

## HUMANITARIAN INTERVENTION IN LIBYA: IS IT CAUSING INTERNAL WAR?

MITSUHISA FUKUTOMI\*

The Leviathan's creation through a covenant is voluntary, rational and necessary, because is it the only way to guarantee man's peace and security and the only way to escape the dreaded state of nature.

— Thomas Hobbes, Leviathan

- I. Introduction
- II. Qaddafi's Violence
- III. Definition of R2P
- IV. OUP Followed R2P Guidelines
- V. Post-OUP Transition
- VI. Difficulties in Rebuilding Security
- VII. Analysis
- VIII. Conclusion: Leviathan Has Collapsed

### I. *Introduction*

Following the Qaddafi regime's targeting of civilians in February 2011, the United Nations (UN) authorized military intervention in Libya to protect the country's civilians. In March 2011, a coalition of NATO allies and partners began enforcing an arms embargo, maintaining a no-fly zone and protecting civilians and civilian populated areas from attack or the threat of attack in Libya under Operation Unified Protector (OUP). OUP was "successfully" concluded on 31 October 2011<sup>1</sup>.

Western media and politicians applauded the intervention based on the "responsibility to protect" (R2P) as a humanitarian achievement for helping replace the dictatorial Qaddafi regime with a transitional council in Benghazi, Libya's second largest city, pledged to democracy.

Libya's post-conflict transition, however, has been disrupted by armed militia groups and threatened by the conflict of interim leaders. The situation continued to have a negative impact on the living conditions and security of the local population, and was aggravated by the high rate of gun ownership among the population in the absence of any disarmament and effective weapons control efforts.

Did NATO forces take advantage of the R2P norm in order to impose regime change in Libya? Did arming the Libyan rebels fall within the R2P norm? Was the application of R2P in Libya undermined by the fact that there was an immediate resort to military action?

---

\*Professor of International Politics / IR, Institute for the Study of Global Issues, Graduate School of Social Sciences, Hitotsubashi University. E-mail: m.fukutomi@r.hit-u.ac.jp

<sup>1</sup> [http://www.nato.int/cps/en/natolive/topics\\_71652.htm](http://www.nato.int/cps/en/natolive/topics_71652.htm) [17/07/2016]

Jeffrey Bachman argues that this failure is R2P's "ulterior motive exemption." His article concludes that because ulterior motives existed: (1) NATO's primary intent of civilian protection quickly evolved into the intent to overthrow Qaddafi's regime; (2) in exceeding its mandate, NATO committed an act of aggression; (3) NATO continued to militarily support the rebels while they were committing war crimes and severe human rights violations; (4) NATO's actions led to civilian casualties, which NATO has refused to investigate; and (5) NATO abdicated its responsibility to protect Libyans from the human suffering that continued subsequent to Qaddafi's execution<sup>2</sup>.

The cause of Libya's internal war is not that simple. The elected General National Congress (GNC) and the provisional executive authority have failed to approach security issues, rebuild the country's public finances, and create a viable framework for post-conflict justice and reconciliation. Libya has steadily spiraled into chaos among a myriad of armed factions, and armed non-state groups and locally organized political leaders remain the most powerful arbiters of public affairs.

What really led to internal war? In this article, we re-examine Libya's transition and R2P.

## II. *Qaddafi's Violence*

Was Libya's insecurity caused by NATO military intervention? The general security situation in Libya considerably deteriorated following closely the revolutionary changes that were occurring in Tunisia and Egypt. Significant increases of incidents of carjacking, robbery, attacks and clashes, explosions from improvised explosive devices and demonstrations continued. Qaddafi declared war on the Libyan uprising in February 2011.

The prospect of massacres and atrocities in Libya at the hands of the regime's military forces was clear. Soon, the number of protestors killed climbed from the hundreds to more than a thousand. As Qaddafi's forces gained strength and territory, so the opposition weakened to the extent that it appeared highly likely that it might be swept away in Benghazi, the city at the center of the rebellion. At that point, Qaddafi threatened the disaffected population there with extinction.

On 23 February 2011, French President Nicolas Sarkozy pushed for the European Union (EU) to pass sanctions against Qaddafi, also freezing Qaddafi family funds abroad and demanding he stop attacks against civilians. Resolution 1970 was adopted unanimously, including affirmative votes from China and Russia, by the UN Security Council on 26 February 2011. It condemned the use of lethal force by the government of Muammar Qaddafi against protesters participating in the Libyan Uprising.

