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The NATO Intervention in Libya: Implications for the Protection of Civilians and the AU's Pan-Africanist Agenda

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RECOMMENDATIONS:

- **Coalition forces should soften their stance on regime change and focus on protection of civilians to reflect the initial mandate in UNSC Resolution 1973.**
- **The UN, AU and other humanitarian agencies should provide the necessary support to alleviate the suffering of vulnerable civilians.**
- **The AU should be more proactive and work closely with the UN and coalition forces to secure immediate ceasefire and commence negotiations towards the peaceful resolution of the crisis.**
- **All individuals and groups that have overtly and covertly played a role in the massacre of civilians should be brought to justice.**
- **Future interventions must be backed by all regional organizations so as to avoid the challenge of legitimacy and ensure its effectiveness.**

Introduction

The popular uprisings against long-serving and despotic heads of state in North Africa has been dubbed *the Jasmine Revolution* or *Arab Spring*. The uprisings, which began in Tunisia in December 2010, and subsequently in Egypt culminated in mass demonstrations against Colonel Muammar Gaddafi, the Libyan Head of State. While the demonstrations that led to the ousting of Zine El Abidine Ben Ali of Tunisia and Hosni Mubarak of Egypt were short-lived, the intransigence of Gaddafi to stand down has consequently plunged Libya into protracted mayhem and bloodshed.

The Libyan crisis began as a series of peaceful protests in which Gaddafi's security services

attempted to repress, beginning on 15 February 2011. Within a week, this uprising had spread across the country. Gaddafi responded with military force and other measures as blocking of communications. The situation then escalated into armed conflict, with anti-Gaddafi forces establishing a Transitional National Council (TNC) based in Benghazi. Since the the formation of the TNC, the crisis situation has exacerbated and spread across many cities and towns, including Tripoli, Misrata, Zuara, Zawiyah, Zintan and Sirte.

Consequently, civilians, who by the principles of International Humanitarian Law (IHL) and Human Rights Law (HRL) are expected to be protected under such circumstances, continue to bear the brunt of targeted abuse and massacre by pro-Gaddafi forces, and sometimes racial discrimination

and xenophobic attacks by anti-Gaddafi forces. The number of civilian casualties from Gaddafi's assault is difficult to verify with some estimates running as high as 10,000.¹ These staggering statistics clearly demonstrate that Gaddafi is unwilling or failing to take up the responsibility to protect citizens and has expressed his willingness to use all weapons at his disposal against the protesters, vowing to "cleanse Libya house-by-house".² Similarly, there are reports of anti-Gaddafi forces rounding up blacks from sub-Saharan Africa on suspicion of being mercenaries. Though some may be mercenaries reportedly hired by Gaddafi, many of them are migrant workers, yet they are arrested, beaten, imprisoned or even lynched.³ A United Nations (UN) report accuses government forces of war crimes and crimes against humanity, and opposition forces of war crimes.⁴ These violations by both parties constitute an affront to international humanitarian, human rights and refugee laws, and a major threat to international peace and security.

Expectedly, the international community, including the UN, the North Atlantic Treaty Organization (NATO), the European Union (EU) and the African Union (AU) has condemned the targeted massacre of innocent civilians. However, while the AU opts for mediation to end the crisis through immediate ceasefire, unhindered delivery of humanitarian aid, protection of foreign nationals, a dialogue between the government and anti-Gaddafi forces on political settlement and the rejection of

any foreign military intervention⁵, the coalition forces, including NATO, the United States, United Kingdom, France, Italy and the TNC decline the AU proposal. Rather, they argue that any successful transition must see Gaddafi leave the political scene, a call which Gaddafi's son, Saif al-Islam has described as 'ridiculous'.⁶

This policy brief explores external intervention in Libya within the context of civilian protection and its application. It further discusses the intervention and its implications on Gaddafi's quest to champion African unity. The paper argues that the different approaches taken by the AU and the coalition forces in resolving the conflict in Libya has the tendency to prolong it, result in more civilian casualties and undermine the quest for a United Africa.

