

Responsibility to Protect in Application:
A Comparative Analysis of Libya and Syria
during the Arab spring

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Abstract

Responsibility to protect (RtoP) is a recent concept of international politics, whose goal is to define the best attitude to adopt when the world is confronted to grave humanitarian crises. Within RtoP, each state carries the primary responsibility to protect human beings living in its territory. The international society carries a collective duty to solve a humanitarian crisis when a state has failed to fulfil this responsibility. In order to proceed, the international society may need to use coercive action against the state. The objective of the master thesis is to better understand how the RtoP concept is being implemented in international affairs. For this purpose, it scrutinizes two recent humanitarian crises which have raised substantial concern in the international society.

The Syrian conflict constitutes an evident case where the international society failed to fulfil its responsibility to protect. Populations suffering from mass atrocities and their consequences are left on their own, because the international society is being unable to respond collectively. In contrast, the RtoP had been used to justify international intervention in the Libya conflict in response to a threatening humanitarian crisis. The concept RtoP implies a series of conditions whose purpose is to grant legitimacy and effectiveness to an international intervention aimed at solving a humanitarian crisis. The master thesis examines how these conditions were met in the cases of Syria and Libya, and which of them proved to be determinant for triggering international intervention.

The results of the study show that an intervention is critically conditioned by the existence of a consensus at the highest authority in international affairs. Mistrust between key states of the international society, but also poorly defined perspectives post-intervention, may underlie the lack of agreement which prevents collective action to solve a humanitarian crisis.

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“I also believe that, if we are to take human rights seriously, we must embrace the concept of ‘the responsibility to protect,’ as a basis for collective action to prevent and stop instances of genocide, war crimes, and crimes against humanity. This is not meant as a way to bypass sovereignty, since each State remains, first and foremost, responsible for protecting its citizens. But when national authorities are unwilling or unable to do so, the international community, through the Security Council, should be able to act, and must be ready to do so” (Annan, 16 May 2005).

Chapter 1. Introducing Humanitarian Intervention and Responsibility To Protect

1. 1 Interventionism in the beginning of the 21st century

At the end of 2010, Mohamed Bouazizi, a 26-years old Tunisian died after setting fire on himself. This was an act of desperation of a young man after officials stopped his only source of income, selling vegetables and fruits in the street. It sparked demonstrations throughout the country and inspired similar protest in several other Arab countries. Poor living conditions, high unemployment, corrupted authorities and lack of political freedom, initiated people in the Arabic world to take to the streets for demanding political rights and social justice. The uprisings, known as the Arab spring, forced several autocratic rulers to leave power and prompted democratizations efforts. Though its final ending is yet to be seen, the Arabic world has been irrevocably transformed and will certainly not be the same.

The outcome of the protests took different turns in the region. In Libya, rather than abdicating, Gaddafi decided to employ every means possible to hang onto power. There, the initially peaceful protests evolved into an armed revolt seeking to topple Gaddafi, causing violent clashes between government forces and demonstrators. The United Nations (UN) Security Council passed Resolution 1973, authorising member states to take “all necessary measures” to protect the civilians, an action which has been considered to be a clear case for when timely and decisive response to an imminent threat of mass murder should happen. Within eight months of conflict, the Gaddafi regime came to an end and a democratic transition was initiated. Circumstances were comparable at the beginning of the Syrian uprising, but the clashes that followed the peaceful protests escalated into a civil war claiming thousands of civilian lives. Since the uprising began in March 2011, an immense number of

people have been subjected to gross human rights violation in Syria. As the confrontation between the governmental forces and the opposition grew in intensity, the country became a bloody battlefield causing extreme suffering to the whole Syrian population. Both sides of the conflict committed war crimes and gross violations of international human rights laws, amounting to crimes against humanity. However the violations and abuses committed by the security forces largely surpassed, in scale and intensity, those from the armed opposition. The Syrian government clearly failed in its responsibility to protect its own population and at the time of writing hundreds of thousands of people have lost their lives in the on-going conflict. So far, the international society proved unable to end a conflict that became the direst humanitarian emergency of our era.

The end of the 20th Century witnessed a change in the nature of armed conflicts. Large interstate wars became replaced by violent internal conflicts, where the vast majority of casualties are civilians. After the tragic events that happened in Rwanda and in the Balkans, a profound debate was initiated in the international society on how to react effectively when populations are the victims of massive brutality from their own governments. Thus, in the decade that immediately followed the cold war, the use of military force for preventing humanitarian disasters around the world started to be perceived as interventions for the purpose of protecting the human being, which became the so-called humanitarian interventions (Kurth, 2005:88). The concept of military intervention for humanitarian purpose is a highly contested topic in modern international relations. Recent conflicts show us that a grave humanitarian crisis can raise a variable level of reaction from the International Society. In some cases, the reaction can lead to a military intervention for protecting civilians suffering from the conflict. In other cases, the absence of action permits the crisis to unfold and progress. In this introduction I will present some issues related to military intervention for humanitarian purpose. I will also introduce the principle of Responsibility to Protect, which is an emerging norm in global politics claiming the responsibility of the international society to protect populations, when States have failed the duty to protect their citizens. Finally I will present the research question and how I will structure my thesis.

1.2 Humanitarian intervention and state sovereignty in a developing normative landscape

The concept of humanitarian intervention is related to different fields including international law, political science, international relations and ethics. Different definitions of the concept exist (Welsh, 2004:3). For the purpose of my study I will use the definition of Adam Roberts, which is “coercive action by one or more states involving the use of armed force in another state without the consent of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants” (Roberts, 2000:5). When it involves the use of military force without the consent of the target state, humanitarian intervention can become an issue for state sovereignty. The principle of state sovereignty, conceptualized in the Westphalian state system, gives each state territorial integrity, political independence and protection from external intervention. The right of the states to exercise sovereignty within their territorial jurisdiction is widely recognised and written in the UN Charter. The principle of non-interference protects states against more powerful states and gives each of them the essential right to determine its own political system. Each states protection over its own people is a principle playing a fundamental role in the elaboration of national sovereignty (Bellamy, Davies and Glanville 2011).

International binding laws have been implemented in the UN system with the purpose to prevent and to condemn the perpetration of gross human rights violation. These laws were mainly written in the UN Charter, in the Convention on Genocide and in the International Bill of Human Rights containing the Universal Declaration of Human Rights both adopted in 1948, and in the two International Covenant adopted in 1966. The state sovereignty and the protection of human rights are both implemented in the international law and a struggle may exist between these two principles. Whereas any interference in another state’s internal affairs will be viewed as a violation of international law, gross human rights violations perpetrated inside a sovereign state constitute also a violation of the same law. “to rescue non-citizens facing the extreme is likely to provoke the charge of interference (...) while ‘doing nothing’ can lead to accusations of moral indifference” (Wheeler, 2000:1).

Established in 1945 as an international organisation, the purpose of the United Nations is to maintain world peace. In the 1990s, a new norm of UN-authorized humanitarian intervention developed. Other unilateral interventions without the authorisation from UN have also been accomplished for the purpose of protecting populations, though they have been

highly debated and have created much of the controversy over humanitarian intervention (Wheeler, 2000:8). One example is NATO's intervention to prevent mass atrocities by the Serbs in Kosovo in 1999. At the present time, the UN can authorize the use of force only if the permanent members of the Security Council give consent. Thus, if the civilian population of a state is exposed to gross violation of human rights, the international society represented by the UN can disregard the principle of sovereignty and intervene to end the violence. As described in the Chapter VII of the UN Charter, the Security Council is being empowered to determine the existence of any threat to peace and to legitimate the use of force in order to restore international peace and security. Whether massive human rights violations inside state borders constitute a legitimate 'threat to international peace or security' is debated but, with the developing normative landscape of the post-1945 era, such abuses have developed from being a matter of concern for domestic jurisdiction to a matter of international concern.

Relying on the experience of the *ad hoc* criminal courts of the former Yugoslavia and Rwanda, there was a general agreement that an independent, permanent criminal court was needed. Thus on 17 July 1998 an international community of 120 states approved the Rome Statute, which is the legal basis for establishing the International Criminal Court (ICC) and which entered into force on 1 July 2002 after ratification by 60 countries. Crimes as genocide, crimes against humanity, war crimes and crimes of aggression, are grave violations of international law and perpetrators responsible for such atrocities can be prosecuted and tried in ICC. The objective of the ICC is to end the culture of impunity "for the perpetrators of the most serious crimes of concern to the international community" (ICC, 2015). Today 123 countries are State Parties to the Rome Statute of the International Criminal Court.

1.3 Responsibility to protect

During his mandate as General Secretary of the UN, Kofi Annan challenged the Member States to establish a political consensus when state sovereignty and the principle of non-intervention must yield for protection of civilians. Recalling the failures of the Security Council to act in a decisive manner in Rwanda and the former Yugoslavia, he answered back to the critics against intervention for humanitarian purposes: "If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violation of human rights that offend every precept of our common humanity?" (Annan, 2000:47-48).

The origins of RtoP

In September 2000, the government of Canada established the International Commission on Intervention and State Sovereignty (ICISS). The government of Canada announced the set up of the commission in response to the compelling appeal from Kofi Annan, about how and when the international society should act toward especially grave violations of humanitarian and international law. The ultimate purpose of the ICISS was to give a report concerning “when, if ever, it is appropriate for states to take coercive, and in particular military action, against another state for the purpose of protecting people at risk at that other state” (ICISS, 2001:VII). The report is built on expertise from recognised specialists in the field and includes members selected from a variety of backgrounds and nations, with the aim of reflecting fairly the perspectives of both developed and developing countries (ICISS, 2001:2).

The term Responsibility to Protect (RtoP) was first mentioned in the report of ICISS, presented in December 2001. The concept of RtoP originated from the idea of ‘sovereignty as responsibility’, which Francis Deng elaborated based on his former experience on forced displacements and international conflicts (Weiss, 2012). Deng asserted that sovereignty is not limited to being a protection against foreign interference, but also implies that states are in charge of some responsibilities and are held accountable for the welfare of their people (Deng, Kimaro, Lyons, Rothchild and Zartman 1996). Accordingly, “when nations do not conduct their internal affairs in ways that meet internationally recognized standards, others nations not only have the right, but also have a duty, to intervene” (Etzioni, 2005). Deng’s arguments are endowed by the ICISS, which affirms as its first principle that “State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself” (ICISS, 2001:XI). Importantly, the ICISS considers that when states fail to fulfil such responsibility, the international society must assist them by using appropriate diplomatic, humanitarian and other peaceful means. But if the state itself violates humanitarian and international law, and if the state in question is unwilling to halt such violations, the international society must be prepared to take stronger measures, including the collective use of force. In these circumstances, the principle of non-intervention must yield to the international responsibility to protect.

RtoP as a code of conduct for humanitarian intervention

The implementation of the principle RtoP in the UN system has from its beginning met some challenges. Critics have pointed out that “Responsibility to Protect” might be interpreted by some states as a “Right to Intervene”, allowing them to abuse the Sovereignty of other states under cover of humanitarian intentions. Instead, the ICISS defines military intervention for human protection purposes not as a right being offered, but instead as an obligation to act when a population is suffering serious harm. “The issue is not the right but rather the responsibility of every state to play its appropriate role, with the objective not being intervention as such but the protection of men, women and children threatened by the horror of mass violence” (Weiss, 2012). Essentially, the ICISS outlines the questions that have to be addressed in order to define an appropriate way to act towards humanitarian crisis. These include rules, procedures and criteria for determining whether, when and how to intervene. It also includes the legitimacy of military intervention, and the mean to establish it successfully (ICISS, 2001:11).

The implementation of RtoP was further challenged by a notable shift in the international policy, which after the 11 September focused more toward the protection against terrorist activities than on the concerns of genocide and other terrible crimes against the humanity. In addition, the controversial invasion of Iraq during the “Operation Iraqi Freedom”, contributed to limit support to the principle RtoP (Bellamy, 2005). However, one can consider that an important step was made in 2005, when world leaders made a historic commitment at the UN World Summit to protect victims from mass atrocities. There, a consensus was achieved after revision of the original report presented by the ICISS, resulting in the principle of RtoP being adopted and endorsed by the General Assembly (Bellamy, 2011:9). The following grounds to RtoP were specified, partly meeting the ICISS’s considerations:

- Each individual state carries the primary responsibility for protecting their own population from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement.
- The international society has a responsibility to encourage and assist states in fulfilling this responsibility.
- The international society has a responsibility to use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes. If a state is manifestly

failing to protect its populations, the international society must be prepared to take collective action, in a timely and decisive manner, to protect populations, in accordance with the Charter of the United Nations, including Chapter VII (Bellamy, 2011:23-24).