On 28 February 2011, British Prime Minister David Cameron proposed the idea of a no-fly zone to prevent Qaddafi from "airlifting mercenaries" and "using his military aeroplanes and armoured helicopters against civilians."<sup>3</sup>

On 1th March 2011, the United Nations High Commissioner for Human Rights declared

---

<sup>2</sup> Jeffrey Bachman, R2P's "Ulterior Motive Exemption" and the Failure to Protect in Libya, *Politics and Governance*, 2015, Vol. 3, Issue 4, pp.56-67.

<sup>3</sup> Macdonald, Alistair (28 February 2011). "Cameron Doesn't Rule Out Military Force for Libya". *The Wall Street Journal*. Retrieved 28 February 2011.

her concern and urged the UN's Security Council (UNSC) and Human Rights Council to act.<sup>4</sup> The Security Council issued resolution 1973, which established the first no-fly zone ever imposed by the UNSC with the explicit aim of protecting civilians. It also authorized "all necessary measures" to "protect civilians." Both resolutions mentioned the Libyan authorities' "responsibility to protect" their civilians.

In March 2011, a coalition of NATO Allies began enforcing an arms embargo, maintaining a no-fly zone and protecting civilians and civilian populated areas from attack or the threat of attack in Libya under Operation Unified Protector (OUP). Finally, Qaddafi was captured and killed by a militia group under OUP, which was "successfully" concluded on 31 October 2011.

### III. *Definition of R2P*

In the Cold War era, humanitarian intervention failed because of its ambiguity. Charter 1, Article 1, 4 of the United Nations requires:

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, or in any other manner inconsistent with the Purposes of the United Nations. Otherwise, The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security<sup>5</sup>.

At the end of the '90s, we saw various responses to numerous mass atrocities. Then, UN Secretary-General Kofi Annan challenged the international community to reconcile the need to preserve state sovereignty rights with the human right to be protected from the most egregious forms of human rights violations. The Canadian government responded to Annan's challenge by forming the International Commission on Intervention and State Sovereignty (ICISS). In 2001, ICISS published *The Responsibility to Protect (R2P)*<sup>6</sup>. The Basic Principles are:

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

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

The R2P also embraces three specific responsibilities:

---

<sup>4</sup> <http://www.unhcr.org/en-us/news/briefing/2011/3/4d7619e09/unhcr-concerned-situation-sub-saharan-africans-libya-highlights-shortage.html> [27/09/2016]

<sup>5</sup> <http://www.un.org/en/charter-united-nations/index.html> [2016/07/24]

<sup>6</sup> <http://responsibilitytoprotect.org/ICISS%20Report.pdf> [2016/09/15]

- A. The responsibility to prevent: to address both the root causes and the direct causes of internal conflict and other man-made crises putting populations at risk.
- B. The responsibility to react: to respond to situations of compelling human need with appropriate measures, which may include coercive measures such as sanctions and international prosecution, and in extreme cases military intervention.
- C. The responsibility to rebuild: to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.

The Precautionary Principles are:

- A. Right intention: The primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering. Right intention is better assured with multilateral operations, clearly supported by regional opinion and the victims concerned.
- B. Last resort: Military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded.
- C. Proportional means: The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective.
- D. Reasonable prospects: There must be a reasonable chance of success in halting or averting the suffering that has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction.

ICISS also requires Right Authority, meaning there is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes. On the other hand, ICISS requires that Security Council authorization should in all cases be sought prior to any military intervention action being carried out.

#### IV. *OUP Followed R2P Guidelines*

Was the application of R2P appropriate in Libya, given the choices made to arm the rebels and impose regime change? Firstly, some states argued that the “protection of civilians” was being used as a “smokescreen for regime change.”<sup>7</sup> After careful examination, however, this question seems both irrelevant and inappropriate. Even though the United States, France, and Britain called on Qaddafi to step down, an opinion similarly voiced by Russia, there was no evidence of “dedicated efforts at imposing regime change, at no point was there a comprehensive, systematic effort to asphyxiate the Libyan regime”<sup>8</sup>.

---

<sup>7</sup> Alex J. Bellamy, “R2P and the Problem of Regime Change,” in *The Responsibility to Protect: Challenges and Opportunities in Light of the Libyan Intervention*, *International Relations*, November 2011, p.20.