Admittedly, the external aggression by NATO-led forces and apathy by the AU mark a remarkable moment in international relations discourse and also raises a number of significant questions in various theatres of diplomacy.

First, are the different approaches being adopted by the AU on the one hand, and the coalition forces on the other hand appropriate for the resolution of the crisis? Second, are there varied interpretations of the concept and application of Protection of Civilians (POC) and the Responsibility to Protect ("R2P")?⁷ Third, is the intervention a display of 'interest' or 'might is right' attitude by the coalition forces or a demonstration of lack of political will on the part of the AU? How will the different approaches play out in the resolution of the crisis? What are the implications for AU's quest for African integration arising from the Sirte Declaration? These are the nagging questions this policy brief seeks to explore.

¹ See Zunes, S., 'Libya, the "Responsibility to Protect" and Double-Standards' *Foreign Policy in Focus*, March 27, 2011, available at <www.commondreams.org/view/2011> (accessed 17 April 2011).

² See Claes, J., 'Libya and the "Responsibility to Protect"' Center for Conflict Analysis and Prevention, March 1, 2011, available at <www.usip.org/publications/libya-and-the-responsibility-protect> (accessed 23 April 2011).

³ See Aljazeera News - African migrants targeted in Libya, available at <<http://english.aljazeera.net/news/africa>> (accessed 8 May 2011).

⁴ See Human Rights Council, Seventeenth Session, Report of the International Commission of Inquiry, 1 June 2011.

⁵ See African Union – Communiqué of the 265th Meeting of the Peace and Security Council, Addis Ababa, Ethiopia, 10 March, 2011.

⁶ See BBC News - Libya: Benghazi rebels reject African Union truce plan, available at <www.bbc.co.uk/news/world-africa-13035501>. (accessed 30 April 2011).

⁷ The conceptual basis and interplay of POC and R2P in the Libyan crisis is treated in more detail in a forthcoming paper.

The Sirte Declaration and Africa's Quest for Unity

In September 1999, African Heads of State and government met in the Libyan city of Sirte at the behest of Colonel Muammar Gaddafi, in an Extraordinary session aimed at transforming the Organization of African Unity (OAU) to an African Union “capable of meeting global challenges and shouldering its responsibility to harness the human and natural resources of the continent in order to improve the living conditions of its peoples.”⁸ The Declaration, with its Pan-Africanist ideals to forge unity and solidarity, political independence, human dignity and economic emancipation⁹ is largely being spearheaded by Gaddafi. As one of the five major donors of the AU, Libya contributes about 15 percent of AU's membership dues, and supports economic and developmental initiatives in several poorer African countries.¹⁰

Besides the financial support, Gaddafi's role and influence manifests in political decision-making in the galvanization of support to rid the continent of western influence. Perhaps these explain among others, why the AU has strongly opposed foreign military intervention in Libya and yet failed to prescribe a viable alternative. It also demonstrates the weakness of AU in permitting Gaddafi to champion the African cause.

Notwithstanding this, the paper believes that Gaddafi's contribution to the cause of African unity is still significant and therefore his forced exit is likely to have destabilizing effects on Libya and the many African countries that benefit from

his political leadership and benevolence.¹¹ More especially, the AU's agenda as captured in the Sirte Declaration will suffer a major setback if one of its marshals and a principal benefactor should fall under pressure from coalition forces. Furthermore, the ability of a new regime to form a government capable of administering the country may be doubtful, and their commitment towards the promotion of pan-African unity may hang in the balance, due to their dissent of Gaddafi's lavish monetary support to many African dictators.

The NATO Intervention: A Hidden Agenda or Genuine Protection of Civilians?

