty Organization (NATO), *Operation Unified Protector: Final Mission Stats*, 2 November 2011. http://www.nato.int/nato_static/assets/pdf/pdf_2011_11/201111108_111107-factsheet_up_factsfigures_en.pdf; Internet; accessed 17 February 2012.

¹⁵³ Daalder, “NATO’s Victory in Libya . . .”

killing.”¹⁵⁴ While not outright impermissible, it must be considered only as a last resort and then only after consideration of an attempt to capture.

In considering only the relatively more ethically acceptable possibility of attempting to capture Qaddafi there existed both potential advantages and disadvantages. Qaddafi’s capture would have afforded the ability to have him tried in front of the ICC providing closure and satisfying UNSCR 1973’s mandate of ensuring “. . . that those responsible for or complicit in attacks targeting the civilian population . . . be held to account.”¹⁵⁵ In addition, there was potential to remove Qaddafi’s forces’ will to fight and thus avert many of the casualties and damage suffered. Such a situation would however also create a power vacuum.

Without a functional government or a credible process for creating one there would exist a realistic risk that another member of his regime would have taken control and continued the fight. Furthermore, any attempt to capture Qaddafi would have represented a potential violation of the prohibition of an occupation force. Taking the hypothetical scenario whereby Qaddafi was successfully captured, the end result could have been political damage to Libya’s ability to take responsibility for its future owing to the population’s focus on external interference.

¹⁵⁴ Whit Kaufman, “The Ethics of Assassination,” *The Joint Services Conference on Professional Ethics*, 29-30 January 2004. <http://isme.tamu.edu/JSCOPE04/Kaufman04.html>; Internet; accessed 9 March 2012.

¹⁵⁵ UNSC, “Resolution 1973...”

One of the most significant advantages of the restriction on occupying forces was the ability to bestow ownership of the rebellion upon Libyans. In contrast to the images of American soldiers capturing Saddam Hussein, it was Libyans who captured Qaddafi. That is not to say that his extra-judicial killing was a moment of pride, quite the opposite, but the fallout is an issue created and to be resolved by Libyans with external forces playing only a supporting role. Based on mass troop defections and the context of the Arab Spring, the UNSC and the coalition had every reason to believe that the political solution could and should be driven by the Libyan people.¹⁵⁶ The use of force, however, represented only one phase of the political transformation that was set in motion.

As it became clear that the Qaddafi regime would collapse, plans began to effect a transition of responsibility. In April 2011 the Libya Contact Group anticipated this need and reiterated “. . . the role of the UN in leading the international effort to plan for early recovery and peace building in Libya.”¹⁵⁷ This ultimately led to the creation of UNSMIL on 16 September charged with helping to restore public security and the rule of law, extending state authority, promoting inclusive political dialogue and national reconciliation, creating of an electoral process, restoring public services, promoting and protecting human rights, supporting transitional justice, and helping to develop a constitution.¹⁵⁸ The NATO mission officially ended on 31 October 2011 with both praise and criticism shortly after the stand-up of UNSMIL.

¹⁵⁶ Jomana Karadsheh, “Top Aide: Gadhafi’s ‘Suicidal’ Flight to Birthplace,” *CNN*, 8 November 2011. <http://www.cnn.com/2011/11/07/world/africa/libya-gadhafi-flight/index.html?iref=allsearch>; Internet; accessed 13 January 2012.

¹⁵⁷ NATO, “Libya Contact Group”, 13 Apr 11.

¹⁵⁸ United Nations Security Council, “Resolution 2009: The Situation in Libya,” S/RES/2009 (2011), 16 September 2011. <http://daccess-dds->

As a military mission, many considered the mission a success particularly given its clear beginning and end, but not all were content with the sudden halt in NATO involvement. Initially, there was a desire from the TNC to extend the mission which was quickly reject by NATO Secretary General Rasmussen citing other pressing priorities including commitments in Afghanistan, the Balkans, and piracy.¹⁵⁹ This response was in contrast to the head of the NATO Military Committee Admiral Giampaolo Di Paola who had stated only weeks earlier that “. . . NATO will only end the mission once civilians are definitely out of harm’s way and the NTC is capable of keeping the whole country safe.”¹⁶⁰ Despite the short-term discontent and apparent confusion, UNSMIL represented the best solution for international assistance for a successful transitional political process.

With UNSMIL having committed to post-conflict restoration, the transition away from NATO was not only doctrinally correct, but also necessary to avoid the potential for conflicting mandates and any further externally imposed politicization of the Libyan recovery. In Iraq, the heavy-handed imposition of controls by L. Paul Bremer III and the Coalition Provisional Authority (CPA) provided a powerful disincentive for any reconstruction effort run by what may be perceived as a biased occupation force. UNSMIL offered the opportunity to separate the national interests of coalition members

ny.un.org/doc/UNDOC/GEN/N11/502/44/PDF/N1150244.pdf?OpenElement; Internet; accessed 17 March 2012.

¹⁵⁹ “NATO Chief Hails ‘Finally Free’ Libya,” *CBC News*, 1 November 2011. <http://www.cbc.ca/news/world/story/2011/10/31/nato-libya-mission-ends.html>; Internet; accessed 13 January 2012.

¹⁶⁰ “Sirte’s Fall Won’t End NATO Mission: Official,” *Defense News*, 11 October 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011110110305>; Internet; accessed 13 January 2012.

from the recovery period allowing for a reinforcement of Libyan ownership over their own affairs.

Given the enormous mandate provided, it is questionable if UNSMIL will be able to significantly affect outcomes given its 200-person size (in comparison, Operation Unified Protector involved 8,000 personnel with a narrower mandate).¹⁶¹ While the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the UN High Commissioner (OHCHR), the IAEA, the World Food Program (WFP) and other NGOs are active in the country, the ability to effect change is severely limited owing in part to the virtual isolation of the TNC in Tripoli.¹⁶² Without a significant change in the security situation future events may ultimately overshadow UNSMIL's efforts.

Despite the UNSC's specific restrictions regarding an occupation force and NATO's complete withdrawal in late October 2011, there remains a requirement for an authority to maintain the ability to use force. In most states police and military forces hold this function. Unfortunately these capabilities are largely the domain of militias indicating a need to train and equip the central government. While Qatar and Jordan have already committed to training and equipping some of the TNC's security forces, as of March 2012 only 225 military graduates have been produced.¹⁶³ These numbers and

¹⁶¹ "New UN Political Mission in Libya Begins Operations and Deployment of Staff," *UN News Service*, 22 September 2011. <http://www.un.org/apps/news/story.asp?NewsID=39693&Cr=libya&Cr1=>; Internet; accessed 16 February 2012.

¹⁶² *Ibid.*

¹⁶³ Frederic Wehrey, "Bringing Libya Under Control," *The New York Times*, 24 February 2012. http://www.nytimes.com/2012/02/25/opinion/bringing-libya-under-control.html?_r=1&scp=1&sq=Bringing%20Libya%20Under%20Control&st=cse; Internet; accessed 2

the pace at which they are being produced are far from capable of countering the growing influence of the militias, at least in the interim. In fact, as the first graduates were produced, the notion of “revolutionary legitimacy” is taking hold with Western and Eastern groups of militias consolidating in an effort to counter the TNC in Tripoli and foreshadowing a potentially damaging divide into the historically and culturally separate regions of Tripolitania, Cyrenaica, and Fazzan.¹⁶⁴ Without additional assistance, the future of the political process being ushered in jointly by the TNC and UNSMIL remains in doubt.

With the NATO mission over and the follow-on to the Libya Contact Group, the Friends of Libya, not having met since September 2011 it is clear that the UNSC needs to take additional measures to ensure that the Libyan transition occurs as peacefully as possible. The addition of a sizeable and well-equipped¹⁶⁵ peacekeeping force with a mandate to help the TNC establish control and train its forces is critical to Libya’s future. Without such a commitment, UNSMIL will simply not be capable of performing the mandate it was given.

On the whole, Proportionality of Means was significantly weaker than Right Conduct. The US “lead from behind” approach and the decision to avoid any attempt to

March 2012; “Libya Army Graduates First Tripoli-Trained Troops,” *Defense News*, 4 March 2012. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2012303040002>; Internet; accessed 12 March 2012.

¹⁶⁴ Suliman Ali Alzway and David D. Kirkpatrick, “Eastern Libya Demands a Measure of Autonomy in a Loose National Federation,” *The New York Times*, 6 March 2012. http://www.nytimes.com/2012/03/07/world/africa/eastern-libya-demands-measure-of-autonomy.html?_r=1&scp=1&sq=eastern%20libya%20demands&st=cse; Internet; accessed 6 March 2012.