<sup>8</sup> Saleh El Machnouk, *The Responsibility to Protect After Libya*, *Kennedy School Review* 14, 2014, p.89; Robert Pape, “When Duty Calls: A Pragmatic Standard of Humanitarian Intervention.” *International Security* 37(1), Summer 2012, pp.41-80.

Indeed, in an April 14 letter signed by U.S. President Barack Obama, Prime Minister Cameron, and President Sarkozy, it states, “Our duty and our mandate under U.N. Security Council Resolution 1973 is to protect civilians, and we are doing that. It is not to remove Qaddafi by force. But it is impossible to imagine a future for Libya with Qaddafi in power”.<sup>9</sup>

Secondly, allies of the military application of R2P voiced concerns over the continued use of force after NATO had neutralized Libya’s Air Force and stopped Qaddafi’s ground advance in Benghazi. But resolution 1973 clearly indicates the legality of using “all measures” to protect civilians “under threat” and makes an exception to the arms embargo imposed on Libya under resolution 1970.

Thirdly, the choice to arm the rebels has sparked intense debate. We must consider however the Qaddafi regime would probably have committed large-scale atrocities against anti-regime civilians<sup>10</sup>.

According to a U.S. official, around 8,000 Libyans were killed as a result of fighting between Gaddafi’s forces and those opposing his rule under OUP.<sup>11</sup> In addition, even with the civil war after OUP, Islamic State of Iraq and Syria=ISIS’s capture of territory, and as many as two competing “governments,” the destruction in Libya still does not come close to the level of death and destruction witnessed in Syria in the absence of intervention.

In other words, even this “worst-case scenario” falls well short of actual worst-case scenarios. According to the Libya Body Count, around 4,500 people have so far been killed over the course of 22 months of civil war. In Syria, the death toll is about 100 times that, with more than 400,000 killed, according to the Syrian Center for Policy Research.<sup>12</sup>

## V. *Post-OUP Transition*

Constitutional developments since the fall of the Qaddafi regime began with the formation of the unelected wartime National Transitional Council (NTC) in Benghazi on 27 February 2011. The NTC was the institutional platform for the rebel movement and aimed at providing political and military leadership, basic security and municipal services, and support for Libyans living abroad.

The NTC, which served as Libya’s interim parliament, also drafted the key constitutional document that determines the current institutional infrastructure of Libya. The Constitutional Charter for the Transitional Phase (Constitutional Declaration), enacted on 3 August 2011, functions as an interim constitutional settlement. Article 30 of the charter was supposed to envisage the election and formation of the GNC as an interim legislature with the power to designate a prime minister, confirm the members of a transitional government, and initially choose a 60-person committee to draft a new constitution (Constituent Assembly).<sup>13</sup>

<sup>9</sup> <http://www.nytimes.com/2011/04/15/opinion/15iht-edlibya15.html> [08/07/2016]

<sup>10</sup> El Machnouk, p.89.

<sup>11</sup> <https://www.brookings.edu/opinions/is-libya-natos-final-bow/> [03/08/2016] And the NTC estimates the death toll to be around 25,000.

<sup>12</sup> <https://www.brookings.edu/2016/04/12/everyone-says-the-libya-intervention-was-a-failure-theyre-wrong/> [03/08/2016]

<sup>13</sup> Jörg Fedtke, *Comparative analysis between the constitutional processes in Egypt and Tunisia -lessons learnt- Overview of the constitutional situation in Libya*, DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION, European Parliament, April 2014, p.20.

The GNC did not work, however. Libya was preparing to draft its first democratic constitution after 42 years of Qaddafi dictatorship. Qaddafi had established what he called a Jamahiriya, a direct democracy system of overlapping jurisdictions that allowed him to emerge as the sole national authority. After Qaddafi, the Constituent Assembly was supposed to draft a new constitution that reckoned with key social issues including national identity and human rights, state and religion, and the distribution of political and economic power, one of the most important issues for the Libyan people. These potentially divisive political, economic, and social issues were being debated by rival groups in the absence of credible state security guarantees, and the GNC was forced to cut its session short soon after the vote as security forces fended off protesters outside.

In September 2012, U.S. Ambassador Christopher Stevens and three other Americans were killed in a Benghazi assault. Ansar Al-Sharia Benghazi and Ansar Al Sharia Derna, both associated with al-Qaeda, were behind the attack. Ansar Al-Sharia was one of the violent political factions and tribal groups fighting for power. The GNC dispute exposed Libya's continued fragility, with rival Islamist and nationalist parties, former rebels and regional tribes all pushing their own political visions. In the face of such contention and without popular backing, GNC ended its term on 7 February 2014.