Humanitarian intervention became a common feature in the 1990s in response to widespread violence against civilians.¹² Various theoretical perspectives have emerged across academic and policy circles on the ethical, legal and political basis for humanitarian intervention. The UN Security Council (UNSC), in Resolution 1265 (1999), emphasises the responsibility of States to protect civilians in situations of armed conflict.¹³

Furthermore, the need for intervention to protect civilians finds expression in the concept of Responsibility to Protect (“R2P”) which focuses on preventing and halting mass atrocity crimes such as genocide, war crimes, ethnic cleansing and crimes against humanity. The concept of “R2P” spells out that *“If a State is manifestly failing to protect its citizens from mass atrocities and peaceful measures are not working, the international community has the responsibility to intervene at first*

⁸ See Sirte Declaration: Fourth Extraordinary Session of the Assembly of Heads of State and Government, 8-9 September 1999, Sirte, Libya. EAHG/Draft/Decl. (IV) Rev.1

⁹ Ibid.

¹⁰ See Downie, R., “Qaddafi's Tangled Legacy in Africa”, *Centre for Strategic and International Studies*, 2 March 2011, available at <www.csis.org/publication/qadhafis-tangled-legacy-africa> (accessed 1 June 2011).

¹¹ According to figures from the Libyan Foreign Ministry, Tanzania, Mozambique, Ethiopia and Sudan have each benefited from loans in excess of \$100million (in Sudan case \$610million), *ibid.*

¹² Western, Jon, (2009), “Humanitarian Intervention, American Public Opinion, and the Future of R2P,” *Global Responsibility to Protect I*, Vol. 1, No.3, p. 328.

¹³ See Resolution 1265 (1999), adopted by the Security Council at its 4046th meeting, on 17 September 1999, para. 6

diplomatically, then more coercively, and as a last resort, with military force".¹⁴

Employing the above concepts, intervention became imperative to protect civilians from the worsening humanitarian situation in Libya. Consequently, the UNSC passed Resolution 1970 on 26 February, 2011 to impose sanctions and demand an immediate end to the violence. As the situation escalated, Resolution 1973 was passed on 17 March, 2011 by the UN, authorizing "*all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya, including Benghazi*".¹⁵ Following from this, the coalition forces led by NATO intervened by imposing a no-fly zone, enforcing an arms embargo and asset freeze, as well as targeting military installations.

Just a day after the UNSC Resolution was passed, the Gaddafi regime announced a ceasefire which was greeted with skepticism by the proponents of military action. NATO is not willing to negotiate with the government until Gaddafi steps aside¹⁶, and even though the announcement was deemed to be a deliberate ploy by Gaddafi to buy time, re-strategize and consolidate his position on the ground, we argue that diplomatic steps should have been taken to ascertain the sincerity of the announced ceasefire. While the intervention may be commendable in so far as it is intended to protect civilians, the swift transition from the use of diplomacy to military force calls into question the real objective of the mission. Furthermore, response of the international community to the violent repressions in other countries differs considerably from their approach to the Libyan crisis, raising a whole debate about "liberal

interventionism". If foreign intervention is motivated by the need to protect vulnerable populations from brutalities, or from the repression of despotic leaders, then the intervention in Libya smacks of double-standards given its selective nature. If Libya, why not Yemen or Syria or Bahrain?

The coalition forces have utilized increasingly aggressive tactics and publicly declared their intent to toppling Gaddafi's regime, drawing sharp criticisms from China and Russia among others who, having initially supported sanctions against Libya, argue that coalition forces are overstepping the remit of the initial mandate.¹⁷ Brazil, China, Germany, India and the Russian Federation abstained from the adoption of Resolution 1973, and China only fell short of exercising its veto power amid requests from the Arab League for the imposition of a no-fly zone in Libya. However, these countries have consistently expressed reservations over the manner in which the coalition forces have executed the mandate.¹⁸ Additionally, after the attacks had begun, the Secretary General of the Arab League, Amr Moussa said after a meeting in the French city of Paris that the military action was going too far:

*"What is happening in Libya differs from the aim of imposing a no-fly zone, and what we want is the protection of civilians and not the bombardment of more civilians"*¹⁹

Even though the AU, which is supposed to play a lead role in the resolution of the crisis, opposes the intervention by external forces, it has surprisingly

¹⁴ See World Summit Outcome, Fifty-ninth Session of the General Assembly Meeting, 15th September, 2005, UN Document, para. 138-139.