¹⁶⁵ Walter Dorn, “Give the Peacekeepers Tools They Need,” *National Post*, 26 September 2011. <http://www.nationalpost.com/news/Give+peacekeepers+tools+they+need/5457165/story.html>; Internet; accessed 18 January 2012.

capture Qaddafi even after he was indicted by the ICC played favourably as did the strong NATO focus on collateral damage avoidance as described under Right Conduct. The importance of ensuring Libyan ownership of its future was an overriding concern that also legitimized the cessation of direct NATO involvement beyond 31 October 2011. UNSMIL represents the ideal solution in principle, if not in practice for the political transition. But its current size does not provide it the ability to fulfill its mandate, particularly with a deteriorating security situation.

Proportionality of Means: +1.0

Prior to integrating the complete set of Just War criteria into an overall assessment, a brief Just War analysis of the 1986 US bombing of Libya will be conducted to provide additional context and highlight the significant differences between the two conflicts.

A BRIEF ASSESSMENT OF THE 1986 LIBYA BOMBING

The following paragraphs provide brief Just War assessments of the 1986 Libya bombing campaign by the US. This analysis will be used to contrast the military use of force with the 2011 intervention. The order of assessment will be identical to the contemporary intervention beginning with Just Cause.

The 1986 US bombing campaign in Libya was executed on the evening of 14 April and morning of 15 April under the authority of then US President Ronald Reagan.

The joint Navy and Air Force action was dubbed Operation Eldorado Canyon and involved approximately 100 aircraft. The bombing itself lasted only 10-15 minutes and achieved significant damage to most of the selected targets.

The 1986 bombings were intended to deter Qaddafi from sponsoring further terrorism, to punish him for a litany of prior terrorist acts, particularly the Berlin nightclub bombing that America had held him responsible for, and to signal that terrorist acts sponsored by rogue states would exact a heavy toll.¹⁶⁶ Qaddafi was undoubtedly a leading sponsor of terrorism at the time having reportedly trained 7,000-8,000 terrorists per year and was second only to Iran in the financing of terrorist organizations.¹⁶⁷ Given that the US also had intelligence indicating that Libya was planning to strike again,¹⁶⁸ it is assessed that the US had considerable strength behind the argument of Just Cause.

Just Cause: +2.0

In considering Legitimate Authority, the importance of multilateralism to President Reagan's administration paled in comparison to that of President Obama. After approaching European allies to support its case for action and subsequently being rejected, it was clear that it would be impossible to build broad international support. Consequently, President Reagan carried forth with the operation unilaterally. Not only had European allies Spain and France actively opposed the unilateral US action by

¹⁶⁶ William C. Martel, "1986 Raid on Libya," in *Victory in War: Foundations of Modern Military Policy* (New York: Cambridge University Press, 2007), 152.

¹⁶⁷ Henry W. Prunckun Jr., and Philip B. Mohr, "Military Deterrence of International Terrorism: An Evaluation of Operation El Dorado Canyon." *Studies in Conflict & Terrorism* 20, issue 3 (July-September 1997): 3-5; www.ebscohost.com; Internet; accessed 19 January 2012.

¹⁶⁸ Martel, *1986 Raid on Libya...*, 158.

denying use of their airspace but the United Nations General Assembly (UNGA) followed suit and passed resolution 41/38 (1986) condemning the bombings.¹⁶⁹ The UNSC also considered a draft resolution to condemn the bombings that gained the requisite support of 9 of the 15 Council members only to be vetoed by the US, UK, and France.¹⁷⁰ Despite strong domestic support for the strikes the near complete failure to gain international support for its action greatly detracted from the criterion of Legitimate Authority.

Legitimate Authority: -2.0

The category of Right Intent demonstrates some parallels to the criticisms offered by the 2011 intervention. Much of the opposition to the 1986 strikes centred on the American desire for regime change and the use of military force. The *New York Times* produced an article alleging that the bombing was the culmination of a five year campaign designed by President Reagan to assassinate Qaddafi; a notion supported by additional evidence from US officials who admitted “. . .we wanted to provoke Qaddafi into responding so we could stick it to him . . .”.¹⁷¹ When coupled with knowledge that the Chief of West German intelligence strongly countered the strength of evidence that

¹⁶⁹ United Nations General Assembly, *Resolutions and Decisions Adopted by the General Assembly During Its Forty-First Session*, 16 December-19 December 1986, A/41/53. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/NR0/761/35/IMG/NR076135.pdf?OpenElement>; Internet; accessed 7 March 2012; Prunckun, “Military Deterrence of...”, 4.

¹⁷⁰ United Nations Security Council, 2682nd Meeting, *Minutes*, S/PV.2682, 21 April 1986. <http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N86/605/62/PDF/N8660562.pdf?OpenElement>; Internet; accessed 7 March 2012; John Quigley, “Libya: Qaddafi’s Air Conditioner,” in *The Ruses for War: American Interventionism Since World War II* (Buffalo, NY: Prometheus Books, 1992), 224.

¹⁷¹ Lyn Boyd-Judson, “The Lockerbie Negotiations: Granting the Enemy a Moral Universe,” in *Strategic Moral Diplomacy: Understanding the Enemy’s Moral Universe* (Sterling, VA: Kumarian Press, 2011), 68; Zoubir, *Handbook of US . . .*, 264.

Libya was connected to the Berlin bombing, that the US had exaggerated the Libyan terrorist threat through propaganda, had requested Egypt invade Libya, and had purposely provoked a limited military engagement in the Gulf of Sidra in 1985¹⁷² it is reasonable to suspect that military intervention and the potential for Qaddafi's removal were not simply ulterior motives to countering terrorism, but primary motives.

Right Intent: -2.0

Net Benefit must be assessed against the stated objectives of the use of force, in this case the punishment and deterrence of terrorism. In the years following the bombings, evidence suggests that there was an overall reduction in the incidence and severity of terrorist actions against Americans.¹⁷³ In the long term, Qaddafi's gradual normalization of relations in the international community may have been spurred in part by the American threat of bombing and other unilateral diplomatic and economic actions, however, UN-sponsored sanctions beginning in 1992 likely played a greater role.¹⁷⁴ It has been concluded that the limited bombing campaign achieved a degree of success relative to its stated aims.

Net Benefit: +1.0

¹⁷² Boyd-Judson, "The Lockerbie Negotiations...", 67; Quigley, "Libya: Qaddafi's Air...", 225; Martel, *1986 Raid on Libya...*, 154.

¹⁷³ Prunckun, "Military Deterrence of...", 4.

¹⁷⁴ Black, "Muammar Gaddafi and Libya...", 256.

The Last Resort assessment draws heavily from the conclusions provided under Right Intent in that President Reagan's decision to use force was the culmination of a much longer series of actions. In fact, the bombing marked a significant shift in US policy from dealing with terrorism strictly as a law enforcement issue to one of military deterrence. The policy shift was made owing to the ineffectiveness of a variety of other actions with respect to the core problem of Libyan state-sponsored terrorism. The lengthy campaign against Libya originated in 1982 with the imposition of a US ban on technology transfers and the import of oil in 1982.¹⁷⁵ The freezing of Libyan assets, severance of economic ties, and ordering Americans to leave Libya in early 1986 marked a steady escalation to the use of force.¹⁷⁶ However, internal debate within the US government prior to the strikes regarding whether or not all other options had been exhausted corroborate the conclusion that the decision to use force had been pre-determined and that negotiation was never considered as a serious option.

Last Resort: -1.0

The assessment of Right Conduct is simplified owing to the limited number of targets struck during the operation. The first set of targets centred about the integrated air defence sites that posed a clear threat to American aircraft. There were five additional targets spread between Benghazi and Tripoli that were described as C2, communications, intelligence, logistics, and training facilities directly related to terrorism.¹⁷⁷ They included Qaddafi's residential compound. Unfortunately, many of these sites were found

¹⁷⁵ Zoubir, *Handbook of US . . .*, 264.

¹⁷⁶ Martel, *1986 Raid on Libya . . .*, 154.

¹⁷⁷ Quigley, "Libya: Qaddafi's Air . . .", 223.

in heavily populated areas thus increasing the risk of civilian casualties. The bombings were done at night in order to minimize risk to American aircraft. Recognizing the risk to civilians, the Americans selected the F-111 Aardvark as it was the most sophisticated and accurate bomber available. Strict ROEs were imposed requiring pilots to positively identify targets on multiple systems.¹⁷⁸ Despite these efforts, crew error resulted in a single stray bomb that landed near the French embassy killing 37 civilians and wounding another 93. Amongst the dead was Qaddafi's adopted daughter. In a single night, casualties approached comparable figures to the entire 6-month campaign of Operation Unified Protector. While the technology at the time was less sophisticated, it may also be argued that there were other ways of deterring and punishing Qaddafi that represented less risk. The targeting of isolated military installations would also have served the purpose of both deterrence and punishment albeit less directly. The strategic effect of deterrence should have been afforded more weight relative to the specific punishment of terrorists given the potential for tragic outcomes.