Since then, not only RtoP has become a part of the diplomatic language concerning preventions of humanitarian crises, but the need to further implement RtoP within the UN system is favourably debated too. The UN Secretary-General Ban Ki-Moon challenged the UN members to translate their commitment from 2005 in initiatives, a proposal to which the General Assembly agreed to give further considerations. Also, despite some reluctance among some Security Council members, the Council adopted unanimously resolutions reaffirming the commitment to RtoP at the 2005 World Summit (Bellamy, 2010).

Six criteria for guiding the decision to intervene

ICISS has throughout its deliberations sought to reconcile the sovereignty of states with the principle of RtoP. The principle of non-intervention remains the highest consideration in normal circumstances, but must yield to international assistance during humanitarian crisis. For this purpose, one has to improve the capacity of international society to react decisively when confronted to acts of aggression against populations. Within the ICISS, it was generally recognized that crimes, which indisputably “shock the conscience of humankind” or present a clear and present danger to international security, must be addressed by intervention (ICISS, 2001:31). Intervention can involve the use of force when states are either unable or unwilling to carry out their responsibility to protect their own people. By consequent, the ICISS attached great importance in developing robust criteria for authorizing military intervention to protect human beings.

Six criteria, based on the experience of previous humanitarian intervention and post-conflict assistance, were proposed in order to guide decision-making about the use of force. According to the different concepts which have been addressed by the ICISS, those criteria were named *just cause, right authority, right intention, last resort, proportional means and reasonable prospect*. The proposition to use these criteria for UN decision-making, created controversy during the revision of the ICISS report at the 2005 UN World Summit. Several African states, the UN High level Panel and Annan endorsed them as essential to making the Security Council’s decisions more transparent, accountable to the wider membership and

hence legitimate. In contrast, the US, China and Russia opposed them. The “historical consensus” between world leaders was in fact achieved only after the rejection of the six criteria, among other significant propositions made by the ICISS (Bellamy, 2011:21-24).

Despite being difficult to implement formally within a UN document, the six criteria of the ICISS constitute an essential ground to the application of RtoP. As previously mentioned, these criteria were formulated in order to reconcile the obligation of military intervention while preserving fundamental sovereignty principles. Therefore, for several reasons including not only the legitimacy but also the very success of the operation, the concepts carried by these criteria are the ones that matter when a military intervention has to be considered. The nature of the six criteria will be extensively developed in the Chapter 2 of my thesis.

1.4 Research question and the structure of the thesis

Three years after the 2008 economic crisis, humanity experienced a worldwide interrogation about the real ability of the international society to act collectively for addressing global challenges. Banks, the finance, and other institutions of the global economy were held accountable for the major economic shock. The international institutions perceived as collective organs working for a better future, such as the Intergovernmental Panel on Climate Change, were challenged by the self-interest of states. By implementing RtoP, the UN system had the possibility to show the world that collective action can prevent the loss of human lives. The Libyan crisis of 2011 may have been a demonstration of such capacity, as a legal military intervention approved by the UN literally stopped troops on their way to civilian targets. Nevertheless, this historical event also revealed deep divergences of attitude within the international society, about the use of force for solving humanitarian crises. These divergences culminated only some months later, during the Syrian crisis. There, the civilians remain assaulted by their own state, in the rumbles of their country. Debates within the international society have reached a status quo and so far, none of its actions really permitted to prevent gross violations of human right.

Differences in the outcomes of these conflicts raise questions about the conditions permitting to translate the principles enounced in the RtoP into an action purposed for human protection. In other words:

“With regards to the responsibility of the international society to protect people from mass atrocities, what are the conditions that actually permit to deploy a military intervention for human protection purposes?”

My master thesis is a comparative analysis where Libya and Syria will be presented as two specific cases with different outcomes concerning military intervention. I will first present the empirical material of the Syrian and the Libyans crisis that are relevant for the principle of RtoP. I will then consider this information under the six criteria set out by the ICISS for guiding decisions concerning military intervention. These criteria constitute the theoretical framework of my thesis.

Chapter 2. The Theoretical Framework

In the previous chapter, I briefly mentioned that military intervention for humanitarian purposes poses legal issues, chiefly regarding state sovereignty and legitimacy. Accordingly, a military intervention will be considered relevant not only if it demonstrates the capacity to solve a serious humanitarian situation, but also if its objective is uniquely focused on addressing the humanitarian crisis. Therefore, a properly designed military intervention includes all the factors that promote a better outcome both in terms of humanitarian protection and international acknowledgement. The ICISS describes the RtoP as a set of interrelated responsibilities towards suffering populations, which are *to prevent, to react, to rebuild*. These responsibilities will be outlined, before I examine the guidelines criteria set out by the ICISS to validate military intervention for humanitarian purpose.

2.1 To prevent, to react, to rebuild

The responsibility to prevent is stressed by the ICISS as the most important dimension of RtoP (ICISS, 2001:XI). Military intervention can be perceived by some as an uncomplicated tool used to address complex crises, in this way acting like a police authority more busy chasing bandits than solving the causes of crime. In reality, resources devoted to preventing deadly conflicts are scarcer than resources devoted to coercive intervention including military intervention, post-intervention construction and peace keeping. Therefore, the ICISS prioritizes the preventive aspect of RtoP, which includes assistance aiming at long-term political and economical stabilization. Failure to prevent a conflict can have grave

international consequences, and for this reason the whole international society should contribute to the resources devoted to identify the root causes of crises. A broader inclusion of the international society in the prevention efforts can help to legitimate international action, especially in the cases where coercive measures have to be taken. Both the General Assembly and the Security Council have adopted resolutions recognising the vital role of all parts of the UN system in conflict prevention and pledging to enhance their effectiveness (ICISS, 2001:19).

The root causes of a conflict putting populations at risk can be addressed with measures benefiting various social and political infrastructures such as democratic institutions, the rule of law, economical opportunities, education and reform of the military system (ICISS, 2001:23). “Every step taken toward reducing poverty and achieving broad-based economic growth, is a step toward conflict prevention” Kofi Annan alleged in his Millennium Report (ICISS, 2001:22). Such approach meet both the perspectives of the Article 55 of the UN Charter and those of the Security Council itself, which also stress the importance of prevention as a necessary measure for stability and peaceful relations among nations. The ambitions of RtoP are thus directly linked to the UN charter, which “provides the foundations for a comprehensive and long-term approach to conflict prevention based on an expanded concept of peace and security” (ICISS, 2001:22). The direct causes of a conflict are generally prevented using the same kind of measures as the one for root cause prevention, but they are deployed with short-term instruments, which can be either of coercive nature or involving diplomacy.

When preventive measures have failed and if the state in question is unable or unwilling to solve a conflict causing human suffering, the responsibility to protect implies the responsibility to react. Such responsibility implies the duty to respond to situations of compelling human needs with appropriate measures, which may include coercive ones like sanctions, international prosecution and, in extreme cases, military intervention. Here, the ICISS highlights the importance to always consider the least intrusive and coercive measures first. Whereas sanctions can reduce a state's capacity to interact with others, they do not necessarily prevent it from carrying out actions within its borders. Military intervention on the opposite directly interferes with the capacity of a domestic authority to operate on its own territory. It effectively displaces the domestic authority and aims to address directly the particular problem or threat that has arisen. For these reasons, and because of the inherent

risks linked to the use of force, the prospect of military action has always raised broader and more intense concerns than has the imposition of sanctions (ICISS, 2001:29). However, non-military measure must also be used with extreme care as they can do more harm than good. This applies especially to civilians, as sanctions may be effectively indiscriminate in nature. In order to focus the impact of sanctions on the decision makers of a country, sanctions must be considered within three distinct areas, which are military, economic and political/diplomatic. In all three areas, effective monitoring is crucial for the effectiveness of the sanctions and for avoiding their negative impacts on innocent populations (ICISS, 2001:30).

Lastly, the responsibility to protect implies the responsibility to follow through and rebuild. It means to provide assistance and reconciliation following a crisis, particularly after a military intervention. The commitment to rebuild a country after a military intervention is pivotal to promote durable peace, good governance and sustainable development (ICISS, 2001:39). Under such perspective, rebuilding holds an important preventive aspect, since it will aim at eventually solving the causes of the harm the intervention was initially designed to halt or avert.

2.2 Military Intervention and the guiding criteria

The just cause

According to the ICISS, military intervention for humanitarian purpose can be justified if either or both of the following conditions are satisfied:

- “ - Large scale loss of life, actual or apprehended, with genocide 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”, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape” (ICISS, 2001:32).

The ICISS affirms that these two conditions necessarily include a variety of conscience-shocking situations that similarly happened in past humanitarian crises, defined for example in the framework of the 1948 Genocide Convention and in the Geneva Conventions and Additional Protocols. These conditions also include “overwhelming natural or environmental

catastrophes, where the state concerned is either unwilling or unable to cope, or call for assistance, and significant loss of life is occurring or threatened” (ICISS 2001:33).

For the ICISS the term “large-scale” has to be considered qualitatively and cannot correspond to an arbitrary measure. The military action can be legitimate as an anticipatory measure in response to clear evidence of likely large-scale killing. “Without (...) anticipatory action, the international community would be placed in the morally untenable position of being required to wait until genocide begins, before being able to take action to stop it” (ICISS, 2001:33). According to Weiss, the conditions required by the ICISS are not completely satisfactory in terms of RtoP as they are setting the bar too high. Weiss argued that the ICISS recommendations fall short of the 1998 Statute of the ICC, whose ‘crimes against humanity’ includes various situations where great suffering is intentionally caused, ranging from murder and slavery to imprisonment (Weiss, 2004).

The right authority

The ICISS devotes a whole chapter on the authority which can approve a military intervention for human protection purposes. Collective intervention blessed by the UN is regarded as legitimate because it is duly authorized by a representative international body. For the same reason, unilateral intervention not approved by the UN can be seen as illegitimate. Indisputably, the Security Council is the most appropriate body for dealing with such issue.

The practical performance of the Security Council in addressing humanitarian crises with military intervention is generally dissatisfying and reveals fundamental issues concerning the functioning of the institution. Indeed, it remains debated whether the Security Council can act as a supreme authority regarding international crises, especially with regards to its unrepresentative membership and the double standards associated with the permanent members. In addition, the decision-making process of the Security Council is generally regarded as giving inconsistent results, as the veto power is likely “to be the principal obstacle to effective international action in cases where quick and decisive action is needed to stop or avert a significant humanitarian crisis” (ICISS, 2001:51). In spite of these concerns, there is presently no more appropriate institution than the Security Council to authorize military intervention for humanitarian purpose. Because of its relative neutrality, the Security Council is the only legitimate body that can override state sovereignty. Therefore, a main approach for

making international reaction more efficient towards humanitarian crises would be to improve how the Security Council is working (ICISS, 2001:49).

In matters of grave concerns, it seems absurd that one veto from a member of the Security Council can override the position of the rest of the humanity. Hence, the ICISS questions the ability of the Security Council as being the only organ to cope with military intervention for the protection of human beings:

“if the Security Council expressly rejects a proposal for intervention where humanitarian or human rights issues are significantly at stake, or (...) fails to deal with such a proposal within a reasonable time, it is difficult to argue that alternative means of discharging the responsibility to protect can be entirely discounted” (ICISS, 2001:53).

The ICISS propose two alternatives, in order to valid a military intervention not authorized by the Security Council:

1) To seek support for military action from the General Assembly by meeting in an Emergency Special Session under special procedures previously established. On 3 November 1950, the resolution 377 A (V) adopted by the General Assembly was given the title “Uniting for Peace”. “Uniting for Peace” was crafted as a tool to avoid further USSR vetoes in the Security Council during the Korean War:

“If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility (...) the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security (...). Moreover, such “emergency special session may be called if requested by the Security Council (...) or by a majority of the Members of the United Nations” (Security Council, 2013).