Since then, Libya has had two rival governments, each with its own parliament. For two years, Tripoli has been held by Libya Dawn, an armed alliance of former rebels from the city of Misrata, and Islamist-leaning brigades who have set up their own self-styled government and reinstated the former parliament. On the other hand, the country's internationally recognized government and elected parliament work from the east of Libya, based in Tobruk, backed by a loose coalition of armed forces mostly inspired by local or tribal loyalties, including a divisive former Qaddafi ally, General KhalifaHaftar.

In the vacuum, the Islamic State has gained momentum, taking control of Sirte and attracting foreign fighters to its ranks, while smugglers profit from the chaos to send their arms across the Mediterranean from Libya's coast<sup>14</sup>.

Oil production has plummeted to under a quarter of capacity as rival governments vie for control of resources and the Islamic State continues to attack<sup>15</sup>.

The United Nations is trying to broker a unity government between the rival factions as a way to end the crisis, but months of tortuous talks have yet to reach a final accord.

## VI. *Difficulty in Rebuilding Security*

In fact, the slow process of rebuilding the security sector and lack of clarity regarding security responsibility between the GNC has not helped to improve the security situation. Some armed groups were paid by the government to protect ministries and government offices. Many former fighters remained loyal to their commanders, tribes or cities. Many of the individual

---

[http://www.europarl.europa.eu/RegData/etudes/note/join/2014/433840/EXPO-AFET\\_NT\(2014\)433840\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2014/433840/EXPO-AFET_NT(2014)433840_EN.pdf) [03/07/2016]

<sup>14</sup> <http://www.reuters.com/article/us-libya-security-benghazi-idUSKCN0SF2NO20151021> [04/07/2016]

<sup>15</sup> Benoît Faucon and Tamer El-Ghobashy, A Divided Libya Struggles Against Islamic State Attacks, The Wall Street Journal, <http://www.wsj.com/articles/a-divided-libya-struggles-against-islamic-state-attacks-1454552044>[27/09/2016]

security organs represent specific groups, regions or political affiliations.

Numerous international and regional organizations and countries continue to provide support and training to the Government of East Libya in its efforts to reinforce the capacity of its security institutions. The Rome conference planned for March 2014 by the Friends of Libya international group focused on international support to improve Libya's security. Since its formation, the tasks of the United Nations Support Mission in Libya (UNSMIL) have included assisting the Government of East Libya to strengthen public security and build up effective institutions and national security coordination. This includes the establishment of a national policy for the integration of ex-combatants into Libyan national security forces, or their demobilization and reintegration into civilian life, and efforts to counter the illicit proliferation of arms. The European Union is assisting the Government of East Libya to control its borders, ports and other points of entry. Italy, Turkey, the United Kingdom and the United States, are offering training programs for parts of Libya's national security forces. This training can increase the capacity of the Government<sup>16</sup>.

The EU is encouraging the Libyan authorities to counter the illicit proliferation of all arms and related materiel of all types, including man-portable air defense systems, to secure and manage Libya's borders, to continue to expedite its inspections regarding sanctions non-compliance, including illicit transfers of arms and related materiel to and from Libya, and the assets of individuals subject to the asset freeze established in resolutions 1970 (2011) and 1973 (2011) and modified in resolutions 2009 (2011), 2040 (2012) and 2095 (2013)<sup>17</sup>.

Despite these efforts, arms are smuggled through the south and the northern coastal routes, but also by boat from Benghazi and Tobruk on to Marsa Matruh in Egypt. The traffickers are Libyans, Egyptians and Palestinian nationals. A large cache of weapons, which included 138 Grad rockets, a further 139 Grad warheads, and 400,000 rounds of anti-aircraft ammunition was found in the Mediterranean coastal town of Marsa Matruh, not far from the Libyan border.<sup>18</sup>

Another source of arms proliferation from Libya are old ammunition stores from the Qaddafi regime, which still contain large quantities of materiel and remain under the control of a range of actors. Security and stockpile management measures in place for those stores are generally insufficient, resulting in regular looting and onward proliferation of the materiel.<sup>19</sup>

To make matters worse, Libya's security has rapidly deteriorated and the existence of local monopolies of violence has further complicated matters.