Right Conduct: 0

The final criterion of Proportionality of Means offers a more positive conclusion. The briefness of the conflict and the small number of targets provided for a strictly limited use of force. The targets selected demonstrated a desire to avoid significant destruction of the military or economic fabric of Libyan society.¹⁷⁹ While the total

¹⁷⁸ Judy G. Endicott, "Raid on Libya: Operation Eldorado Canyon," in *Short of War: Major USAF Contingency Operations 1947-1997*, ed. A. Timothy Warnock, 145-155 (Washington, D.C.: Air University Press, 2000), 149-150.

¹⁷⁹ Martel, *1986 Raid on Libya...*, 158.

number of aircraft exceeded those used by the UK to conduct the entire Falkland Islands campaign, much of this owed to the overly complicated logistics associated with conducting the operation based out of airfields in the UK that were thousands of kilometers away. The specific targeting of the Bab al-Aziziyah barracks in Tripoli did, however, present significant risk of unintended consequences. The barracks were considered the center of the terrorist C2 network, but were also the occasional home of the Qaddafi family.¹⁸⁰ The home was specifically targeted resulting in the death of Qaddafi's adopted daughter and injury to several other family members.¹⁸¹ Had Qaddafi been killed Libya would likely have been plunged into chaos given the lack of strong governmental institutions and the absence of a proper political process for his replacement.

Proportionality of Means: +1.0

Prior to consolidating the criteria for both military actions and drawing general conclusions, it must be noted that several perspectives opposed to the 2011 intervention have already emerged and require consideration.

ARGUMENTS AGAINST THE 2011 INTERVENTION

Opposition to the 2011 intervention appears to fall into three primary categories: selfish national interest, lack of moral universality, and legal concerns. The harshest

¹⁸⁰ Endicott, "Raid on Libya...", 149.

¹⁸¹ Quigley, "Libya: Qaddafi's Air...", 228.

criticisms based on national interest were reserved for France's President, Nicolas Sarkozy, centering on his sagging popularity in the face of a 2012 election.¹⁸² Even before the start of the Libyan uprising, President Sarkozy was accused of having overly cordial relations with the governments and leaders of both Tunisia and Egypt, who were successfully toppled during the Arab Spring uprisings. In the case of Tunisia, President Sarkozy had to fire his Foreign Minister, Michele Alliot-Marie, after she vacationed in Tunisia during the uprising and flew in a private jet owned by a friend of the ruling Ben Ali family, offered help in quelling the uprising, she also concealed a lucrative real estate deal completed by her parents in Tunisia.¹⁸³ In Egypt, the French Prime Minister Francois Fillon benefited from a vacation in Egypt paid for by the deposed dictator Hosni Mubarak. Accepting that these considerations were a motivation for France, does this then negate acting under UNSCR 1973?

The issue of French ulterior motives was briefly addressed within Right Intent under the specific context of regime change. In considering the selfish national interest argument as justification for labeling the entire intervention unethical, a different approach is required. Just War tradition states that the argument of French motivations cannot be considered in isolation if an ethical conclusion is to be achieved, even if the validity of the claims regarding President Sarkozy's motivation is accepted. When considered in light of the highly scored Just Cause and Legitimate Authority for which the intervention was fought, the end result was still envisaged as the saving of innocent

¹⁸² Conn Hallinan, "Libya and the Law of Unintended Consequences," *Foreign Policy in Focus*, 6 April 2011. http://www.fpi.org/articles/libya_and_the_law_of_unintended_consequences; Internet; accessed 9 March 2012.

¹⁸³ Henry Samuel, "Nicolas Sarkozy Sacks Foreign Minister After Tunisia Row," *The Telegraph*, 27 February 2011. <http://telegraph.co.uk/news/worldnews/europe/france/8350836/Nicolas-Sarkozy-sacks-foreign-minister-after-Tunisia-row.html>; Internet; accessed 13 March 2012.

lives and the installation of a more representative government in Libya regardless of the impact on President Sarkozy's electoral prospects. The legitimacy of the conflict must be weighed against the Net Benefit of the conflict in Libya from an international perspective, not simply against the results of the 2012 French elections.

National interest considerations were also leveled at a variety of other countries with some speculating that access to oil was the primary concern. While Libya was not a major US oil supplier, both France and England were quite dependent on Libyan oil and it was suggested that this may have been one of the major drivers for Libyan intervention.¹⁸⁴ In considering the oil argument, it is difficult to reconcile as a motivation for the war effort as Qaddafi had already largely normalized economic relations and the potential for a change in government would serve only to put that access at risk.¹⁸⁵ While these initial arguments focused on national interest considerations, there was also opposition within the moral realm.

According to 20th century philosopher Max Weber, there are two types of ethical virtues, those of *conviction* and *responsibility*.¹⁸⁶ The former dictates that decisions are made based on beliefs without consideration of consequence while the latter is based solely on consequence. Some opposition to Libyan intervention places particular

¹⁸⁴ Steinfels, "Hazardous Means..."

¹⁸⁵ Ian Williams, "Armchair Anti-Imperialism and Libya," *Foreign Policy in Focus*, 4 April, 2011. http://www.fpiif.org/articles/armchair_anti-imperialism_and_libya; Internet; accessed 9 March 2012.

¹⁸⁶ Max Weber, "Politics as a Vocation," in *Max Weber: The Vocation Lectures*, ed. David Owen and Tracy B. Strong, 32-94 (Hackett Publishing Company, Inc., 2004), 84. Available from <http://townsendlab.berkeley.edu/sites/all/files/Weber%20-%20Politics%20as%20a%20Vocation.pdf>; Internet; accessed 9 March 2012.

emphasis on the virtue of conviction in the sense that if R2P was valid as a principle for Libya then why not in Bahrain, Syria, Saudi Arabia, or Gaza?¹⁸⁷

To counter this claim, a general principle should be noted: the most ethical framework for decision-making requires a forceful combination of the two virtues, as Weber asserts. In the introductory material to the Just War tradition, Just War assessments were shown to represent an attempt to balance perspectives and the analogy translates well to the virtues of moral conviction and responsibility. The principles of Just Cause, Right Intent, Last Resort, and Legitimate Authority are directly attributable to the notion of conviction while Net Benefit, Right Conduct, and Proportionality of Means clearly address responsibility for outcomes. By delegitimizing an intervention based on morality where it is both politically and legally possible simply because other circumstances do not allow ignores the consequences of inaction.

If no intervention had occurred in Libya, it is highly likely that Qaddafi would have slaughtered many of his own people in Benghazi. Inaction based on the inability to act in all circumstances serves only to protect the utopian notion of keeping R2P morally universal “help everyone or help no one”. Even if universal intervention was somehow politically, militarily, and economically feasible it would risk the artificial lowering of the costs of rebellion¹⁸⁸ and potentially lead to even more conflict. The final basis for opposition centres on strictly legal arguments.

¹⁸⁷ Phyllis Bennis, “Libya and the Limits to the R2P,” *New Routes* 16, issue 2 (2011): 38; <http://www.life-peace.org/resources/publications/new-routes/2011/>; Internet; accessed 7 March 2012; Williams, “Arm Chair Anti-Imperialism...”; Hallinan, “Libya and the Law...”

¹⁸⁸ Steinfels, “Hazardous Means...”

Echoing the arguments of China in reference to UNSCR 1973, lawyer Eric Posner of the University of Chicago Law School cites several legal considerations. First he posits that the violation of Libyan state sovereignty was illegal based in part on the premise that R2P has not been adopted as a binding treaty.¹⁸⁹ He also takes issue with the notion that President Obama failed to consult Congress after 60 days as required by the War Powers resolution and the fact that the rebels were also violating human rights laws.¹⁹⁰ In the opening paragraphs of Posner's article, he reluctantly acknowledges the possibility that Libya may be a political and moral victory, but not a legal one.