Several countries, during the consultations of the ICISS, expressed their support for procedures similar to “Uniting for Peace”. Although the General Assembly lacks the power to enforce a military intervention directly, a decision in favour of action supported by an overwhelming majority of member states at the General Assembly would provide a high

degree of legitimacy for an intervention. Indeed, the measures adopted under “Uniting for Peace” procedures benefit from strong moral and political support, as they require the two-third majority in the General Assembly. Military intervention endorsed by the General Assembly in such circumstances could encourage the Security Council to rethink its position (ICISS, 2001:53).

2) Collective military intervention could be pursued by regional or sub-regional organization. Neighbouring states have a strong interest in solving the negative spill over effects usually associated with humanitarian crises, such as mass flow of refugees or the use of their territory as base by rebel groups. According to the ICISS, neighbouring states can thus engage efficiently for protecting human beings and stabilizing a country:

“It has long been acknowledged that neighbouring states acting within the framework of regional or sub-regional organizations are often better placed to act than the UN, and Article 52 of the Charter has been interpreted as giving them considerable flexibility in this respect” (ICISS, 2001:53).

The Right Intention

“The primary purpose of the intervention must be to halt or avert human suffering” (ICISS, 2001:35). In reality, motives beyond humanitarian assistance can also drive the engagement or not into military intervention. Mixed motives are a well-known fact in international relations. National interest in terms of geopolitical opportunities, but also cultural influence and past relationships can motivate a state to participate in a military intervention against another one. Alternatively, the cost of participating to coercive measures (loss of soldiers, the expenditures) can significantly contribute to the reluctance of some states to assist others. However, these classical considerations are now evolving in a globalised and interdependent world, where crises in faraway and little-known countries can generate major problems elsewhere, such as refugee outflow, pandemics, terrorism and organized crime. “It is strongly arguable that it is in every country’s interest to contribute cooperatively to the resolution of such problems, quite apart from the humanitarian imperative to do so” (ICISS, 2001:36). Even though the absence of any narrow self-interest remains an ideal in international affairs, the right intention is better assured when military operations are carried out multilateral, clearly supported by regional opinion and by the victims concerned.

A regime overthrow cannot be the legitimate objective of a military intervention for humanitarian purpose. However, the ICISS stresses that disabling the regime's capacity to harm its own people may be essential to discharging the mandate to protection. The necessary means to achieve such disabling may vary from case to case. Occupation of territory may not be avoided, but it should not be an objective in itself. In such eventuality, there should be clear commitment from the outset to return the territory to its sovereign owner at the conclusion of hostilities or, in the absence of a legitimate owner, administering it on an interim basis under UN auspices (ICISS, 2001:35).

Last resort

“Military intervention can only be justified when every non-military option from the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded” (ICISS, 2001:XII). The ICISS emphasizes that all diplomatic and non-military options must have been explored before military intervention can be justified. It does not mean that each of these options must precisely be tried and failed, as often the emergency of humanitarian crises offers no time for working out a systematic process. However, non-military options must yield when there are reasonable grounds to believe that if the measures had been attempted they would not have succeeded. Additionally, if the crisis involves a conflict of a state party and an insurgent minority, the parties must be induced to negotiate. Ceasefires, followed by the deployment of international peacekeepers and observers, are always a better option than coercive military responses (ICISS, 2001:36).

Proportional means

“The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective” (ICISS, 2001:XII). The means of the coercive action need to be proportionate with the ends and in line with the magnitude of the original provocation. Also in agreement with the Right Intention criteria, the effect on the political system of the country targeted should be limited to what is strictly necessary to accomplish the purpose of the intervention. In case the coercive actions implies military force, all rules of humanitarian law should be strictly observed and high standard of international monitoring should be applied (ICISS, 2001:37).

Reasonable prospects

“There must be a reasonable chance of success in halting or averting the suffering, which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction” (ICISS, 2001:XII). Military intervention is not justified if actual protection cannot be achieved, or if the consequences of embarking upon the intervention are likely to be worse than if there is no action at all. The responsibility to respond to a humanitarian crisis should be pondered by the risks of escaping control after the military intervention took place. Such risks include triggering a larger conflict within the assisted country or within the region, with negative consequences on populations (ICISS, 2001:37).

Chapter 3. Methodology

In order to better understand the conditions that permit a military intervention for humanitarian purpose, I will put the theoretical framework in the context of the Libyan and Syrian crises. These two cases will be analysed separately, and for each I will expose the facts that are relevant to the six criteria of the ICISS. The aim is to see where the cases differ along these six criteria and thus identify which criteria are pivotal in ensuring the differing outcome. Before explaining the methodology supporting my research design, I will present a brief definition of a case study.

3.1 Case study

According to Yin, a case study is defined as “an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident” (Yin, 2009:18). Humanitarian interventions are phenomenon that cannot be easily distinguished from context in real-life, and case study represents there the most relevant method of investigation. According to Stakes, the crucial point in case study research is the object of study itself: “As a form of research, case study is defined by interest in individual cases, not by the methods of inquiry used” (Stake, 1994:236). In my research, the Syrian and Libyan conflicts are individual cases, constituting two units of analysis that will be compared. These cases are going to be scrutinized in the theoretical context of RtoP and I expect to pinpoint the key

conditions leading to a military intervention for humanitarian purpose. Accordingly, the present research can be defined as an instrumental case study and thus differs from an intrinsic case study: “In (...) instrumental case studies, a particular case is examined to provide insight into an issue or refinement of theory. The case is of secondary interest; it plays a supportive role, facilitating our understanding of something else” (Stake, 1994: 237).

3.2 Research design

“Research design (...) guides the investigator in the process of collection, analysing and interpreting observations. It is a logical model of proof that allows the researcher to draw inferences concerning causal relations among the variables under investigation” (Nachmias & Nachmias, 1992:77-78).

Comparative design is commonly used in comparative politics and is traditionally based on cross culture comparison of two or more countries, either by choosing a qualitative- or a quantitative research strategy (Ringdal, 2007:150). The comparative design is built on an analysis of few or many numbers of units, on a macro- (countries, organisations etc.) or micro level (persons). Unlike variable-oriented analysis, which aims for instance at describing one unit under several aspects, the case-oriented comparative analysis seeks out to establish connections between different aspects present within each unit. These different aspects constitute independent variables. Two strategies exist when setting up a comparative design. The first, named *most similar system*, is a comparative analysis of similar cases. Here the independent variables are mostly similar among the cases being compared, while the fundamental difference between the cases is the final outcome, also named dependent variable. In such system, only some few conditions can explain the different outcome. There is a difference with the second strategy, called the *most dissimilar system*, in which the comparative analysis will emphasize similarity in the final outcome of the case whereas independent variables will be mostly dissimilar. My research design is a *most similar system*, with the following characteristics:

- 1) Independent variables are the six criteria of the ICISS
- 2) The units being compared are Libya and Syria, with two distinct final outcomes regarding the dependent variable, which is “Military intervention for humanitarian purpose”.

3.3 Data source

My thesis is based on secondary data available in reports from different international humanitarian organizations. Libya and Syria are major regional players in the Middle East, and a large amount of general information regarding history, politics and socio-economic profile is publicly available. The media coverage used in this thesis includes international news reports from the period following the “Arab Spring”. First, I have used these sources for describing the conflicts in Syria and Libya in a relevant way, focusing on the chain of events that led to situations of humanitarian crisis. Second, the development of these conflicts has been scrutinized under the perspective of RtoP and ICISS criteria, in order to appreciate whether they justify military intervention. The conclusions of this study will be discussed and confronted to relevant works in comparative politics.

3.3.1 Data availability for Syria

Due to the grave deterioration of the human rights situation that emerged early during the Syrian crisis the UN Human Rights Council (UNHRC) decided to establish an independent international Commission of inquiry on Syria (IICISyria). From August 2011, the IICISyria has published nine reports, the latest 5 February 2015, documenting gross human rights violations constituting crimes against humanity and war crimes perpetrated throughout the country since March 2011 (OHCHR, 2014).

With the mandate to chart violations on international human rights and humanitarian law perpetrated in Syria, the IICISyria needed to act as a fact-finding body. The investigation relied primarily on first-hand accounts based on interviews, with a total number of 3.550 since the interviewing process began in Geneva September 2011 (IICISyria, 5 February 2015). Victims and witnesses of gross violations of human rights in Syria; including personnel defected from the military and security forces, have been interviewed. The Syrian authorities having denied IICISyria access to the country, the persons interviewed were either present outside Syria - mainly in hospitals or refugee camps, or were contacted inside the country by using phone and webcams. The documents of the IICISyria also include photographs, video recordings, satellite imagery and medical and forensic reports. Sources from governmental (regional organisations like the League of Arabs States and the Organization of Islamic Cooperation and member states from all regional groups) and non-

governmental organizations (NGOs), media accounts and academic analyses have also been used to help the IICISyria implement its mandate (IICISyria, 2011: 5).

For my thesis the reports from the IICISyria are representing one of the most reliable sources on the political and humanitarian situation in Syria. Reports from major NGOs such as Amnesty International (AI) and Human Rights Watch (HRW), media accounts and other UN sources provide also key elements for understanding the Syrian crisis.

3.3.2 Data availability for Libya

Condemning the human rights violations committed during demonstrations in Libya, the UNHRC decided on 25 February 2011, to dispatch an independent international commission of inquiry on Libya (IICILibya) (IICILibya, 2011:2). The IICILibya has published two documents reporting crimes against humanity and war crimes committed by both governmental and rebel forces. The first report was presented on 1 June 2011. The IICILybia's investigation was not interrupted during the ongoing civil war, and it presented the second report on 8 March 2012. These reports constitute my main data as they give reliable accounts of the political events that unfolded before in Libya immediately prior the military intervention was decided. Additional sources include HRW, AI, media coverage and official information from the UN.

The IICILibya established direct contact with the Libyan authorities and the interim government, the National Transitional Council (NTC), together with representatives from the civil society. During its field missions the IICILibya interviewed over 350 people, including doctors, medical staff, patients and their relatives, detainees and displaced persons, either inside Libya or in transit points or refugee camps outside. The IICILibya relied on first-hand accounts, field observations and a large number of reports and documents were studied. In addition, more than 580 videos and over 2200 photographs were examined (IICILibya, 2011:2).

Chapter 4. The Syrian and Libyan Crises (2011-2015)

4.1 The modern Syria: From dictatorship to civil war



Figure 1: Political map of the Syrian Arab Republic.

Until Syria became an independent state in 1946 it has remained under the control of different empires. The Ottomans ruled Syria from 1515 to 1918. After the defeat and the collapse of the Ottoman Empire during the First World War, Syria became a territory under French mandate. The partition of the Ottoman Empire, included in the Sykes-Picot Agreement of October 1916, was a result of secret discussions between British and French diplomats, Sir Mark Sykes and Charles Francois Georges Picot. A new map of the Middle East became a reality, with Syria and Lebanon as well handed over to the control of France (Rogan, 2011). By doing so, the French had secured their interest in the Middle East. Further control over territory, mandated by France, was achieved by conducting a divide-and-conquer strategy, splitting the territory into six regions based on the religion of their inhabitants. The French

cooperated with the powerful Sunni Muslims families and isolated minority groups like Alawi and Druze (Waage, 2013:254-255). Throughout its history, different ethnical and religious groups have settled down in Syria. Today, 90.3 per cent of the populations are Arabs; the remainder comprises Kurds, Armenians and others ethnicities. The main religion is Islam, with the two major groups being the Sunni (74 per cent of the Syrian population) and the Shia (13 per cent). The Alawi sect, which the al-Assad family belongs to, is a branch of Shia Islam. Others religious groups includes Druze, Jewish and Christian (CIA Factbook 2014).

During the first decades after the independence of 1946, the political life in Syria was marked by several coups and the rise of the Ba'ath Party. The Ba'ath party, established in the beginning of the 1940s, has the ambition to create a secular, pan-Arabic nation founded on socialism and Arabic values ("Ba'ath" means renaissance) (Rogan, 2011:354). Hafiz al-Assad, an ambitious officer who joined the Ba'ath party from an early age, became a prominent figure among the Alawi. Political instability increased in 1967 after the defeat of Syria in the Israeli-Arab war and the loss of the Golan Heights. From there, Hafiz al-Assad expanded his political influence and seized power in a bloodless coup in 1970 (Waage, 2013:267-269). Hafiz al-Assad established an authoritarian regime, where politics and the military came under his absolute control. Alawites were given prestigious positions in every sector of political life. A large number of security agencies were created with the purpose to monitor political dissent. The military and security forces were expanded massively, ready to crack down on whatever critic of the regime. The opponents were subjected to torture and detention long prison sentences. Even though political stability was brought to the country, Syria was ruled with a rod of iron until Hafiz al-Assad's death in 2000 (Waage, 2013:269).