## VII. *Analysis*

The TNC was dissolved with the election of the General National Congress on 7 July 2012. Seats for the GNC were distributed nationally on the basis of population numbers, which gave districts in Tripolitania (western Libya) 100 seats, districts in Cyrenaica (eastern Libya) 60 seats, and districts in Fezzan (southern Libya) 40 seats. The three parts of the country account

---

<sup>16</sup> *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, United Nations Security Council, S/2014/106, 19 February 2014., p.12.

<sup>17</sup> *Ibid.*, p.8.

<sup>18</sup> <http://www.stopwapenhandel.org/node/1549> [11/07/2016]

<sup>19</sup> Christopher M. Blanchard, *Libya: Transition and U.S. Policy, Current Politics and Economics of Africa*, Vol. 7, No. 1, 2014, p.16.

for roughly 60, 30 and 10 per cent of the population respectively. Just prior to its dissolution, the NTC amended the Constitutional Declaration and called for the congress to appoint 60 experts to a constitutional committee, 20 from each of Libya's three historical provinces in the west, east, and south.

But the NTC amended the declaration the week prior to the election, stating that the members of the Constituent Assembly would be elected rather than appointed. This formula goes back to the 60-member commission that was formed to prepare the postindependence 1951 Constitution.<sup>20</sup>

The amendment of the declaration was legally trustworthy because elected members of congress could overrule decisions made by the unelected NTC. However, the NTC declaration called for the committee to draft a new constitution within 60 days of its first meeting, and for a national referendum within 30 days after that. This timeline was unrealistic and would allow for virtually no public judgment.<sup>21</sup> Initially, the text would have had to be cleared by the GNC before being put to a vote by the people. This decision to change the drafting procedure was made in response to unceasing criticism that a body designated by the GNC could marginalize the smaller populations of the eastern and southern regions during the process<sup>22</sup>.

Libya's 1951 constitution is considered to include good human-rights protections and strong national institutions; however, the 1951 constitution does not account for the fundamental changes in Libyan political economy of the past 60 years. Indeed, the distribution of political and economic power is one of the most important issues that faces today's constitutional committee. The 1951 constitution established a federal system with three sub-national governments, created a chronic imbalance of power and eventually failed because it did not account for the distribution of wealth after oil was discovered in 1959. The 1963 amendments to the constitution weakened the federal system, creating wide social instability and opening the door to Qaddafi's coup d'état six years later<sup>23</sup>.

The protection of human rights was another priority of the Libyan people. Libyans expected their new constitution to safeguard certain rights, but there was controversy over which rights these should be. Some women's advocacy groups, for example, were lobbying for equal-protection clauses, long denied to them in Libya. Rights of ethnic and linguistic minorities were also contentious, including access to citizenship, recognition of official languages, and the right of return for internally displaced persons. In addition, the debate over the relationship between state and religion became heated after several attacks by self-proclaimed Salafists against Sufi mosques.

Debates in the constitutional committee took place against a background of pressing challenges facing Libya, including domestic security, economic development, and transitional justice.

Libya has not carried out any major civilian disarmament or weapons registration programs since NTC transition. In December 2013, Congress passed a law criminalizing the possession of

---

<sup>20</sup> Fedtke (2014), p.20.

<sup>21</sup> Egypt's constitutional declaration allows for six months and the Tunisian constituent assembly, which has no legal time limit, may produce a constitution after about a year)

<sup>22</sup> Representation of women and ethnic groups was secured in Law 17 of 2013, which reserved 10% of the seats for women and two seats each for the Tebu, Touareg and Amazigh minorities.

<sup>23</sup> <http://www.constitutionnet.org/news/revisiting-libyas-federalism-question-challenge-facing-constitutional-drafting-as-sembly> [27/09/2016]



weapons, but the law has not been implemented to date. Arsenal of non-State armed groups were the major source of weapons proliferation in Libya, yet disarmament, demobilization and reintegration efforts remain very limited. Armed brigades with links to formal security forces preserved control of their weapons.