As discussed in the Legitimate Authority section, not all of the legal arguments stand up to scrutiny. In terms of sovereignty, Posner ignores UN Charter Article 2(7) which clearly states on sovereignty that “. . . this principle [of non-intervention] shall not prejudice the application of enforcement measures under Chapter VII.”¹⁹¹ In terms of the War Powers resolution, the argument may be relevant to domestic American considerations, but holds no force in the international legal system or on NATO. Finally, his correct characterization of the legal quandary presented by human rights violations by both the rebels and Qaddafi offers no solutions. As so often occurs, the law lags behind reality and it is only through a holistic assessment such as that offered by the Just War tradition where ethical considerations may offer guidance to state actors. In the case of rebel human rights violations, intervention at least offers hope that rebels will be brought

¹⁸⁹ Eric A. Posner, “Outside the Law: From Flawed Beginning to Bloody End, the NATO Intervention in Libya Made a Mockery of International Law,” *Foreign Policy*, 25 October 2011. http://www.foreignpolicy.com/articles/2011/10/25/libya_international_law_qaddafi_nato; Internet; accessed 8 March 2012.

¹⁹⁰ *Ibid.*

¹⁹¹ United Nations, *Charter of the United Nations*, Chapter 1, Article 2.7.

under the control of a new government with the support of UNSMIL and that those responsible will be held to account, preferably in a manner more suitable than that of Qaddafi himself. So where does this leave the ethical assessment of the 2011 intervention?

OVERALL JWI SCORE AND CONCLUSIONS

The JWI scores in Table 3 are reflective of the notion that no war is likely to be seen as fully just or unjust. Invariably, weaknesses in one criterion are offset by strength in another and it is typically this variance that biases the opposing sides of a conflict and fuels rhetoric. By considering all criteria in a reasoned manner supported by evidence, a less subjective and more comprehensive method of assessing the use of force is offered.

Table 3 – Summary of JWI Scores for Operations Eldorado Canyon (1986) and Unified Protector (2011)

Criteria	Eldorado Canyon	Unified Protector
Just Cause	+2.0	+2.5
Legitimate Authority	-2.0	+2.0
Right Intent	-2.0	+1.0
Net Benefit	+1.0	+0.5
Last Resort	-1.0	+2.0
Right Conduct	0	+2.0
Proportionality of Means	+1.0	+1.0
JWI (Average)	-0.1	+1.6
JWI (as percentage)	48%	77%

Operation Eldorado Canyon differs remarkably from Unified Protector with regard to Legitimate Authority, Right Intent, and Last Resort. The unilateral action of

President Reagan was reflective of his “big stick diplomacy” view of the international community. While unilateral action left him free of the complications of wielding an unruly coalition and catered to a domestic audience, it also left his administration open to considerable criticism for what was viewed as a penchant for the use of force over alternative means. Operation Eldorado Canyon enjoyed neither international legitimacy nor legality.

By contrast, Operation Unified Protector was executed by a broad coalition of states presenting enormous political and logistical challenges but in accordance with international law. The payoff was a broadly supported effort that enjoyed full legality and a much higher degree of legitimacy. While abstentions and the limitations associated with veto power in the UNSC construct¹⁹² undoubtedly reduced the degree of legitimacy its approval offered, the significant support provided by regional organizations largely offset this weakness, AU notwithstanding. Last Resort was also significantly positive despite a hurried timeline from UNSC 1970 to the first bomb on target. The imminence of a potential genocide in Benghazi at the hands of a bellicose Qaddafi was averted only as a result of quick action on the parts of both the UNSC as well as the coalition which formed under difficult circumstances to effect its mandate. Interestingly, Operation Unified Protector is weaker than Eldorado Canyon in two significant areas.

¹⁹² “Without Security Council Reform, UN Will Lose Credibility – General Assembly Chief,” *UN News Centre*, 16 May 2011. <http://www.un.org/apps/news/story.asp?NewsID=38390>; Internet; accessed 21 April 2012.

Operation Eldorado Canyon's limited scope was specifically designed to avoid creating a situation that would clearly mandate continued US responsibility in Libya after the strike. As a result, both Net Benefit and Proportionality of Means were strong relative to the stated war aims since there were few unintended consequences. It is understood that the limited scope was in part due to the need to avoid escalation and the potential for a larger confrontation with the Soviet Union, but this does not change the end result. By contrast, in 2011 the shift from protection of civilians to the broader UNSC 1973 interpretation of regime change greatly complicated the intervention's end game. While NATO was able to neatly extract itself, the UN was left with the more complex political implications that resulted from Qaddafi's untimely death. The strength of the militias and the relative weakness of both the central government and UNSMIL leave the Net Benefit and Proportionality of Means categories incomplete and only marginally positive. There is however hope that these scores may increase provided UNSMIL and the TNC are able to gather strength, cease the abuses being conducted by the militias, and implement a truly representative government for Libyans.

In attempting to assess the missions from a complete perspective, the average scores may be converted to a percentage value. By using a typical passing score of 50% (admittedly arbitrary) the overall justness of the two missions may be assessed in terms of pass/fail judgments.¹⁹³ By this measure, Operation Eldorado Canyon fails the ethical

¹⁹³ A. Walter Dorn, "Warfighting, Counterinsurgency and Peacekeeping in Afghanistan: Three Strategies Examined in the Light of Just War Theory," in *War, Human Dignity and Nation Building: Theological Perspectives on Canada's Role in Afghanistan*, ed. Gary D. Badcock and Darren C. Marks, 16-70 (Newcastle, UK: Cambridge Scholars Publishing, 2011), 68.

threshold of the Just War tradition at 48% while Operation Unified Protector easily passes at 77%.

CONCLUSION

The final score of 77% allows for a generalized conclusion to be drawn that the Libyan intervention of 2011 was, on balance, ethically just. Just War analysis, however, demands that the temptation to oversimplify be avoided. Use of the tradition requires a balanced and nuanced approach to gauging the use of force. Any application of the seven selected principles must be done with full knowledge of its western democratic foundation and the requirement to apply the principles objectively despite the inherent bias of all individuals.

The first principle of Just Cause considered the brutal repression of popular protests exercised by the Qaddafi regime as the prime driver for UNSC condemnation. This catalyst was balanced against international criticism that focused on sovereignty considerations and the recent normalization of relations with Libya concluding that the principle of R2P overruled sovereignty rights.

The analysis of Legitimate Authority began with an accounting of the legitimacy afforded by UNSCR 1973 and the support of the Arab League. The objections of several abstaining nations were then used as a basis for questioning the resolution's legitimacy countered to a degree by the formation of continued political guidance through the Libya Contact Group and the subdued role assumed by the US.

Right Intent focused on the issue of regime change and its impact on international peace and security. Criticism of the coalition centred on the lack of discussion on regime change prior to the passing of UNSCR 1973 and the subsequent clarity once the cover of the resolution was in place. It was acknowledged that a broader interpretation of the resolution allowed for the conclusion that the protection of civilians was not possible without regime change. Finally, the possibility of Qaddafi's "targeted killing" was considered and deemed to detract from the ethical conclusion under Right Intent.

Even though the book cannot yet be closed on the long-term Net Benefit given the many unanswered questions in post-intervention Libya, an assessment was made with the benefit of current knowledge and a degree of forethought. In considering the global effects of the Libyan conflict, much remains undecided. The relatively light human costs created by intervention coupled with the likely prevention of a potential massacre in Benghazi and subsequent regime actions set the foundation for Net Benefit. The plight of displaced persons and the challenges with the implementation of democracy in the face of sectarian strife dampened the outlook for Net Benefit as did the ongoing human rights and economic concerns, and the proliferation of arms. Despite these concerns, the refugee situation is improving, WMDs are accounted for, Libya has access to considerable cash reserves, and the oil industry is rapidly recovering. Furthermore, the work of UNSMIL offers hope, particularly if the scope of the mission is increased by the UNSC. Finally, the Syrian crisis was used as a backdrop to illustrate the paralyzing effect that the perceived overextension of the R2P principle has engendered.

The final *jus ad bellum* criterion of Last Resort detailed the urgency of the situation in Benghazi in relation to the graduated and flexible approach adopted by the UN under the constraint of a tight timeline. The spectre of another Rwanda and Qaddafi's bellicosity factored into the UNSC's decision to act even in the face of dissension from influential states and organizations including the AU.

The *jus in bello* principle of Right Conduct provided a solid affirmation of the coalition's actions during the intervention. Despite the tragic loss of a number of civilians, NATO exhibited extraordinary caution and diligence in executing the mission and relatively few lives were lost due to NATO bombs. A performance marred only by a temporary lack of specialist assets and a reluctance to acknowledge responsibility for the collateral damage it caused.

The Proportionality of Means section took note of the US "lead from behind" approach as it related to calls to apply overwhelming force to expedite the end of the conflict. The primacy afforded to the avoidance of human and infrastructure collateral damage served the coalition well. Equally commendable was the avoidance of any notion of a NATO attempt to capture Qaddafi or extend NATO's involvement after 31 October thus assuring Libyan ownership of their future.