Bashar al-Assad succeeded his father and brought new hope to the opposition by promising modernization of the regime. Under his father's rule, political opposition was almost impossible. Since 1963 the conflict with Israel was an excuse for an enduring State of emergency, offering absolute power to the president and continuing extensive repression of political dissent. Bashar al-Assad initiated democratic reforms like the right to assembly and freedom of speech often referred to as the "Damascus Spring", but only for a brief period. Bashar tolerance came to an end only a year after his succession. Officially justified on the grounds that the reformist movement was destabilizing the country, opposition leaders were soon arrested and crackdown imposed on the civil society (Selvik, Stenslie, 2007). Decades of

tight control on freedom of expression during the rule of al-Assad father and son have limited the political life and the constitution of an independent civil society.

4.1.1 The brutal crackdown of the Syrian uprising in 2011

”Our commanding officer told us that there were armed conspirators and terrorists attacking civilians and burning Government buildings. We went into Telbisa on that day. We did not see any armed group. The protestors called for freedom. They carried olive branches and marched with their children. We were ordered to either disperse the crowd or eliminate everybody, including children. (...) We opened fire; I was there. We used machine guns and other weapons. There were many people on the ground, injured or killed” (IICISyria, 23 November 2011:11).

In the beginning of February 2011, inspired by the Arabic spring movements small protests concerning freedom of expression, corruption, poverty, democratic rights and the release of political prisoners erupted in Syria. In mid-March, a large demonstration broke out in the south west, in Daraa, after the detention and torture of a group of children accused of painting anti-government slogans on public buildings. Showing support to Daraa, demonstrations spread rapidly to other cities in the country and developed into a nation-wide movement after the government forces used excessive force against people, including shooting indiscriminately into peaceful crowds (IICISyria, 23 November 2011:8).

The Syrian regime responded with more and more brutal violence to the peaceful demonstrations and in an effort to suppress the unrest, large-scale military operations have been launched nation-wide. Security and military forces operating together with the shabiha, a state-sponsored militia, subjected the civilians to unprecedented fear, including extrajudicial and summary killings, torture and sexual violence. Snipers hired by the security forces shot many unarmed civilians who were participating in demonstrations and even during funerals processions. Posted at strategic points, snipers and the shabiha terrorized the populations, targeting and killing children, women and unarmed civilians. The brutal crackdown caused numerous innocent deaths and the first report of the IICISyria confirmed that the majority of the civilians were killed in the context of peaceful demonstrations. On numerous occasions, defectors from the government forces reported about the execution of comrades who refused to open fire at civilians. On 25 April 2011 in Daraa, conscripts refused to follow an order to fire into a residential area. The soldiers, who chose to fire in the air instead at the civilians,

got immediately shot and killed by the security forces posted behind them (IICISyria, 23 November 2011:10-11). Evidence exist that commanders in government forces ordered their subordinates to shoot civilians and hors de combat fighters, and to torture and mistreat detainees (IICISyria, 22 February 2012:22).

In summer 2011, peaceful protestors took up arms together with defectors from military and security forces and organized themselves into the Free Syrian Army (FSA) (IICISyria, 23 November 2011:8). The FSA began attacking the government forces in order first to end the widespread attacks on civilians, then to force Assad to leave the power. The clashes between the government forces and the FSA intensified early November 2011, particularly in the areas of Homs, Hama, Rif Dimashg and Idlib governorates (IICISyria, 22 February 2012:10). By mid-July 2012 the International Committee of Red Cross said the conflict had escalated into a full-scale civil war (BBC, 15 July 2012). The intensity of the fighting caused vast casualties among the civilians as a consequence of use of heavy artillery, indiscriminate air strikes, mortar attacks and bombings (IICISyria, 16 August 2012). The government forces decided not to spare anyone in their fight against the opposition, and no place could be considered a safe haven for the population. Heavy shelling into densely populated neighbourhoods with no warning to the population and with no chance to escape caused numerous victims, including many children. Several areas were bombarded and then stormed by the government forces arresting, torturing and executing suspected defectors and opposition activists (IICISyria, 22 February 2012:10-11). Torture, arbitrary detention, enforced disappearance, sexual torture and other forms of ill- treatment became common across the country, targeting children and women as well. Reports from the IICISyria include horrific testimonies of people being subjected to grotesque torture. Children were arrested and detained arbitrarily, put in overcrowded cell together with adults and exposed to grotesque torture, which sometimes caused death (IICISyria, 23 November 2011: 13-14). Rape was perpetrated against men, women and children, sometimes in front of their family. Moral abuses were also committed, for instance women forced to walk naked in the streets (IICISyria, 16 August 2012:18). Hospitals and detention centres were transformed into torture chambers, with the medical staff sometimes coerced to operate with the security forces. Seriously injured patients were chained to their beds, where they were electrocuted, beaten at their wounded parts of their body and denied medical support, water etc. (IICISyria, 22 February 2012:14).

The IICISyria has received credible and consistent accounts from the victims and witnesses, of where torture took place and which methods were being used. In the second report of the IICISyria published February 2012, a list of 38 detention locations in 12 cities is annexed, documenting cases of torture since March 2011 (IICISyria, 22 February 2012:Annex XIII). The UK-based human rights organisation, Syrian Observatory of Human Rights (SOHR), claimed in March 2015 that nearly 13.000 Syrians, including 108 children have been tortured to death since the uprising in March 2011. This has been taking place in several detentions centres operated by the government. In addition, the death toll does not include more than 20000 detainees who are still missing and whose fate remains unknown (SOHR, 2015).

4.1.2 Crimes against humanity and war crimes documented early on during the Syrian conflict

Crimes against humanity, when committed as part of a widespread or systematic attack against civilians, are according to article 7 of the Rome Statute defined as acts such as murder, unlawful imprisonment, enforced disappearance, torture and rape (Rome Statute of the International Criminal Court, 2002). By November 2011, the Office of the High Commissioner of Human Rights estimated that the government forces of Syria had killed at least 3.500 civilians since March 2011, and participated to thousands being tortured and arbitrary arrested (IICISyria, 23 November 2011:8). Published on 23 November 2011, the first report of the IICISyria concludes that government forces have committed crimes against humanity in Syria since the uprising in March 2011 (IICISyria, 23 November 2011:18). Moreover:

“The scale of these attacks against civilians in cities and villages across the country, their repetitive nature, the levels of excessive force used consistently by units of the armed forces and diverse security forces, the coordinated nature of these attacks and the evidence that many attacks were conducted on the orders of high-ranking military officers all lead the commission to conclude that the attacks were apparently conducted pursuant to a policy of the State” (IICISyria, 23 November 2011:19).

In its third report, published on 16 August 2012, the IICISyria recognised that both opponents of the conflict have committed crimes constituting war crimes. War crimes are grave breaches of the Geneva Convention of 12 August 1949, and according to the article 8 of the Rome

Statute such crimes are defined as being part of a plan or a large-scale commission, encompassing crimes such as deliberate killings, indiscriminate attacks, torture and inhuman treatment, destruction of property and taking of hostages etc. (Rome Statute of the International Criminal court, 2002).

The FSA undertook initially a defensive posture but later on, carried out offensive operations that subjected civilians to gross human rights violations (IICISyria, 22 February 2012:21). As the conflict escalated, several new anti-government groups emerged out of control from the FSA. The IICISyria has since concluded that these groups have committed war crimes and crimes against humanity. However, the violations and abuses committed by the armed opposition did not reach the gravity, frequency and scale of those committed by government forces and the shabiha (IICISyria, 16 August 2012). The Syrian Arab Republic has signed the Rome Statute of the ICC, but has not ratified it. In this case only the UN Security Council can, by referring the situation in Syria to the ICC, give the court the jurisdiction to investigate and possibly prosecute war crimes and crimes against humanity committed by all sides in the Syrian conflict. However, on 22 May 2014, a UN resolution that would have referred the situation in Syria to the ICC was vetoed by the two permanent members Russia and China (UN News Centre, 2014).

4.1.3 Large-scale attacks against civilians

The armed opposition against the Syrian regime succeeded in taking control over several cities or districts of big cities. There are several indications that the Syrian regime has been using siege warfare in order to take back the control of the urban areas and to minimize casualties in its troops. During these military operations, the Syrian regime committed war crimes and crime against humanity by using indiscriminate aerial and artillery attacks on densely populated areas. The nature of these aggressions demonstrates clearly that the Syrian government is leading a large-scale aggression towards its own citizens.

The use of barrel bombs, carried out by the Syrian regime against opposition-held areas was first documented in August 2012 in Homs city and al-Qusayr in Homs governorate (IICISyria, 12 February 2014:50). Barrel bombs are cheap warfare devices consisting of large containers filled with explosives, scrap metal and frequently with incendiary material, with the purpose to increase their lethal effect. They are dropped from helicopters at high altitude

in order to avoid anti-aircraft fire, which makes impossible their precise use against military targets. Barrel bombs have had a devastating impact on the population, killing and injuring thousands. The attacks have been carried out in densely populated areas, causing extreme suffering and mass displacement of civilians.

“Government forces have systematically targeted civilians and civilian infrastructure, demonstrating the intent to kill, wound and maim (...) The apparent objective of the Government’s military operations is to render life unbearable in areas out of its control (...) The timing and duration of the attacks, the choice of weapons and the locations targeted, such as markets, intersections, schools and hospitals, demonstrate intent to cause maximum civilian casualties” (IICISyria, 13 August 2014:16).

The use of barrel bombs is prohibited under international law given their indiscriminate nature and wide-area effect when used over densely populated areas. The UN Security Council resolution 2139 was passed unanimously on the 22 February 2014, *inter alia* condemning the indiscriminate use of barrel bombs. The Syrian regime ignored the resolution and proceeded with the bombings. The international society has since done nothing to hold the perpetrators of continued barrel bombs attacks to account. The use of barrel bombs has in fact escalated during the conflict. From 22 February 2014 until 25 January 2015 HRW has documented at least 450 places in Daraa and more than 1.000 places in Aleppo, which have been targeted by barrel bombs and other air-dropped munitions. Doctors interviewed by the HRW asserted that women and children make up the majority of the victims and that “the injuries were predominately fragmentation wounds from explosive weapons” (HRW, 24 February 2015). The vast majority of fatalities caused by barrel bomb attacks have been civilians. According to AI, 12.194 people were killed in Syria from 2012 until February 2015 as a result of barrel bomb attacks by government forces. Only 473 of these people were fighters. More than half were killed after the adoption of the resolution 2139 (AI, 2015:20).

Syrian security forces often run ground assaults without consideration for civilians. On 25 May 2012, the civilians in the village of Taldou, in the region of Houla in Homs governorate, were exposed to a terrible massacre. Heavy shelling took place before the government forces and the shabiha started to break into the houses and killing anyone they could find, without exception. Entire families were executed and more than 100 Syrians, including 49 children and 34 women, were killed that day (The Guardian, 1 June 2012). Houla, mainly populated by Sunni, is surrounded by Alawite and Shia villages and tensions

between these communities were reported. The IICISyria concluded that government forces together with shabiha were the perpetrators of the massacre, and that the killing was deliberate and part of the ongoing armed conflict (IICISyria, 16 August 2012:10-11). On similar circumstances, more than 200 Syrians were massacred in Tremesh, near Hama on the 12 July 2012. The UN monitoring mission deployed in Syria said they witnessed helicopters and tanks shelling Tremesh and that the Syrian air force took a lead role in the assault (The Guardian, 15 July 2012). After the start of the civil war an increasing number of similar massacres have been reported in Syria.