In addition to the weapons requirement of the government security forces, another factor driving arms transfers into Libya is the large civilian black market for arms due to strong public demand. Many Libyan citizens own weapons to protect themselves because the public security sector is weak. In May 2011, a significant amount of military materiel, including assault rifles, light weapons and related ammunition, was shipped by sea from Santo Stefanoto Civitavecchia, Italy. Weapons and money from Qatar also strengthened militant groups in Libya, allowing them to become a destabilizing force after the fall of the Qaddafi government.<sup>24</sup>

The reliance of the Libyan security sector on an array of armed groups to provide public security implies that some materiel may be shared with those groups. Sources reported that some members of the security forces may be selling their service weapons, particularly handguns, which are in strong demand among Libyan civilians. Several thefts by armed groups of materiel from national forces have also been reported.<sup>25</sup>

Finally, factions are battling for oil revenue. Since the fall of the Qaddafi regime in 2011, Libya's government has struggled to control brigades of former rebels, which have been causing significant disruptions to the country's oil production, refining facilities and oil shipments. Under Libyan law, enforced by the United Nations, the country's oil must be shipped via its official National Oil Co., which is based in the western capital of Tripoli.<sup>26</sup>

However, the authorities that control the eastern half of Libya in early May 2014 moved to block oil exports from areas under their control, escalating the domestic fight over oil revenue. The civil war was caused by domestic factors, including a lack of distribution of political and economic power.

### VIII. *Conclusion: Leviathan Collapsed*

The question we address is whether humanitarian intervention caused civil war in Libya. Intervention may have stimulated civil war, but internal political disputes ultimately triggered the internal war.

Libya's deteriorating security conditions, disintegrated political scene, and shifting transition timelines have presented several policy dilemmas. Transitional processes have had to

---

<sup>24</sup> The Obama administration did not initially raise objections when Qatar began shipping arms to opposition groups in Syria, even if it did not offer encouragement. This was because the White House largely relied on Qatar and the United Arab Emirates, two small Persian Gulf states and frequent allies of the United States.

<sup>25</sup> <http://www.telegraph.co.uk/news/worldnews/africaandindianocan/libya/8606541/France-supplying-weapons-to-Libya-rebels.html> [08/07/2016] Le Figaro, the French newspaper that first reported the air drops, said the shipments included rifles, machine guns and rocket-propelled grenades, along with Milan anti-tank missiles. France began supplying weapons to the Libyan rebels despite the UN arms embargo, and dropped assault rifles into the Nafusa Mountains south-west of Tripoli. A French military spokesman, Colonel Thierry Burkhard, said it had provided "light arms such as assault rifles" for civilian communities to "protect themselves against Col Qaddafi".

<sup>26</sup> <http://www.marketwatch.com/story/why-libya-could-be-the-biggest-threat-to-recovering-oil-prices-2016-05-16> [24/07/2016]

rely on provisional leaders and institutions to make difficult policy, budgetary, and personnel decisions to identify national priorities. Meanwhile, insecurity and violence have hampered progress in the transition. Conflict and inertia have delayed enhancements in the performance of government ministries, while the initiative and barbarity shown by various armed non-state groups has ruined the state's limited investments in reorganizing its security forces. In a reinforcing cycle, indecision and insecurity have undermined the legitimacy of those leaders and institutions tasked with overturning threats to Libya's stability.

In the case of Libya, the choice to intervene rapidly has provoked intense debate. The events extended so unexpectedly that measures such as early cautionary mechanisms were inappropriate and so quickly that considerable diplomacy was irrelevant. Although the international community must prevent mass atrocities through peaceful means before resorting to military intervention, it was likely that the Qaddafi regime would commit large-scale atrocities against hundreds of defenseless Libyans, and resolution 1973 clearly indicates the legality of using "all measures" to protect civilians under threat.

When attempting to protect civilians from mass atrocities, time is of the essence. The international community has already attempted to use almost every nonmilitary tool at its disposal through Security Council resolution 1970, including sanctions, travel bans, asset freezes, an arms embargo, and an International Criminal Court (ICC) referral. In terms of sequence, the Security Council tried all other possible options at its disposal before resorting to the use of force. Operationally, the attack on Qaddafi forces achieved its goal of protecting civilians from mass atrocities. The Libyan case appears to be a quasi-ideal application of the R2P norm, in that it conformed to all the criteria enumerated in the ICISS report for an intervention to be legitimate.

Unfortunately, Libya's post-conflict transition has been disrupted by armed non-state groups and threatened by the indecision and infighting of interim leaders. At present, potentially divisive political, economic, and social issues are being debated by rival groups in the absence of credible state security guarantees. After 42 years of Qaddafi dictatorship, Libya is on the brink of becoming a totally failed state.