A brief Just War analysis was then conducted on the 1986 bombing of Libya to provide a contrast to the 2011 intervention. A treatment of the principle opposition to the Libyan intervention was also conducted focusing on the notions of national interest, moral universality, and legal concerns. In each case, opposition centred on relatively

narrow concerns and, when compared to the more comprehensive and balanced approach of the Just War tradition, were easily countered. With the characterization of the 2011 intervention, the 1986 bombing, and an understanding of the opposition to Operation Unified Protector in hand the results were consolidated into final conclusions.

Both operations scored highly under the category of Just Cause, but the similarity ended there with each mission demonstrating relative strengths and weaknesses. Eldorado Canyon offered high scores in Net Benefit and Proportionality of Means while Unified Protector's principle strengths were in the areas of Legitimate Authority, Last Resort, and Right Conduct. When considered in total, the final JWI scores for Operation Eldorado Canyon (48%) and Operation Unified Protector (77%) allowed for the broad conclusion that the 2011 mission demonstrated a significantly higher degree of justness than did 1986. In considering the positive JWI average of +1.6 it may be concluded that, on balance, the 2011 Libyan intervention was ethically just. It is further acknowledged that the category of Net Benefit cannot be considered final given the significant uncertainty regarding the future of Libya. Future research may consider reassessing the intervention in several years once Libyans have firmly established their political trajectory.

In this case, a JWI analysis was conducted that contrasted the Libyan conflicts of 1986 and 2011. The JWI, however, is not limited to a single approach. The JWI provides inherent flexibility when assessing the moral basis for the use of force. Not only can a conflict be assessed independently or in contrast to others, but analysis may also be conducted prior to, during, and after the cessation of violence. This temporal

flexibility may offer politicians assistance regarding the decision to use force, commanders assistance in prosecuting the use of force, and help to shape the moral norms that will govern future conflicts.

Bibliography

Books

- Black, Craig R. "Muammar Qaddafi and Libya's Strategic Culture." In *Know Thy Enemy: Profiles of Adversary Leaders and Their Strategic Cultures*, edited by Barry R. Schneider and Jerrold M. Post, 247-269. Washington, D.C.: US Government Printing Office, 2003.
- Boyd-Judson, Lyn. "The Lockerbie Negotiations: Granting the Enemy a Moral Universe." Chap. 3 in *Strategic Moral Diplomacy: Understanding the Enemy's Moral Universe*. Sterling, VA: Kumarian Press, 2011.
- Coates, A.J. *The Ethics of War*. New York: St. Martin's Press, Inc., 1997.
- Dorn, A. Walter. "Warfighting, Counterinsurgency and Peacekeeping in Afghanistan: Three Strategies Examined in the Light of Just War Theory." In *War, Human Dignity and Nation Building: Theological Perspectives on Canada's Role in Afghanistan*, edited by Gary D. Badcock and Darren C. Marks, 16-70. Newcastle, UK: Cambridge Scholars Publishing, 2011.
- Endicott, Judy G. "Raid on Libya: Operation Eldorado Canyon." In *Short of War: Major USAF Contingency Operations 1947-1997*, edited by A. Timothy Warnock, 145-155. Washington, D.C.: Air University Press, 2000.
- Johnson, James Turner. "The Utility of Just War Categories for Moral Analysis of Contemporary War." Chap. 1 in *Can Modern War Be Just?* New Haven, CT: Yale University Press, 1984.
- Johnson, James Turner. "Politics, Power, and the International Order." Chap. 1 in *Morality and Contemporary Warfare*. New Haven, CT: Yale University Press, 1999.
- Laham, Nicholas. *The American Bombing of Libya: A Study of the Force of Miscalculation in Reagan Foreign Policy*. Jefferson, NC: McFarland & Company, Inc., 2008.
- Martel, William C. "1986 Raid on Libya." Chap. 6 in *Victory in War: Foundations of Modern Military Policy*. New York: Cambridge University Press, 2007.
- Matar, Khalil I., and Robert W. Thabit. *Lockerbie and Libya: A Study in International Relations*. Jefferson, NC: McFarland & Company, Inc., 2004.
- Quigley, John. "Libya: Qaddafi's Air Conditioner." Chap. 26 in *The Ruses for War: American Interventionism Since World War II*. Buffalo, NY: Prometheus Books, 1992.

Regan, Richard J. *Just War: Principles and Cases*. Washington, D.C.: The Catholic University of America Press, 1996.

Ronen, Yehudit. *Qaddafi's Libya in World Politics*. Boulder, CO: Lynne Rienner Publishers, Inc., 2008.

van der Linden, Harry. "Barack Obama as Just War Theorist: The Libyan Intervention." *Scholarship and Professional Work – LAS*, Paper 234, 1 April 2012.
http://digitalcommons.butler.edu/facsch_papers/234; Internet; accessed 26 April 2012.

Vandewalle, Dirk. *A History of Modern Libya*. Cambridge, UK: Cambridge University Press, 2006.

Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: BasicBooks, 1992.

Weber, Max. "Politics as a Vocation." In *Max Weber: The Vocation Lectures*, edited by David Owen and Tracy B. Strong, 32-94. Hackett Publishing Company, Inc., 2004. Available from <http://townsendlab.berkeley.edu/sites/all/files/Weber%20-%20Politics%20as%20a%20Vocation.pdf>; Internet; accessed 9 March 2012.

Zoubir, Yahia H. "The US and Libya: The Lengthy Road to Reconciliation." In *Handbook of US-Middle East Relations: Formative Factors and Regional Perspectives*, edited by Robert E. Looney, 262-280. London: Routledge, 2009.

Journal Articles

Bellamy, Alex J. and Paul D. Williams. "The New Politics of Protection? Côte d'Ivoire, Libya and the Responsibility to Protect." *International Affairs* 87, issue 4 (July 2011): 825-850; <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2346.2011.01006.x/pdf>; Internet; accessed 14 March 2012.

Bennis, Phyllis. "Libya and the Limits to the R2P." *New Routes* 16, issue 2 (2011): 36-39; <http://www.life-peace.org/resources/publications/new-routes/2011/>; Internet; accessed 7 March 2012.

Daalder, Ivo H. and James G. Stavridis. "NATO's Victory in Libya: The Right Way to Run an Intervention." *Foreign Affairs* 91, no.2 (2012): 2-7;
<http://www.proquest.com>; Internet; accessed 9 March 2012.

Dorn, A. Walter. "Just War Index: Comparing Warfighting and Counterinsurgency in Afghanistan." *Journal of Military Ethics* 10, no. 3 (September 2011): 242-262;
<http://www.tandfonline.com/doi/abs/10.1080/15027570.2011.608499>; Internet; accessed 18 January 2012.

Fisher, David, and Nigel Biggar. "Was Iraq an Unjust War? A Debate on the Iraq War and Reflections on Libya." *International Affairs* 87, issue 3 (May 2011): 687-707; <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2346.2011.00997.x/full>; Internet; accessed 18 January 2012.

Prunckun, Henry W. Jr., and Philip B. Mohr. "Military Deterrence of International Terrorism: An Evaluation of Operation El Dorado Canyon." *Studies in Conflict & Terrorism* 20, issue 3 (July-September 1997): 267-280; www.ebscohost.com; Internet; accessed 19 January 2012.

Sharqieh, Ibrahim. "Imperatives for Post-Conflict Reconstruction in Libya." *Conflict Trends*, issue 4 (2011): 3-10; http://www.accord.org.za/downloads/ct/ACCORD_Conflict_Trends_2011_4.pdf; Internet; accessed 18 February 2012.

Zakaria, Fareed. "Why Are We in Libya?" *Time* 177, issue 13 (4 May 2011): 32-35; <http://www.ebscohost.com>; Internet; accessed 19 January 2012.

News Articles

"5,000 Surface-to-Air Missiles Secured in Libya." *Defense News*, 11 December 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011112110304>; Internet; accessed 13 January 2012.

Alzway, Suliman Ali and David D. Kirkpatrick. "Eastern Libya Demands a Measure of Autonomy in a Loose National Federation." *The New York Times*, 6 March 2012. http://www.nytimes.com/2012/03/07/world/africa/eastern-libya-demands-measure-of-autonomy.html?_r=1&scp=1&sq=eastern%20libya%20demands&st=cse; Internet; accessed 6 March 2012.

"Arab League: Protection of Civilians in Libya is Priority." *BBC News*, 20 March 2011. <http://www.bbc.co.uk/news/world-africa-12801823>; Internet; accessed 25 February 2012.