Three years after the uprising, more than a quarter of a million civilians are besieged in Syria according to the seventh report published by the IICISyria (IICISyria, 2014). “Slow Death”, a report released in March 2015 by the Syrian American Medical Society (SAMS), claims that at least 640.200 Syrians are living in areas under long-term sieges, some since 2012 (SAMS, 2015). The plights of the besieged civilians are devastating as they are trapped inside the cities and being denied humanitarian aid, water, food and medical care. This situation caused hundreds of deaths, adding to the victims of shelling and bombardments. According to a report published by AI, 194 civilians died in Yarmouk (a Palestinian refugee camp located in Damascus), during the tightening of the siege between July 2013 and 22 February 2014. 128 people died from starvation and 51 from illnesses requiring medical care (AI, 2014:9). Between 17.000 and 20.000 civilians are trapped in Yarmouk, being forced to eat cats, dogs and leaves, and exposing themselves to government forces while searching for food. A father grieving over the death of his son said: “You died for the sake of bringing hibiscus leaves for your brothers and sisters” (AI, 2014:11). Starvation as warfare is considered as a war crime.

| <i>Age category</i> | <i>Number</i> | <i>Percent of total</i> |
|-----------------------|---------------|-------------------------|
| <i>Child (1-14)</i> | 3 | 0.54% |
| <i>Infant (<1)</i> | 134 | 23.93% |
| <i>Child (1-14)</i> | 124 | 22.14% |
| <i>Adult (15-64)</i> | 239 | 42.68% |
| <i>Senior (65+)</i> | 56 | 10.00% |
| <i>Unknown</i> | 4 | 0.71% |

Figure 2: Breakdown of siege victims by age. The dataset was obtained during a medical study of siege victims, by collection of 560 documented deaths during siege in Damascus (506), Homs (26), Aleppo (22), Deir Ezzor (4), Hama (2).

4.1.4 Use of chemical weapons

On 21 August 2013, chemical weapon attacks in opposition-controlled suburbs of Damascus (Eastern and Western Ghouta) killed hundreds of civilians, including a large number of children (HRW, 2013). The Syrian regime immediately denied any responsibility and blamed the opposition. An investigation led by HRW together with arms experts, clearly shown that government forces carried out the attacks. Several evidences support these allegations, such as the coordinated nature of the attacks and the presence of government-controlled potential rocket launching sites within range of the targets. The rockets used, which are specially designed for delivering nerve agent as sarin, are documented in the stockpile of the Syrian Army and videos showed government forces firing them during the on-going conflict. HRW showed that the Syrian opposition forces are not in possession of such rockets and their firing systems. A UN team, with the mandate to investigate allegations of the use of chemical weapons in Syria, confirmed in its report that chemical weapons, specifically sarin, had been used in several incidents during the conflict (UN Mission on Chemical Weapons in Syria, 13 September 2013). The UN mandate is limited to establish whether chemical attack actually took place, and therefore the perpetrators of these horrific crimes are left with impunity. The use of chemical weapons is a grave violation of international law, specific under customary international humanitarian law and is constituted as a war crime under the Rome Statute.

Two years after President Bashar al-Assad agreed to dismantle Syria's chemical weapons stockpile, there is mounting evidence that his government is flouting international law by dropping chlorine bombs on oppositions-held areas. The latest allegations of these

attacks came only days after the UN Security Council condemned the use of chemical weapons including chlorine in Syria. According to AI and HRW, barrels bombs have been used to deliver chlorine gas in and around the town of Sermine, located in the province of Idlib, northern Syria. On 16 March 2015 an entire family with their three children no more than three years old, were killed in one of the attacks. In total, 100 people were exposed to the toxic levels of chlorine during these chemical weapons attacks (AI, 17 March 2015). Medical staff told AI that those affected by the attacks showed symptoms characteristic of chemical weapons attack, including reddened eyes, shortness of breath, continuous coughing, respiratory distress, vomiting, and drooling from the mouth. Philip Luther, Middle East and North Africa Programme Director at AI declared: “These horrific attacks (...) are yet more evidence that the Syrian government forces are committing war crimes with impunity. The situation in Syria must be referred to the International Criminal Court as a matter of urgency” (AI, 17 March 2015). The use of chlorine in war is banned under the Geneva protocol of 1925.

4.1.5 The conflict in Syria now

Today, the government of Syria has lost control over a large part of the territory. However, despite four years of conflict, the regime of Bashar al-Assad shows only limited signs of erosion and still has some support in the population. More significantly, by aligning itself with allies such as Iran and Russia, the Syrian regime managed to gather material support critical to its survival. The Syrian government thus gained support from the Hezbollah, a Shia Islamist militia based in Lebanon, designated as a terrorist organization by most of the Western countries and funded primarily by Iran. The Hezbollah and the Iran revolutionary guard have played an essential role in the Syrian conflict by providing logistical, military, and financial support to the fight against the opposition. On the other side, Turkey, Saudi Arabia, Qatar and other Arab states along with the US, UK and France, have supported to some degrees the opposition. Overall, because of the involvement of foreign players, the Syrian conflict now has features of a proxy war (Masri, 14 March 2015).

In the armed opposition, groups that are not affiliated to the FSA have emerged with the support of external sponsors. These have contributed to the radicalization of the opposition by favouring Islamic armed groups such as Jabhat al-Nusra, a group linked to the Iraqi wing of al-Qaida (IICISyria, 5 February 2013:8). Another radical jihadist group, the

Islamic State of Iraq and al-Sham (ISIS) - also known as ISIL but lately renamed as Islamic State (IS), has recruited fighters from all over the world and has developed into a well-organized, dominant armed force. By June 2014, the IS proclaimed the establishment of a caliphate and took control of extensive territory in Syria and Iraq by taking advantage of the chaos created by the civil war. The rise of IS as major player represent a significant threat to further destabilize the region. Attacks against civilians in Iraq and Syria led the US and their allies to launch airstrikes against key positions of the IS. As a consequence of the radicalization, some of the international and regional backing to the Syrian opposition has been markedly cooled down. Foreign supporters of the Syrian opposition are now struggling to prevent their support falling in the hands of hard line Islamist rebels instead of the moderate groups. The US and the coalition are now arming a 5.000-strong force of "moderate" rebels to take the fight against IS in Syria. At the same time, a significant air support is provided to Kurdish militia seeking to defend three autonomous enclaves in the north of the country (BBC, 12 March 2015).

4.1.6 The different faces of the Syrian opposition

The Syrian opposition has struggled to develop from a political movement into an administration able to govern the country. Before 2011, political opposition was gathered under the Syrian National Council (SNC), a movement that presented itself as the legitimate representative for the Syrian people and as an alternative to the Syrian government (SNC, 2011). The SNC is constituted mainly by Sunni and has been supporting the 2011 uprising from its start. In order to prepare a political transition and to prevent a sectarian development of the conflict, the international society requested the SNC to make a coalition that is “more diverse and inclusive” (Carnegie Endowment for International Peace, 2015). This led to the creation of The National Coalition for Syrian Revolutionary and Opposition Forces, also known as the Syrian Coalition (SC) in November 2012. Together with the SC, The Supreme Joint Military Command of the Syrian Revolution, (SMC), was created to ensure unity of the various armed groups (including the FSA) by establishing a formal chain of command at a national level. The SMC was purposed as the Defence Ministry of the SC, aiming at managing security and stability during the political transition. The international society recognized the SC as the sole legitimate political representative of the Syrian people (Sofer and Shrafroth, 2013). Even though the SC managed to gather a wider diversity of opposition groups, it misses the support of others like the National Coordination Committee for

Democratic Change and the radical Islamic groups. Divisions persists inside the SC, about possible peace negotiations with the Syrian regime (Carnegie Endowment for International Peace, 2015).

4.1.7 International responses to the Syrian crisis

Even though the events of the Syrian uprising have been early documented, the international response to the conflict has been delayed. By the time the first trans-national initiatives took place in order to address the conflict and its repercussions, Syrian people were in the midst of the repression and the first atrocities were already exposed in international media. Through its initiatives, the international society displayed wide divergences of attitude regarding how to address the Syrian crisis. Allies of Syria are reluctant to let the crisis result in a regime change, whereas several countries consider that the Syrian regime itself is the major obstacle to ending the violence. The Security Council, one of the highest authority regarding international decisions, has been unable to find a consensus, thus preventing the UN to take decisive measures to stop the violence in Syria. Initiatives were also made outside the UN system, involving several countries and members of the League of Arab States. So far, most of the efforts aiming at solving the Syrian crisis by using legal action, negotiations or sanctions have failed. Under in the perspective of RtoP, one can consider that the international society actually failed in its duty to protect Syrian civilians from mass atrocities.

4.1.7.1 UN resolutions

It is only from October 2011 that the UN Security Council members started to propose resolutions condemning the brutal crackdown against protestors and demanding an immediate end to all violence. France, Germany, Portugal, UK and Ireland draft the following declaration, recognizing the threat to human rights in Syria:

“(...) strongly condemns the continued grave and systematic human rights violations and the use of force against civilians by the Syrian authorities and expresses profound regret at the deaths of thousands of people including women and children (...) reaffirming the need to resolve the current crisis in Syria peacefully (...) stressing that the only solution to the current crisis in Syria is through an inclusive and Syrian-led political process” (Security Council, 2011).

Three following resolutions were proposed in these terms, and were all vetoed by Russia and China. On 22 May 2014, a resolution including a referral of the situation in Syria to ICC was co-sponsored by 65 member states and voted in favour by all the Security Council, aside from Russia and China (Security Council, 2014).

However, on 27 September 2013, the Security Council showed some unity when it unanimously adopted a legally binding resolution (Resolution 2118) that required Syria to give up its chemical weapons. If Syria failed to abide, the Security Council could have taken action under Chapter VII of the UN Charter, which implies economical actions or even military action. Even though the Syrian government agreed to abandon its chemical weapons to international instances, under supervision by the Organisation for the Prohibition of Chemical Weapons (OPCW), it continued to use devastating weapons against civilians. The Security Council expressed further concern about such violence, by authorizing resolution that:

“demands that all parties immediately cease all attacks against civilian, as well as the indiscriminate employment of weapons in populated areas, including shelling and aerial bombardment, such as the use of barrel bombs and methods of warfare” (Security Council, 2014).

According to the Middle East and North Africa deputy director for HRW, Assad’s regime wouldn’t stop to use barrel bombs because it doesn’t fear any strong international action (HRW, February 2015). Similarly, the Security Council issued resolutions that ordered all parties to the conflict to allow humanitarian access, without concrete results. While Syrian civilians experience terror daily, the international society represented by the UN remains unable to prevent the continuous attacks from the regime.

On 6 March 2015, based on the latest reports of chlorine gas attacks by the OPCW, the Security Council adopted the resolution 2209 condemning the use of chlorine gas, recalling that toxic chemicals used as a weapon in Syria would violate both resolution 2118 and Chemical Weapons Convention, and that measures under Chapter VII of the UN Charter will be imposed in the event of future non-compliance (UN Meetings Coverage and Press Releases, 2015). Additionally, the resolution "stresses that those individuals responsible for any use of chemicals as weapons, including chlorine or any other toxic chemical, must be held accountable". The OPCW documented “compelling confirmation” that chlorine was used

“systematically and repeatedly” as a weapon in villages in northern Syria. The responsible of these attacks was not assigned by the OPCW, even though its fact-finding missions possess eyewitness accounts of helicopters dropping barrels bombs with toxic chemicals (OPCW, 2014).

4.1.7.2 The League Of Arab States

In November 2011, the League Of Arab States (the Arab League) called on the Syrian government to a peace plan that includes a halt of violence, the release of detainees, the free access to media, the visit of an Arab League observer mission and the withdraw of government’s forces from the cities. The Syrian government’s initial refusal led to economic sanctions and the suspension of Syria’s member ship of the Arab League. This triggered a complete turnaround from the Syrian government and the signing of the peace plan on 19 December 2011 (International Coalition for the Responsibility to Protect (ICRtoP), 2014).

The Arab League mission, mandated to observe and report on the crisis, was deployed on 24 December 2011 but due to security concerns, it ended already at the end of January 2012. The UN backed up the Arab League’s initiative, resulting in the creation of an UN-Arab League–joint operation leaded by special envoy Kofi Annan on 23 February 2012 (IICISyria, 16 August 2012:6). The Security Council authorized the deployment of the UN Supervision Mission in Syria (UNSMIS) to monitor a six-point peace plan presented by Kofi Annan, which included cessation of violence and the commitment to work on a political solution to the crisis by all parties of the conflict. The ceasefire came into effect on 12 April 2012, followed by the deployment of UNSMIS on 21 April 2012. However, the ceasefire only lasted for a short period. Violence continued to escalate, the activities of UNSMIS were suspended and the mission’s mandate came to an end on 19 August 2012 (IICISyria, 16 August 2012:7). Kofi Annan left his post by referring to the “clear lack of unity” in the Security Council as a major obstacle to find a solution to the crisis, citing “when the Syrian people desperately need action, there continues to be finger-pointing and name-calling in the Security Council” (BBC, 2 August 2012). Lakhdar Brahimi replaced Kofi Annan, and was also unable to negotiate an end to the violence between the Syrian government and the opposition. Lakhdar Brahimi declared that the Syrian conflict has reached an “unprecedented levels of horror” and that “the country is breaking up before everyone’s eyes” (ALJAZEERA, 30 January 2013). Brahimi was succeeded by Staffan de Mistura July 2014.