¹⁵ Operative Paragraph 4, United Nations Security Council Resolution 1973 (2011), 17 March, 2011.

¹⁶ See BBC News - Libya: NATO has no easy or fast way out, available at <<http://www.bbc.co.uk/news/world-africa-13148443>>. (accessed 8 May 2011).

¹⁷ See Hsieh, Amy "Worldviews of Rising Powers: What Does Their Policy on the Libyan Intervention Tell Us?" The George Washington University, *Sigur Center For Asian Studies, Policy Brief – April 2011*.

¹⁸ "China Urges Quick End To Airstrikes In Libya", *New York Times*, 22 March 2011, available at <<http://www.nytimes.com/2011/03/23/world/asia/23beijing.html>> (accessed 5 May 2011).

¹⁹ "Sarkozy Puts France at Vanguard of West's War Effort", *New York Times*, 20 March 2011, available at <<http://www.nytimes.com/2011/03/21/world/europe/21france.html>> (accessed 5 May 2011).

failed to offer any viable alternative. Given the gravity of the massacre of civilian populations, it is quite worrying how the AU continues to propose negotiations without any possible ceasefire in sight. Moreover, Gabon, Nigeria and South Africa – which represent the voice of Africa on the Security Council, voted in favour of the Resolution, but in another breath criticized the military intervention from the AU's standpoint. This demonstrates the weakness of the continental body in its declared resolve to find *African solutions to African problems*. Whereas intervention by foreign military forces is no guarantee for lasting peace, the AU's slow reaction to the Libyan crisis is equally another recipe for disaster. With Gaddafi still defiant, his forces showing little signs of retreat and coalition forces operating without an exit plan, there is a huge potential for a prolonged stalemate reminiscent of the spectre of Iraq.

Implications for Civilian Protection and the Sirte Declaration

The AU's seemingly slow response to the Libyan crisis, and the TNC and coalition forces' desire for regime change as a necessary outcome of intervention holds several implications for civilian protection and the Sirte Declaration.

Firstly, Gaddafi's brutal crackdown on civilian protestors and NATO's aggressive approach to oust him have led to the escalation of the crisis. This has the tendency to impede humanitarian effort and worsen the plight of vulnerable civilians. Secondly, given the grave human rights abuses perpetrated within Libya, the AU's approach in resolving the crisis is setting a bad precedent for future interventions within its member states, and in turn, undermine the regional integration agenda as it will be seen to lack the political will and capacity to address its own problems without relying on external help.

Finally, the exit of Gaddafi is likely to bring some privation on the many African countries that have

become dependent on Libya as a source of aid, infrastructure development and military support.

Conclusion and Recommendations

The Libyan crisis, which started off as peaceful demonstration like in Tunisia and Egypt has lasted much longer and recorded more civilian casualties owing to the different approaches adopted by the coalition and anti-Gaddafi forces on the one hand, and the AU's slow response on the other, exacerbated by Gaddafi's intransigence. We argue that any move short of an immediate ceasefire and initiation of negotiations will make the conflict last, worsen the humanitarian situation and defeat the purpose of civilian protection and the agenda of African Unity as espoused in the Sirte Declaration.

On the basis of this conclusion, we make the following policy recommendations:

- The coalition forces should soften their stance on regime change and focus on protection of civilians to reflect the initial mandate in UNSC Resolution 1973 and make efforts to work towards a ceasefire as well as spell out a clear exit plan to add credibility to the intervention in Libya.
- The UN, AU and other humanitarian agencies should intensify efforts at providing the necessary assistance to alleviate the suffering of civilians while the conflict is raging.
- While the AU is pursuing a mediating role, it should be more proactive given the extent of massacre of vulnerable civilians, and work closely with the UN and coalition forces to secure an immediate ceasefire and commence negotiations towards a peaceful resolution of the crisis.
- All individuals and groups including anti-Gaddafi and pro-Gaddafi forces that have overtly or covertly played a role in the

massacre of civilians should be brought to justice.

- Finally, future interventions must generally be seen to be genuine and backed by all regional organizations so as to avoid the challenge of legitimacy and ensure its effectiveness.

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