Barry, Ellen. "As Nations Line Up Against Syrian Government, Russia Sides Firmly with Assad." *The New York Times*, 27 January 2012. <http://www.nytimes.com/2012/01/28/world/europe/russia-sides-firmly-with-assad-government-in-syria.html?scp=1&sq=As%20Nations%20Line%20Up%20Against%20Syrian%20Government,%20Russia%20Sides%20Firmly%20with%20Assad&st=cse>; Internet; accessed 29 January 2012.

Basu, Moni. "Libyans Face Tough Challenges in Building a New Nation." *CNN*, 26 January 2012. <http://www.cnn.com/2012/01/26/world/africa/libya-challenges/index.html?iref=allsearch>; Internet; accessed 27 January 2012.

Bilefsky, Dan and Mark Landler. "As U.N. Backs Military Action in Libya, U.S. Role is Unclear." *The New York Times*, 17 March 2011.

<http://www.nytimes.com/2011/03/18/world/africa/18nations.html?scp=1&sq=As%20U.N.%20Backs%20Military%20Action%20in%20Libya,%20U.S.%20Role%20is%20Unclear&st=cse>; Internet; accessed 25 February 2012.

Bonner, Raymond and Steve LeVine. "After the Attack: The Guerrillas; 'We Are Freedom Fighters,' Says a Leader of Militants." *The New York Times*, 27 August 1998. <http://www.nytimes.com/1998/08/27/world/after-attack-guerrillas-we-are-freedom-fighters-says-leader-militants.html>; Internet; accessed 2 March 2012.

Brode, Daniel. "Rebels on the Rise in Northern Mali." *The New York Times*, 3 April 2012. http://www.nytimes.com/2012/04/04/opinion/rebels-on-the-rise-in-northern-mali.html?_r=1; Internet; accessed 21 April 2012.

Burns, John F. "New Questions in Lockerbie Bomber's Release." *The New York Times*, 22 August 2009. http://www.nytimes.com/2009/08/22/world/europe/22lockerbie.html?_r=1&scp=1&sq=New%20Questions%20in%20Lockerbie%20Bomber%E2%80%99s%20Release&st=cse; Internet; accessed 2 March 2012.

Castle, Tim. "NATO Giving Rebels Intelligence in Gaddafi Hunt – UK's Fox." *Reuters*, 25 August 2011. <http://af.reuters.com/article/libyaNews/idAFL5E7JP08I20110825>; Internet; accessed 21 April 2012.

Chivers, C.J. "More Evidence of Cluster-Bomb Use Discovered in Libya." *The New York Times*, 13 February 2012. <http://atwar.blogs.nytimes.com/2012/02/13/more-evidence-of-cluster-bomb-use-discovered-in-libya/?scp=1&sq=more%20evidence%20of%20cluster-bomb%20use%20discovered%20in%20libya&st=cse>; Internet; accessed 17 February 2012.

Chivers, C.J., and Eric Schmitt. "In Strikes on Libya by NATO, an Unspoken Civilian Toll." *The New York Times*, 17 December 2011. <http://www.nytimes.com/2011/12/18/world/africa/scores-of-unintended-casualties-in-nato-war-in-libya.html?scp=1&sq=In%20Strikes%20on%20Libya%20by%20NATO,%20an%20Unspoken%20Civilian%20Toll&st=cse>; Internet; accessed 23 January 2012.

"Clinton Criticises Bahrain Over Protester Clashes." *BBC News*, 16 March 2011. <http://www.bbc.co.uk/news/world-us-canada-12762500>; Internet; accessed 20 February 2012.

Cody, Edward. "Arab League Condemns Broad Western Bombing Campaign in Libya." *The Washington Post*, 20 March 2011.

http://www.washingtonpost.com/world/arab-league-condemns-broad-bombing-campaign-in-libya/2011/03/20/AB1pSg1_story.html; Internet; accessed 21 April 2012.

Cotler, Irwin, and Jared Genser. "Libya and the Responsibility to Protect." *The New York Times*, 28 February 2011.

http://www.nytimes.com/2011/03/01/opinion/01iht-edcotler01.html?_r=1&scp=1&sq=libya%20and%20the%20responsibility%20to%20protect&st=cse; Internet; accessed 20 February 2012.

"Counting the Cost of NATO's Mission in Libya." *BBC News*, 31 October 2011.

<http://www.bbc.co.uk/news/world-africa-15528984>; Internet; accessed 28 January 2012.

"Delays in a Trial Show Libya's Legal Disarray." *The New York Times*, 15 February 2012.

<http://www.nytimes.com/2012/02/16/world/africa/in-libya-a-trials-delays-reflect-judicial-disarray.html?scp=1&sq=Delays%20in%20a%20Trial%20Show%20Libya%E2%80%99s%20Legal%20Disarray&st=cse>; Internet; accessed 16 February 2012.

Dorn, Walter. "Give the Peacekeepers Tools They Need." *National Post*, 26 September 2011.

<http://www.nationalpost.com/news/Give+peacekeepers+tools+they+need/5457165/story.html>; Internet; accessed 18 January 2012.

Downie, James. "When Numbers Lie: Why Isn't There an Accurate Death Toll in Libya?" *The New Republic*, 1 April, 2011.

<http://www.tnr.com/article/world/86090/libya-death-toll-war-qadaffi>; Internet; accessed 14 March 2012.

Drew, Christopher. "Drones Are Playing a Growing Role in Afghanistan." *The New York Times*, 20 February 2010.

<http://www.nytimes.com/2010/02/20/world/asia/20drones.html?scp=1&sq=drones%20are%20playing%20a%20growing%20role&st=cse>; Internet; accessed 7 March 2012.

FlorCruz, Jaime. "Why China Didn't Back U.N. Plan for Syria." *CNN*, 9 February 2012.

<http://www.cnn.com/2012/02/09/world/asia/syria-china-florcruz/index.html?iref=allsearch>; Internet; accessed 13 February 2012.

"Gadhafi Regime Had Undeclared Chemical Weapons, Group Says." *Defense News*, 20 January 2012.

<http://www.defensenews.com/apps/pbcs.dll/article?AID=2012301200004>; Internet; accessed 26 January 2012.

Goodman, J. David. "Rights Group Says Libya's Militias Are 'Out of Control.'" *The New York Times*, 16 February 2012.

<http://thelede.blogs.nytimes.com/2012/02/16/rights-group-says-libyas-militias-are-out-of-control/>; Internet; accessed 22 April 2012.

Grier, Peter. "Has Obama's Approach to Libya Been Vindicated?" *Christian Science Monitor*, 22 August 2011. <http://www.csmonitor.com/USA/Foreign-Policy/2011/0822/Has-Obama-s-approach-to-Libya-been-vindicated>; Internet; accessed 23 January 2012.

Halevy, Efraim. "What the Libyan Intervention May Have Cost Us." *The New Republic*, March 5 2012. <http://www.tnr.com/article/politics/101320/tk-libya>; Internet; accessed 22 April 2012.

Hallinan, Conn. "Libya and the Law of Unintended Consequences." *Foreign Policy in Focus*, 6 April 2011. http://www.fpiif.org/articles/libya_and_the_law_of_unintended_consequences; Internet; accessed 9 March 2012.

Hawley, Caroline. "Libyan Women Battle For Empowerment." *BBC News*, 13 December 2011. <http://www.bbc.co.uk/news/world-africa-16160671>; Internet; accessed 28 January 2011.

Kafala, Tarik. "'Cleansed' Libyan Town Spills Its Terrible Secrets." *BBC News Magazine*, 12 December 2011. <http://www.bbc.co.uk/news/magazine-16051349>; Internet; accessed 28 January 2012.

Karadsheh, Jomana. "Top Aide: Gadhafi's 'Suicidal' Flight to Birthplace." *CNN*, 8 November 2011. <http://www.cnn.com/2011/11/07/world/africa/libya-gadhafi-flight/index.html?iref=allsearch>; Internet; accessed 13 January 2012.

Kirkpatrick, David D. "In Libya Capital, Long Bread Lines and Barricades." *The New York Times*, 26 February 2011. <http://www.nytimes.com/2011/02/27/world/africa/27libya.html>; Internet; accessed 20 February 2012.

Landler, Mark, and Dan Bilefsky. "Specter of Rebel Rout Helps Shift U.S. Policy on Libya." *The New York Times*, 16 March 2011. <http://www.nytimes.com/2011/03/17/world/africa/17diplomacy.html?scp=1&sq=Specter%20of%20Rebel%20Rout%20Helps%20Shift%20U.S.%20Policy%20on%20Libya&st=cse>; Internet; accessed 25 February 2012.