4.1.7.3 Other initiatives to solve the Syrian crisis

Sanctions from the international society; the European Union (EU), the United States, Turkey and the Arab League, have been imposed against the Syrian regime. Already in May 2011, the EU imposed economic sanctions; including both an arms embargo and targeted sanctions on individuals and entities, like assets freeze and visa ban (ICRtoP, 2014). These sanctions have been prolonged regularly throughout the conflict.

During his period as an UN-Arab League special envoy, Kofi Annan initiated The Action Group for Syria, an UN-backed group that gathered in Geneva on 30 June 2012 finding a political solution to the conflict in Syria. The group consist of representatives from the UN and the Arab League, foreign ministers from the five permanent members of the Security Council, the foreign ministers of Turkey and Iraq and the high representative of the EU for Foreign Affairs and Security Policy. The Action Group for Syria agreed on measures for a peaceful political transition and demanded all parties of the conflict to fully implement the six-point plan of Kofi Annan and to cooperate with UNSMIS. The measures request the establishment of a transitional government with full executive powers body, which should include both members of the present government and the opposition. The Action Group for Syria declared that “the conflict must be resolved through peaceful dialogue and negotiation alone” (UN Action Group for Syria Final Communiqué, 30 June 2012). Efforts from the international society were made to persuade both sides of the conflict to attend the Geneva II peace talks. However, due to Assad’s refusal to share power with the opposition and the opposition’s refusal to participate without a guarantee that Assad would step down, the measures present in the final communiqué of the Action Group for Syria were never implemented.

4.2 Gaddafi's Libya



Figure 3: Political map of Libya

In 1951, Libya became independent from Italy and was declared a constitutional monarchy. Oil was discovered in 1959, bringing substantial wealth to one of the poorest nations at that time. However, the unfair distribution of wealth generated social discontent, leading to a military coup that overthrew the pro-western King Idris al-Senusi in 1969. The coup, known as the al-Fateh Revolution, was led by Colonel Muammar Gaddafi (IICILibya, 1 June 2011:19).

Like many heads of State in the region, Gaddafi supported pan-Arabism. Furthermore, he introduced his own political theory, which he called “The Third Universal Way”. Gaddafi’s ideology, outlined in his “Green Book”, pretended to be totally stripped from communistic and capitalistic ideas, and based instead on a democratic system that combined socialism and Islam. Gaddafi rejected the representation-based system present in most liberal democracies, and he introduced elements of direct democracy by implementing peoples committees. Libya’s political system became known as “Jamahiriya” meaning the “State of the masses”. In reality, Gaddafi had an absolute power as the country’s undisputed leader who controlled all major aspects of Libya’s political and economic life. Gaddafi’s family members were appointed to key functions with power over the legislature and command positions within the military, including the “mukhabarat”, Libya’s national intelligence service. The Revolutionary Committees, which were controlled by regime loyalists, were instrumental in supporting Gaddafi’s ideology and rule (IICILibya, 1 June 2011:19-20).

The Jamahiriya system of government consisted in one-man rule using fear, intimidation and loyalty-based incentives. During Gaddafi’s four decades grip on power, human rights violations were commonplace and the Rule of Law was non-existent. Freedom of expression and association were criminalized and subjected to penalties, including death and life imprisonment. People opposing and criticising the political system were likely to be detained, sometimes incommunicado, and tortured. Civil and political rights, including free access to non-state media, were strictly limited and controlled by the regime. Political parties and independent non-governmental organisations working on human rights or political matters were banned according to the Law. The Libyan law 71, whose purpose was to regulate the formation and the activity of associations, states that associations engaged in political activity opposed to the principles of the al-Fateh Revolution are illegal and can be punished by death. Facing criticism, the Libyan government argued that freedom of association and assembly are not required in a political system based on “popular power”. A Libyan official declared to HRW: “The right to demonstrate is a right in the traditional sense. But that implies there are two sides, the rulers and the ruled. But when we talk about one group, there is no need” (HRW, 25 January 2006).

4.2.1 The brutal crackdown of the Libyan uprising

“In 1996, Libyan authorities killed 1,200 prisoners on one day in Abu Salim and they still haven't acknowledged doing anything wrong that day (...) Today the Libyan government has shown the world that it is still using ruthless brutality against its population” (HRW, 20 February 2011). Inspired by the uprising unfolding in neighbour Tunisia and Egypt, Libyans planned to demonstrate against the 42-year rule of Gaddafi on 17 February 2011. This date is known to the opposition as “the Day of Rage”, to remember the killing of 12 protestors by Libyan security forces during a peaceful demonstration in 2006. The Libyan authorities anticipated the protest and, in order to prevent mass demonstration, several pro-democracy activists were arrested ahead of the 17 February. On 15 February 2011, after the arrest of a prominent lawyer (who was representing the relatives of the victims of the 1996 Abu Salim prison massacre), protests broke out in Benghazi, Libya's second largest city. The Police injured several demonstrators and killed at least one, sparking mass demonstrations in the following days (HRW, 17 February 2011).

Thousands of people took to the streets in Benghazi, demanding democracy, Rule of Law, and the end of Gaddafi's regime. Gaddafi's forces responded with brutality to these peaceful demonstrations, resulting in dozens of deaths and injuries. The crackdown triggered further demonstrations and spread to several other cities, including Misrata, Darnah, Tobruk, Zintan and Tripoli (IICILibya, 1 June 2011:23-24). In several places the security forces opened fire at the crowds with live ammunition, without warning. Media also reported the use of fighter aircrafts to attack the demonstrators. On 20 February, HRW declared that at least 233 people had been killed over four days (HRW, 20 February 2011). According to an estimate given by the ICC, the government forces killed 500-700 civilians in February alone. Multiple eyewitnesses confirmed that Gaddafi's forces fired indiscriminately at peaceful demonstrators. Hospital doctors reported deaths and injuries from gunshot wounds in the head and the upper body, indicating “shoot to kill” operations. Arbitrarily detention, torture and enforced disappearances, many of which remain unaccounted for, were reported in the early days of the demonstrations. The IICILibya received numerous reports about injured protestors being denied medical treatment or being abducted from the hospitals by the government forces (IICILibya, 1 June 2011:35-47).

On 22 February, Gaddafi declared on Libyan National Television that Libya “will be purged inch by inch, house by house, household by household, alley by alley, and individual by individual until I purify this land”, and called the protestors “rats who need to be executed” (IICILibya, 1 June 2011: 24).

4.2.2 The Libyan Opposition

Following the crackdown, defected soldiers from Gaddafi’s army and civilians came together from different cities, took up arms, and formed the “Free Libyan Army”, also known as the “National Libyan Army”. The opposition forces established the National Transitional Council (NTC), originally known as the Libyan Interim National Council with the aim to provide political and military leadership. NTC was formed in Benghazi on 27 February 2011 (officially declared establish 5 March 2011) and pledged to lead the uprising and oversee the transition period to an elected government after the liberation of Libya. The members of the council were mostly defectors and returned exiles. Mustafa Abdul Jalil, former Justice Minister who resigned because of the mass violence against unarmed protestors, became the leader of the NTC (BBC, 25 August 2011).

4.2.3 Libya’s Civil War

Clashes with the government forces intensified, and the opposition quickly gained foothold in the cities. In Benghazi the opposition forces captured the Airport and the Katiba, a military garrison guarded by several Libyan military units. By late February, the opposition was controlling Benghazi, Tobruk (in eastern Libya), Misrata and Zuwarah (in the west of Libya) (IICILibya, 1 June 2011: 24).

Gaddafi’s forces conducted a brutal military campaign, in order to regain control of lost territory and to neutralize the opposition, and in a declaration that Bellamy and Williams describes as direct echoes of the Rwandan genocide, Gaddafi stated that “soldiers have been deployed to all regions so that they can purify all decisions from these cockroaches and any Libyan who takes arms against Libya will be executed” (Bellamy and Williams 2011:838). Residential neighbourhoods in areas held by the opposition were indiscriminately attacked, with rockets, mortars and cluster bombs, injuring and killing unarmed habitants. The ground forces operated by “shooting anything that moves”, thus killing residents who tried to escape

the bombardments. Tens of thousands of civilians fled in fear of reprisals for having supported, or for being perceived as having supported, the revolt (AI, 2011:34).



Figure 4: Portraits of disappeared people on display at al-Huwari Hospital, Benghazi.

4.2.4 International Responses to the Libyan crisis

The international society, including Human Rights groups and regional organisations like the African Union (AU), the Organisation of the Islamic Conference (OIC) and the Arab League, called for action early on during the Libyan crisis. Different measures were advocated on how to respond to the violence carried out by the Libyan authorities against the civilians.

4.2.4.1 UN Resolutions

On 26 February 2011, members of the Security Council adopted unanimously the resolution 1970. It imposed an arms embargo and targeted sanctions, like travel ban and assets freeze on Gaddafi and his family members, including key members of the government. In addition, the resolution referred the situation in Libya since 15 February to the Prosecutor of the ICC for investigating into reports of crimes against humanity (Security Council, 26 February 2011). Furthermore, the Security Council confirmed that “it would keep the actions of the Libyan authorities under continuous review and would be prepared to strengthen, modify, suspend or lift the prescribed measures in light of compliance or no-compliance with the resolution” (UN Meeting Coverage and Press Releases, 26 February 2011).

As the non-military measures authorized in resolution 1970 failed to end Gaddafi's violence on protestors, the Security Council - acting under Chapter VII - passed a new resolution. The resolution 1973 authorized the use of all necessary measures, including the imposition of a no-fly zone to prevent further attacks on civilians in Libya, with the exception of a foreign occupation. It was adopted with ten votes and five abstentions (Russia, China, India, Brazil and Germany), on 17 March 2011. In addition, the resolution enforced the arms embargo, strengthened the sanctions and established a panel of experts for further recommendation on actions (Security Council, 17 March 2011).

4.2.4.2 Military intervention in Libya

On 19 March 2011, a multinational coalition began a military operation in Libya enforcing the resolutions mandated by the Security Council. On 31 March 2011, the North Atlantic Treaty Organisation (NATO) took over the command of the military campaign, named Operation Unified Protector. NATO launched 25,944 air sorties in Libya, of which 17,939 were armed, until the operation officially ended on 31 October 2011 (IICILibya, 8 March 2012:16). According to both IICILibya and HRW, NATO took important steps to minimise civilian casualties by employing the exclusive use of precision-guided munitions and a generally cautious approach to targeting. NATO told the IICILibya that it had a standard of "zero expectation" of death or injury to civilians, and that no targets were struck if there was any reason to believe civilians would be injured or killed by a strike. NATO declared to have followed dedicated procedures to reduce destruction and human losses, such as delayed fusing of ammunitions to minimize collateral effects, minimum-sized munitions and warnings to the population in the form of leaflets and radio broadcasts before airstrikes were carried out (IICILibya, 8 March 2012:16).

Despite these precautions, civilian deaths were reported and significant damage to civilian infrastructure occurred in some places. Fred Abrahams, special adviser at HRW points out that: "NATO took important steps to minimize civilians casualties during the Libya campaign, but information and investigations are needed to explain why 72 civilians died" (HRW, 14 May 2012). HRW led an investigation in target sites where civilian deaths occurred, amounting to 72 victims, including 20 women and 24 children. The study indicates that in seven out of eight bombing sites examined, no military target was present when the NATO strikes occurred (HRW, 14 May 2012). IICLibya has investigated 20 NATO airstrikes.

They could document a total of 60 civilians killed and 55 injured as the consequence of 5 strikes (IICILibya, 8 March 2012:16).

The report of the IICLibya concluded that NATO did not deliberately target civilians in Libya. IICLibya also observes that in the few population centres where NATO carried out air strikes, extensive precautions were taken to avoid killing civilians. Whereas the HRW investigation questions “what exactly NATO forces were striking” in the target sites devoid of military objectives, the IICLibya found that information lacked to determine whether these strikes were based on incorrect or out-dated intelligence and whether “they were consistent with NATO’s objective to take all necessary precautions to avoid civilian casualties entirely” (IICLibya, 8 March 2012:17). In such instances, the ICIL recommended further investigations in order to provide accountability and compensation.

4.2.4.3 AU’s peace initiative

The no-fly zone was welcomed by the Arab League and the OIC. Indeed, the Arab League had called on the Security Council on the 12th of March, to impose a no-fly zone due to the Libyan authorities use of military aircraft, mortars and heavy weaponry against civilians. However, the Arab League rejected foreign intervention and “indicated that failure to take appropriate action now to end the crisis would lead to such intervention in internal Libyan affairs” (Security Council Report, 2011). On the other hand, consistently addressing a peaceful solution to the crisis the AU rejected any external military intervention and most of its members did not support the no-fly zone.

Trying to find a political solution to the Libyan crisis, the AU issued a “Roadmap for peace”, which called for an immediate ceasefire, the deployment of monitoring mechanism and “the implementation, in a peaceful and democratic manner, of political reforms that meet the aspirations of the Libyan people” (AU Press Release, 2011). While Gaddafi accepted the proposals, there was no trust among the opposition that he would adhere to a ceasefire or hand over to an interim government. The leadership of NTC rejected the plan and announced, “the demand of our people from day one was that Gaddafi must step down” (Aljazeera, 12 April 2011). Moreover, the NTC said that the roadmap was out of date, since it did not take into account human rights violations already perpetrated by Gaddafi’s forces.

4.2.4.4 Other initiatives

The EU and individual states, like the US, Canada, and Switzerland reacted early to the crisis by imposing economical sanctions (like assets freeze) against Libya, and also targeted Libya's sovereign wealth fund, which is the 13th largest in the world. Arms embargo and travel ban on Gaddafi and key members of his family were also imposed (BBC, 11 March 2011). On 29 March 2011, leaders from more than 35 governments and NGOs met in London to discuss the deteriorating situation in Libya. They agreed to establish the Libya Contact Group to lead international effort to map out Libya's future, "to provide a leadership and overall political direction" in close coordination with the UN, AU, Arab League, the OIC and the EU (France24, 29 March 2011). By mid July 2011, the international contact group on Libya, recognized the NTC as the sole legitimate representative of the Libyan people by announcing that "the participants agreed to deal with the National Transitional Council (NTC) as the legitimate governing authority in Libya" (Reuters Africa, 15 July 2011). AU was one of the last regional organisations to recognize the NTC as Libya's legitimate governing body (ICRtoP, 2015).

4.2.5 Libya after the death of Gaddafi

"Declaration of Liberation. Raise your head high, you are a free Libyan," (BBC NEWS, 23 October 2011 - Abdul Hafez Ghoga, NTC Vice Chairman). On 20 October 2011, Gaddafi was captured and killed outside Sirte by the Misrata thubar (revolutionaries) (IICILibya, 8 March 2012:8). The NTC declared national liberation three days later and asked the celebrating Libyans for forgiveness, tolerance and reconciliation (BBC NEWS, 23 October 2011). Despite these calls to national unity, Libya quickly collapsed into chaos as a myriad of armed groups began competing for political power and economic resources. Armed violence continued with tribal clashes and fighting between militias, deteriorating the security situation and developing a state of lawlessness. Even though the democratic transition was initiated early, the NTC and successively elected government failed to establish control over this growing numbers of militias (ICRtoP, 2015).

The new political situation has increasingly polarised the tensions between eastern and western Libya, and clashes rage between armed groups fighting for the rival factions that are laying claim to governance and legitimacy. Major warring factions are a coalition of Islamist forces and militia groups from Misrata united under the name Libyan Dawn, and a coalition

consisting of eastern tribes, federalists and other military units, named Operation Dignity. Foreign influence plays a significant role in deepening the political divisions, as Egypt and the United Arab Emirates provide support to Operation Dignity whereas Qatar, Turkey, and Sudan are backing the Libyan Dawn (Wehrey Frederic, 2014). The turmoil is such that Islamist militants, including fighters who proclaim loyalty to either al-Qaeda or the IS, have established bases, attacked oil fields and entered central regions.

UN has been trying to pursue peace talk between the political rivals. On 27 March 2015, the UN envoy said that the latest peace talks between the two opposing governments has reached a consensus on a range of issues, including on the need for a unity government and security arrangements, strongly believing that there now are a political solution the crisis (UN News Centre, 27 March 2015).

4.3 Comparative analysis of the Libyan and Syrian crisis

In this chapter, I am going to fit the empirical data under the criteria established by the ICISS. By interpreting each crisis under the criteria *just cause, right authority, right intention, last resort, proportional means, reasonable prospects*. I will be able to determine if the specific situations presented validity for the ICISS to motivate a military intervention for humanitarian purpose.

4.3.1 Just cause

The ICISS considers a military intervention for humanitarian purposes justified if large-scale loss of life is either an actual or a threatened occurrence. During the consultations of the ICISS there was a display of unanimity that mass violence, either shocking the conscience of humanity or presenting a clear danger to the international security, is a clear element to motivate military intervention for the protection of human beings. Both Libyan and Syrian conflicts presented situations of mass violence and for the later, the amplitude of the crisis leads to grave regional consequences.

Addressing the crisis in Syria is just and necessary

The largest humanitarian crisis of today is unfolding in Syria. The humankind has been shocked by the brutality the Syrian people have been subjected to. The Syrian conflict has been marked by war crimes, crimes against humanity, widespread human rights abuses and shocking indifferences for the lives of civilians, particularly by the Syrian regime. The conflict and its humanitarian consequences clearly pose a threat to peace and security in neighbouring countries, to the broader region and to the world. As the Syrian conflict is entering its fifth year, the Syrian people continue to bear the brunt of this crisis.

More than 220.000 Syrians have lost their lives (more than half of them are civilians) since the beginning of the conflict and more than one million are injured and in desperate need for medical treatment. According to Violation Documentation Centre in Syria (VDC), an independent NGO monitoring and documenting human rights violations, 14.018 of the killed civilians are children and nearly 9.000 of them are women (VDC, 2015). The UN estimates that 12.2 million people remain in dire need for humanitarian assistance and protection inside Syria, nearly half being children. The violence created 7.6 million of internal displaced people, and many of them have been forced to flee their homes more than once (UNOCHA, 2015). On 7 May 2015, UNHCR registered 3.977.211 Syrian refugees outside Syria, mostly present in neighbouring countries. Countries which have experienced recent unrest, like Egypt, Iraq, Jordan and Lebanon, have welcomed 2.2 million refugees. Turkey has registered 1.7 million of Syrians refugees within its borders (UNHCR, 2015). Generally, the rest of the international society has largely stood on the side lines for providing humanitarian assistance to the Syrian refugees. Western industrialised countries have promised to provide relief and support to the countries hosting Syrian refugees, but delivered little in reality.

The unbalanced effort to provide assistance to the Syrian refugees has created a huge strain on the economical and social infrastructure in the countries neighbours of Syria. In response to the growing number of refugees, Lebanon, Jordan and Turkey have imposed severe restrictions on entry at the Syrian border, leaving hundreds of thousands trapped inside Syria and facing abuses by the IS, government forces and others. Closed borders have forced refugees to take dangerous routes and being exposed to human rights abuses. While numerous countries in the Gulf, Europe and North America are deploying military efforts to counter the IS, these countries have let down the populations that are fleeing the atrocities committed by

the group (AI, 2014:7). Taken together, violation of human rights, attacks on civilians and humanitarian consequences constitutes elements sufficient to provide a just cause for military intervention in the case of Syria.

Demonstration of state terrorism urged the protection of civilians during the Libyan crisis

In Libya, the international society displayed a clear unity for taking action and preventing mass atrocities. Prior to NATO's intervention, the killing of peaceful protestors showed that Gaddafi's regime would not hesitate to commit atrocities towards its own people in order to repress dissent. The Libyan government deliberately cut off phone lines and Internet during the early days of the uprising, which made difficult to document the exact number of victims. However, there is compelling evidence showing that government forces used excessive force against the protestors during the peaceful demonstrations, killing and injuring dozens of civilians. Protestors have been attacked with warfare equipment such as machineguns, snipers, military planes, tanks and helicopters.

Shortly after the beginning of the uprising Navi Pillay, former UN High Commissioner for Human Rights, and other UN authorities condemned the violations in Libya by saying they may amount to crimes against humanity. When addressing the opening of a UNHRC session on 25 February 2011, Pillay urged action to end the violence in Libya and to hold the perpetrators of atrocities accountable: "in brazen and continuing breach of international law, the crackdown in Libya of peaceful demonstrations is escalating alarmingly with reported mass killings, arbitrary arrests, detention and torture of protestors" (UN News Centre, 25 February 2011). Pillay supported her allegations with reports of thousands being killed or injured over the first weeks of the uprising. Despite Gaddafi's effort to conceal the reality of the crackdown, the rest of the world saw that Libya's government quickly responded to the opposition by using the most brutal methods. Such response constituted a deliberate intention of Gaddafi's regime, which if left unhindered, could have resulted in large-scale atrocities. The threat to the Libyan population in general, as demonstrated by the non-discriminatory nature of the repression, provided a just cause for military intervention.

4.3.2 Right authority

The role of the UN Security Council in giving legitimacy to a military intervention has been emphasized by the ICISS. Even though the ICISS expressed doubts about the ability of the

Security Council to produce decisive actions, it has been the major organ of consultation used during the Libyan and Syrian crises. During the period we study, no other institution could have substituted to the Security Council for reaching a global agreement on a topic as sensitive as military intervention. In this context, the UN Security Council can be viewed as the only institution that could have provided the right authority for permitting military intervention both in Libya and Syria.

It is only in the case of Libya that the UN Security Council voted a resolution authorizing all necessary measures to protect the Libyan civilians. It resulted in establishing a no-fly zone and tightening the already existing sanctions on the Gaddafi regime and its supporters. In the case of Syria, despite the extraordinary brutality of the conflict, the Security Council did not allowed similar measures to be imposed. Every resolution with the purpose to hold the Syrian government accountable for mass atrocities has been vetoed by Russia or China, using the argument that such resolutions are paving the way for a foreign military intervention. When Russia and China vetoed a fourth resolution, which would have referred the situation in Syria to the ICC for investigation, Samantha Power, UN ambassador uttered: “The Syrian people will not see justice today. They will see crime, but not punishment. The vetoes today have prevented the victims of atrocities from testifying at The Hague” (The Guardian, 22 May 2014). Her allegations were supported by photographic evidence produced by a defector of the governmental forces, documenting the killing of 11.000 detainees in Syrian prisons. Some member states thus made clear appeals to the UN Security Council to work as one and to take proximate steps to end atrocities in Syria.

The resolution 2118 imposed Chapter VII measures in the event of non-compliance of Syria to the destruction of its chemical stockpile. In spite of this, repeated chemical attacks using chlorine were documented later, recently forcing the Security Council to acknowledge in the resolution 2209 that the previous resolution has been violated. The paralysis of the Security Council during the Syrian crisis is clearly illustrated by the exchanges that followed the adoption of the resolution 2209. Report from the OPCW concluded that chlorine gas was released in barrel bombs dropped from helicopters. Based on the fact that the Syrian army possesses helicopters and not the opposition, the US, Britain and France accused the Syrian regime of using chlorine gas against civilians. On the opposite, Russia maintains that it does not constitute an evidence for the responsibility of the Syrian government and insists that OPCW is only mandated to assess the situation, and not to assign blame for the attacks (UN

Meetings Coverage and Press Releases, 2015). Therefore, divergences on the interpretation of facts and the lack of formal way to attribute the responsibility of the attacks prevented the UN's most powerful body to take measures that could stop further attacks. Without any possibility to attribute such blame, the use of sanctions under Chapter VII, which may include coercive action, cannot be decided within the Security Council.

A fundamental condition of military intervention for humanitarian purpose, which is the approval by a *right authority*, is different in the Libyan and Syrian cases. Within the most similar system, this difference therefore represents the decisive factor for determining the final outcome, whether or not a military intervention is taking place.