Landler, Mark, and Steven Erlanger. "Obama Seeks to Unify Allies as More Airstrikes Rock Tripoli." *The New York Times*, 22 March 2011. http://www.nytimes.com/2011/03/23/world/africa/23libya.html?_r=1&scp=1&sq=obama%20seeks%20to%20unify%20allies%20as%20more%20airstrikes%20rock%20tripoli&st=cse; Internet; accessed 13 February 2012.

- Lane, Edwin. "After Gaddafi, Libya's Amazigh Demand Recognition." *BBC News*, 23 December 2011. <http://www.bbc.co.uk/news/world-africa-16289543>; Internet; accessed 28 January 2012.
- Lane, Edwin. "Libya's Rebels Without a Cause." *BBC News*, 15 December 2011. <http://www.bbc.co.uk/news/world-africa-16187211>; Internet; accessed 28 January 2012.
- "Libya Army Graduates First Tripoli-Trained Troops." *Defense News*, 4 March 2012. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2012303040002>; Internet; accessed 12 March 2012.
- "Libya Compensates Terror Victims." *BBC News*, 31 October 2008. <http://www.bbc.co.uk/2/hi/americas/7703110.stm>; Internet; accessed 22 February 2012.
- "Libya Crisis: Profile of NTC Chair Mustafa Abdul Jalil." *BBC News*, 22 August 2011. <http://www.bbc.co.uk/news/world-africa-14613679>; Internet; accessed 28 January 2012.
- "Libya Government Yields to Tribe." *The New York Times*, 25 January 2012. <http://www.nytimes.com/2012/01/26/world/africa/libya-government-yields-to-tribe-in-bani-walid.html?ref=muammarelqaddafi>; Internet; accessed 26 January 2012.
- "Libya ICC: Gaddafi Co-Accused." *BBC News*, 27 June 2011. <http://www.bbc.co.uk/news/world-africa-13416319>; Internet; accessed 28 January 2012.
- "Libya Profile." *BBC News*, 4 January 2012. <http://www.bbc.co.uk/news/world-africa-13754900>; Internet; accessed 28 January 2012.
- "Libya: Red Cross Pulls Out of Benghazi Fearing Attack." *BBC News*, 16 March 2011. <http://www.bbc.co.uk/news/world-africa-12767759>; Internet; accessed 20 February 2012.
- "Libya: Turkey's Troubles with NATO and No-Fly Zone." *BBC News*, 25 March 2011. <http://www.bbc.co.uk/news/world-africa-12864742>; Internet; accessed 26 February 2012.
- "Libya: Uganda Freezes Libyan Assets Under UN Sanctions." *BBC News*, 25 March 2011. <http://www.bbc.co.uk/news/world-africa-12860837>; Internet; accessed 21 April 2012.
- "Libya: US to Deploy Armed Drones – Robert Gates." *BBC News*, 22 April 2011. <http://www.bbc.co.uk/news/world-africa-13166441>; Internet; accessed 7 March 2012.

- “Libya: US to Reduce Role in Military Campaign.” *BBC News*, 21 March 2011. <http://www.bbc.co.uk/news/world-africa-12813757>; Internet; accessed 13 February 2012.
- “Libya: Western Militias Unite, Posing Challenge to Transitional Government.” *The New York Times*, 13 February 2012. <http://www.nytimes.com/2012/02/14/world/africa/libya-western-militias-unite-posing-challenge-to-transitional-government.html?scp=1&sq=libya:%20%20Western%20Militias%20Unite,%20Posing%20Challenge%20to%20Transitional%20Government&st=cse>; Internet; accessed 15 February 2012.
- “Libyan Authorities Working to Respond to People’s High Expectations – UN Envoy.” *UN News Centre*, 22 December 2011. <http://www.un.org/apps/news/story.asp?NewsID=40825&Cr=Libya&Cr1=>; Internet; accessed 16 February 2012.
- “Libya’s WMD Stockpiles are Secure: Pentagon.” *Defense News*, 24 August 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011108240303>; Internet; accessed 26 January 2012.
- “NATO Chief Hails ‘Finally Free’ Libya.” *CBC News*, 1 November 2011. <http://www.cbc.ca/news/world/story/2011/10/31/nato-libya-mission-ends.html>; Internet; accessed 13 January 2012.
- “New UN Political Mission in Libya Begins Operations and Deployment of Staff.” *UN News Service*, 22 September 2011. <http://www.un.org/apps/news/story.asp?NewsID=39693&Cr=libya&Cr1=>; Internet; accessed 16 February 2012.
- O’Brien Steinfels, Margaret. “Hazardous Means: Libya & The Ambiguity of Humanitarian Intervention.” *Commonweal Magazine*, 17 June 2011. <http://commonwealmagazine.org/hazardous-means>; Internet; accessed 16 February 2012.
- Plett, Barbara. “UN Security Council Middle Powers’ Arab Spring Dilemma.” *BBC News*, 7 November 2011. <http://www.bbc.co.uk/news/world-middle-east-15628006>; Internet; accessed 26 February 2012.
- Posner, Eric A. “Outside the Law: From Flawed Beginning to Bloody End, the NATO Intervention in Libya Made a Mockery of International Law.” *Foreign Policy*, 25 October 2011. http://www.foreignpolicy.com/articles/2011/10/25/libya_international_law_qaddafi_nato; Internet; accessed 8 March 2012.

- Pugliese, David. "The Libya Mission One Year Later: Into the Unknown." *The Ottawa Citizen*, 17 February 2012. <http://www.ottawacitizen.com/news/Libya+mission+year+later+Into+unknown/6172099/story.html>; Internet; accessed 18 February 2012.
- Pugliese, David. "Canada Helped NATO Enable Ouster of Gadhafi from Libya." *The Ottawa Citizen*, 19 February 2012. <http://www.ottawacitizen.com/news/Canada+helped+NATO+enable+ouster+Gadhafi+from+Libya/6176566/story.html>; Internet; accessed 19 February 2012.
- Ribeiro, Jeferson. "Brazil Says Believes Libya Will Respect Contracts." *Reuters*, 23 August 2011. <http://www.reuters.com/article/2011/08/23/us-brazil-libya-idUSTRE77M4VT20110823>; Internet; accessed 26 February 2012.
- Samuel, Henry. "Nicolas Sarkozy Sacks Foreign Minister After Tunisia Row." *The Telegraph*, 27 February 2011. <http://telegraph.co.uk/news/worldnews/europe/france/8350836/Nicolas-Sarkozy-sacks-foreign-minister-after-Tunisia-row.html>; Internet; accessed 13 March 2012.
- Saunders, Doug. "Will Libya's Uniqueness Prove Its Undoing?" *The Globe and Mail*, 22 October 2011. <http://www.theglobeandmail.com/news/opinions/opinion/will-libyas-uniqueness-prove-its-undoing/article2209826/>; Internet; accessed 14 January 2012.
- Saunders, Doug. "With Gadhafi's Death, Libyans Face an Unknown Rebirth." *The Globe and Mail*, 20 October 2011. <http://www.theglobeandmail.com/news/world/africa-mideast/with-gadhafis-death-libyans-face-an-unknown-rebirth/article2207789/>; Internet; accessed 14 January 2012.
- Shadid, Anthony. "Libya Struggles to Curb Militias as Chaos Grows." *The New York Times*, 8 February 2012. <http://www.nytimes.com/2012/02/09/world/africa/libyas-new-government-unable-to-control-militias.html?scp=1&sq=Libya%20Struggles%20to%20Curb%20Militias%20as%20Chaos%20Grows&st=cse>; Internet; accessed 11 February 2012.
- Simons, Marlise. "Libya: Court Demands Handover of Qaddafi Son for Trial at Hague." *The New York Times*, 4 April 2012. <http://www.nytimes.com/2012/04/05/world/africa/seif-al-islam-el-qaddafi-ordered-to-trial-at-hague.html>; Internet; accessed 5 April 2012.
- "Sirte's Fall Won't End NATO Mission: Official." *Defense News*, 11 October 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011110110305>; Internet; accessed 13 January 2012.

- Sotloff, Steven. "All Confused on the Western Front: NATO's and Libya's Rebels Don't Jibe." *Time*, 21 June 2011. <http://www.time.com/time/world/article/0,8599,2078831,00.html>; Internet; accessed 8 March 2012.
- "Special Report: Libya After Gadhafi." *CBC News*, 7 December 2011. <http://www.cbc.ca/news/world/story/2011/02/24/f-libya-topix.html>; Internet; accessed 22 January 2012.
- Stack, Liam. "Organizations Say Torture is Widespread in Libya Jails." *The New York Times*, 26 January 2012. <http://www.nytimes.com/2012/01/27/world/africa/groups-denounce-widespread-use-of-torture-in-libya.html?scp=1&sq=Organizations%20Say%20Torture%20is%20Widespread%20in%20Libya%20Jails&st=cse>; Internet; accessed 27 January 2012.
- "U.N. to Join Hunt for Rogue Weapons in Libya." *Defense News*, 2 December 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011112020313>; Internet; accessed 13 January 2012.
- Urban, Mark. "Russia Aims to Keep Syria Options Open After UN Veto." *BBC News*, 6 February 2012. <http://www.bbc.co.uk/news/world-16917466>; Internet; accessed 13 February 2012.
- Watson, Katy. "Libya's New Battle is Getting Young People Into Jobs." *BBC News*, 11 December 2011. <http://www.bbc.co.uk/news/uk-16110295>; Internet; accessed 28 January 2012.
- Wehrey, Frederic. "Bringing Libya Under Control." *The New York Times*, 24 February 2012. http://www.nytimes.com/2012/02/25/opinion/bringing-libya-under-control.html?_r=1&scp=1&sq=Bringing%20Libya%20Under%20Control&st=cse; Internet; accessed 2 March 2012.
- Williams, Ian. "Armchair Anti-Imperialism and Libya." *Foreign Policy in Focus*, 4 April, 2011. http://www.fpiif.org/articles/armchair_anti-imperialism_and_libya; Internet; accessed 9 March 2012.
- Wintour, Patrick. "London Libya Conference Leaves Gaddafi's Fate Undecided." *The Guardian*, 29 March 2011. <http://www.guardian.co.uk/world/2011/mar/29/london-libya-conference-leaves-gaddafi-fate-undecided?INTCMP=SRCH>; Internet; accessed 26 February 2012.
- Witcher, Tim. "Libya Arms Threaten to Infiltrate Africa Conflicts." *Defense News*, 21 October 2011. <http://www.defensenews.com/apps/pbcs.dll/article?AID=2011110210305>; Internet; accessed 26 January 2012.

“Without Security Council Reform, UN Will Lose Credibility – General Assembly Chief.” *UN News Centre*, 16 May 2011.
<http://www.un.org/apps/news/story.asp?NewsID=38390>; Internet; accessed 21 April 2012.

Zenko, Micah. “Compared to Iraq and Afghanistan, the War in Libya Is Cheap.” *The Atlantic*, 11 August 2011.
<http://www.theatlantic.com/international/archive/2011/08/compared-to-iraq-and-afghanistan-the-war-in-libya-is-cheap/243483/>; Internet; accessed 21 April 2012.

Other Materials

Council of the League of Arab States. “The Implications of the Current Events in Libya and the Arab Position.” 12 March 2011.
<http://responsibilitytoprotect.org/Arab%20League%20Ministerial%20level%20statement%2012%20march%202011%20-%20english%281%29.pdf>; Internet; accessed 6 March 2012.

Emerson, Michael. “The Responsibility to Protect and Regime Change.” *Centre for European Policy Studies Commentary*, 1 December 2011.
<http://www.ceps.eu/book/responsibility-protect-and-regime-change>; Internet; accessed 14 March 2012.

Kaufman, Whit. “The Ethics of Assassination.” *The Joint Services Conference on Professional Ethics*, 29-30 January 2004.
<http://isme.tamu.edu/JSCOPE04/Kaufman04.html>; Internet; accessed 9 March 2012.

North Atlantic Treaty Organization (NATO). Libya Contact Group. *Chair’s Statement*. 13 April 2011.
http://www.nato.int/nato_static/assets/pdf/pdf_2011_04/20110926_110413-Libya-Contact_Group-Doha.pdf; Internet; accessed 18 January 2012.

North Atlantic Treaty Organization (NATO). London Conference on Libya. *Chair’s Statement*. 29 March 2011.
http://www.nato.int/nato_static/assets/pdf/pdf_2011_03/20110927_110329_London-Conference-Libya.pdf; Internet; accessed 18 January 2012.

North Atlantic Treaty Organization (NATO). *Operation Unified Protector: Final Mission Stats*. 2 November 2011.
http://www.nato.int/nato_static/assets/pdf/pdf_2011_11/20111108_111107-factsheet_up_factsfigures_en.pdf; Internet; accessed 17 February 2012.

North Atlantic Treaty Organization (NATO). *Press Conference by NATO Secretary General on the Latest Developments in Libya and Operation Unified Protector*. 21

October 2011. http://www.nato.int/cps/en/natolive/opinions_79807.htm; Internet; accessed 11 February 2012.

North Atlantic Treaty Organization (NATO). Statement by Carmen Romero, NATO Deputy Spokesperson and Lieutenant General Charles Bouchard, Commander of the Operation Unified Protector. *Press Briefing on Libya*. 26 April 2011. http://www.nato.int/cps/en/natolive/opinions_72902.htm; Internet; accessed 11 February 2012.

North Atlantic Treaty Organization (NATO). Statement by Oana Lungescu, NATO Spokesperson and Colonel Roland Lavoie, Operation “Unified Protector” military spokesperson. *Press Briefing on Libya*. 27 September 2011. http://www.nato.int/cps/en/natolive/opinions_78535.htm; Internet; accessed 11 February 2012.

North Atlantic Treaty Organization (NATO). Working Lunch of NATO Ministers of Defense. *Statement on Libya*. 8 June 2011. http://www.nato.int/cps/en/natolive/news_75177.htm; Internet; accessed 23 January 2012.

Organization of Islamic Cooperation. “Final Communique Issued by the Emergency Meeting of the Committee of Permanent Representatives to the Organization of the Islamic Conference on the Alarming Developments in Libyan Jamahiriya.” http://www.oic-oci.org/topic_detail.asp?t_id=5022&x_key=; Internet; accessed 6 March 2012.

Peace and Security Council of the African Union. “Communique of the 265th Meeting of the Peace and Security Council.” PSC/PR/COMM.2(CCLXV), 10 March 2011. http://www.au.int/en/sites/default/files/COMMUNIQUE_EN_10_MARCH_2011_PSD_THE_265TH_MEETING_THE_PEACE_AND_SECURITY_COUNCIL.pdf; Internet; accessed 6 March 2012.

United Nations. *Charter of the United Nations*. Chapter 1, Article 2. <http://www.un.org/en/documents/charter/chapter1.shtml>; Internet; accessed 8 March 2012.

United Nations General Assembly. *Resolutions and Decisions Adopted by the General Assembly During Its Forty-First Session*, 16 December-19 December 1986. A/41/53. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/NR0/761/35/IMG/NR076135.pdf?OpenElement>; Internet; accessed 7 March 2012.

United Nations Human Rights Council. “Report of the International Commission of Inquiry on Libya.” A/HRC/19/68, 2 March 2012. <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A.HRC.19.68.pdf>; Internet; accessed 6 March 2012.

- United Nations Security Council. "Resolution 1970: Peace and Security in Africa." S/RES/1970(2011), 26 February 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement>; Internet; accessed 18 January 2012.
- United Nations Security Council. "Resolution 1973: The Situation in Libya." S/RES/1973(2011), 17 March 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement>; Internet; accessed 18 January 2012.
- United Nations Security Council. "Resolution 2009: The Situation in Libya." S/RES/2009 (2011), 16 September 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/502/44/PDF/N1150244.pdf?OpenElement>; Internet; accessed 17 March 2012.
- United Nations Security Council. 6498th Meeting. "Security Council Approves 'No-Fly Zone' Over Libya, Authorizing 'All Necessary Measures' to Protect Civilians, By Vote of 10 in Favour with 5 Abstentions." SC/10200, 17 March 2011. <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>; Internet; accessed 7 March 2012.
- United Nations Security Council. 2682nd Meeting. *Minutes*. S/PV.2682, 21 April 1986. <http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N86/605/62/PDF/N8660562.pdf?OpenElement>; Internet; accessed 7 March 2012.
- United Nations Security Council. 6531st Meeting. *Minutes*. S/PV.6531, 10 May 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N11/330/32/PDF/N1133032.pdf?OpenElement>; Internet; accessed 7 March 2012.
- United States. The White House. *Address to a Joint Session of Congress and the American People*. 20 September 2001. <http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html>; Internet; accessed 4 April 2012.
- United States. U.S. Department of State. *Background Briefing on the North Atlantic Council's Meeting on Libya*. 27 March 2011. <http://www.state.gov/r/pa/prs/ps/2001/03/159211.htm>; Internet; accessed 8 March 2012.
- United States. U.S. Department of State. "Statement Regarding the Use of Force in Libya." Remarks made at the American Society of International Law Annual Meeting, 26 March 2011. <http://www.state.gov/s/l/releases/remarks/159201.htm>; Internet; accessed 11 February 2012.