4.3.3 Right intention

Within the concept of RtoP, the only relevant objective for a military intervention consists in the protection of human beings. The *right intention* is arguably the most sensitive criterion to defend in international discussions. For a military intervention to be considered as carrying the right intention, a minimal degree of trust has to exist between the different parties which constitute either the *right authority* endorsing the intervention, or the body in charge of the military intervention. Ideally, perfect trust would require that none of the parties pronouncing in favour of the intervention would gain benefit from its consequences. The complexity of the relationships between states makes this idea impossible to reach in reality. Therefore, the *right intention* must consist in the adequate formulation of the purpose of the military intervention and of its limits. Regarding both Libya and Syria, parties have denounced the “masked intentions” of those who are in favour of military intervention.

The controversial contribution of NATO to Gaddafi's fall

When facing protest against its 40 years of ruthless rule, Gaddafi refused to resign and instead, declared he would “purify Libya from all those who opposed his rule”. With such declarations, Gaddafi made clear he had no intention to quit under pressure from the streets, as fellow leaders Mubarak and Ben Ali did in neighbouring Egypt and Tunisia. However, by 25 February 2011, most of eastern part of Libya had fallen to the opposition, driving Gaddafi to regain control by force. In the towns recaptured by Gaddafi's troops, amounts of evidence documented human right violations and war crimes such as indiscriminate executions and attacks, arbitrary arrests and detention, disappearances and ill-treatment of prisoners.

The military operation mandated by the Security Council prevented a potential recapture of the opposition-held Benghazi and has thus been considered as a pivotal event, which permitted the rebels' victory over the forces loyal to Gaddafi. Initially, the resolution 1973 adopted by the Security Council responded to actual atrocities and was purposed to prevent further human right violations. The mandate given by the Security Council therefore appeared as a humanitarian move, authorizing "all necessary measures" to protect civilians under threat. These measures included the enforcement of a no-fly zone, which is seemingly adapted to counter Gaddafi's use of air weapons against populations.

The fact that NATO's military operation contributed to the fall of Gaddafi's regime has been heavily criticized. Vladimir Putin, then Prime Minister of Russia, declared that the main intention of NATO's military intervention was to trigger a regime change, and that the fall of Gaddafi violated the Security Council mandate. His argumentation questioned the validity of resolution 1973, stating that permitting interference in the internal affairs of other states was bearing resemblance with "a medieval summons to a crusade" (Kaczmarek, 2011). Despite reluctance from its Prime Minister, the President Dimitrij Medvedev rallied to the perceived need to protect the Libyan population, and Russia showed its trust by not opposing the resolution 1973. Russia's approval may have been critically influenced by the position of the Arab League, who requested a no fly zone over Libya, and by the positive relationships with France at this period (Kaczmarek, 2011).

During the military intervention, the leaders of three NATO States (Barack Obama, David Cameron and Nicolas Sarkozy) declared that military action would continue until Gaddafi is overthrown. The main reason being that Gaddafi's actions towards its own people discredit him as a State leader: "it is unthinkable that someone who has tried to massacre his own people can play a part in the future government" (Cameron, Obama and Sarkozy 2011). In addition, the security of the Libyan people cannot be guaranteed if Gaddafi is left in place, because Libya risks becoming "not only a pariah state, but a failed state too" (Obama, Cameron, Sarkozy 2011). As previously mentioned, a regime change is not considered by the ICISS as a legitimate objective of a military intervention for human protecting purposes. However, if the authorities of a country are not willing to halt the atrocities against their own people it may be essential to *discharge* the mandate of the Security Council for the purpose of protecting civilians. For NATO, the possibility of a regime change was thus considered

essential as part of a general attempt towards a long-term protection of civilians and the achievement of lasting peace in Libya.

According to Bellamy, the adoption of the resolution 1973 by the Security Council is an historical event by being the first authorization of use of military force for human protection purposes without the host state's consent. Bellamy considers that the principle of RtoP played an important role in shaping the world's response to the atrocities in Libya, and that the resolution 1973 actually reflects a change in the Security Council's attitude toward the use of force for human protecting purposes. With previous displays of its readiness to take "timely and decisive action" to prevent or halt mass atrocities, in Resolutions 1674 (2006) and 1894 (2009), the Security Council had then set a precedent that it will not be inhibited as a matter of principle from authorizing enforcement for protection purposes (Bellamy, 2011).

Solving the Syrian crisis: when right intention meets defiance

In contrast to the decisive and unified action during the Libyan crisis, the Security Council's actions toward Syria have been pervaded with frictions and hesitation. First on 4 October 2011, after months of diplomatic efforts to impose sanctions on the Syrian regime, the European members presented a draft resolution to the Security Council. The message of the draft had been somehow moderated, as a much tougher text had been written in the beginning, which included an arms embargo. The text was watered down to meet the concerns of other Council members, but it still expressed deep concern over the violence in Syria by "strongly condemning the continued grave and systematic human rights violations and the use of force against civilians by the Syrian authorities" (Security Council, 2011). Furthermore, the draft resolution accused the regime of carrying out arbitrary executions, torture and disappearances and demanded that Syria cease the use of force against civilians, release political prisoners and grant other fundamental freedoms. The draft resolution proposed that if Syria would fail to comply, the council would have to consider "other options" - a veiled reference to sanctions. While nine out of 15 members voted in favour of the draft (the minimum needed for adoption), Russia and China casted their vetoes. Four countries abstained (Brazil, India, Lebanon and South Africa). The UN ambassador from Russia and China expressed their concern that such resolution would have worsen the tensions in Syria and could have served as a pretext for a possible regime change in the country (UN News, 4 October 2011).

The draft resolution presented on the 4 October 2011 did not make any mention, even implicit, of a regime change in Syria and put the emphasis on stopping the actual and future human right violations. We can therefore affirm that the authors of had expressed a *right intention* to stop the crisis in Syria. Arguably, the European members of the Council could have had in mind that the Syrian regime would not easily comply, and they possibly considered that more severe actions would inevitably take place after the adoption of the draft resolution. If those coercive actions included military intervention, their main purpose would still have been the protection of human beings, no matter Bashar al-Assad leaves the power or not. Importantly, and this point will be also discussed in the next chapter, the draft resolution did not evoke military intervention. Instead, it was essentially an expression of concern, whose objective was to put the Syrian crisis on the working agenda of the Council. In such context, one can solely interpret the suspicion of Russia and China toward the draft resolution as a mark of mistrust about the *right intention* of the European members.

Later during the Syrian crisis, after Bashar al-Assad openly threatened to use chemical weapons, the US President Barack Obama warned that doing so would be like “crossing a red line” that could trigger an American intervention. These declarations did not prevent chemical attacks in the Ghouta area of Damascus on 21 August 2013. As a response to these attacks, the resolution 2118 demanded the Syrian regime to get rid of its chemical weapons stockpiles. The resolution 2118 warns that non-compliance can lead to the use of force against the Syrian regime (which did not occurred despite repeated attacks with chlorine gas). If a military intervention were to sanction the non-compliance, we can affirm that it carries the *Right intention*; since the primary goal of resolution 2118 was to cease the use of chemical weapons, which is a grave violation of international law (Geneva convention).

4.3.4 Last resort

The use of force must always come as the ultimate option, even when the matter is to save human lives. As military action involves the use of deadly force, an operation for humanitarian purpose must find the most adequate means to protect populations, and at the same time must cause the least destruction (this topic will be discussed further in the next chapter). Such task is difficult and will always, even in the best hands, result in casualties and destruction of civilian infrastructure. For this reason, peaceful alternative and political solutions to a humanitarian crisis must always be considered first. Jimmy Carter said about

the invasion of Iraq: “for a war to be just, it must meet several clearly defined criteria. The war can be waged only as a last resort, with all nonviolent options exhausted” (Carter, 9 March 2003). In this sense, the criteria *last resort* serves as a guiding principle to prevent hastened decisions leading to war, and to explore every non-military solution to halt crisis. At the same time, handling humanitarian crisis can demand decisive action within a timely period. To postpone a response can sometimes have fatal consequences and we can risk being bystanders to mass murder if the reactions are delayed. Therefore, the principle of *last resort* has to be put in balance with the moral obligation, and often the emergency, to try to put an end to atrocities.

The Libyan military intervention: a decisive and timely response to mass atrocities

The international society responded to Gaddafi’s brutal crackdown on civilians nearly two weeks after the Libyan uprising by imposing sanctions. These non-military measures were chosen for their potential effect on the Gaddafi’s regime, with the hope that their pressure would lead the Libyan State to halt the violence. This first step to solve the crisis was positively welcomed, as shown by its unanimous adoption by the Security Council. However, Gaddafi didn’t show any intention to halt the violence and continued to threaten opponents with widespread massacres. Confronted to the reluctance of Gaddafi and the urgent need to protect civilians, the Council authorized the use of force as a second step. The *last resort* criterion seems to be satisfied in the case of NATO’s military intervention in Libya. Critics of the intervention could have questioned the insufficient time left to negotiate the cessation of violence with Gaddafi. It is in fact possible that the last decision of the Security Council was motivated by the absence of serious alternative to prevent an immediate bloodbath. The verbal violence promised by Gaddafi to its opponents, broadly displayed on Libyan media, may have echoed the call to murders heard on the infamous “Radio mille collines” before the genocide in Rwanda.

The Syrian crisis: several pleads for action

In Syria, a myriad of attempts were made, involving the UN and other international bodies, to put pressure on the Syrian regime and force it to stop the violence. They did not get their expected result and instead, the world witnessed an increase of destruction and atrocities in Syria. This situation offers the most striking contrast with the decisive intervention in Libya

and some of its main causes have been exposed previously: mistrust and lack of consensus among the members of the Security Council. The sanctions imposed by the international society may have somehow slow down the eagerness of the Syrian regime to commit crimes, but they were not efficient enough to force it to a halt. Equally to Gaddafi, the Syrian regime displayed complete indifference toward the concerns of the international society and the suffering of its people, even though it may have benefited from a more sophisticated communicator in the person of Bashar al-Assad. Political peace talks between the regime and the opposition have not come to any significant result and so far, may only bring hope of temporary ceasefire in some towns (BBC NEWS, 5 May 2015). In spite of no indication that the conflict would end in a near future, no military option has been undertaken or even been considered so far. Considering all the non-military measures which have been tried out during four years and with the perspective that more human suffering is still to come, the *last resort* would surely justify a military intervention in the case of Syria.

4.3.5 Proportional means

The objectives of a military intervention for human protecting purpose differ from those usually pursued in armed conflicts or traditional peacekeeping operations. When intervening for saving lives, the priority objective is to protect civilians from immediate threats. To reach this objective may require military equipment, which causes destruction and loss of life, and the use of military strategy, which dictates the most efficient approach to be used. However, the use of military force for human protecting purpose is not intended for long-term occupation and is not diverted by other targets than those who pose immediate threats to the populations at risk. These points make fundamental differences from the general perception of armed conflicts, where opponents are seeking control of territories or strategic targets, which can provide them better resources for ultimately defeating the enemy. A military operation for human protecting purpose also differs from traditional peacekeeping operations because it is intended at neutralizing targets rather than defensive position. However, depending on the amplitude of the menaces toward populations, a military operation for human protecting purpose can evolve into a peacekeeping operation, whose role would be to decrease tensions and safeguard peace process (ICISS, 2001:57-58).

A military intervention for human protecting purpose can face a large variety of the threats to civilian populations, ranging from small violent groups to state security forces. The

methods used to neutralize these threats efficiently and occasion the least damage are conceptualized under *proportional means*. In the spirit of RtoP, a military intervention is a just one if it comes after preventive efforts have failed to solve a humanitarian crisis and end with the responsibility to rebuild “so that respect for human life and the rule of law will be restored” (ICISS, 2001:67). In addition, a military intervention for human protecting purpose can be considered as entirely successful if it not only managed to protect populations at risk, but also by “inflicting as little damage as possible so as to enhance recovery prospects in the post-conflict phase” (ICISS, 2001:57).

A proportionate military intervention in Libya?

During its operation in Libya, NATO presented its strategy as solely focused on neutralizing Gaddafi’s forces. NATO’s operations consisted only in precision air strikes. It is possibly the best approach to target military objectives which cannot be easily concealed and which are clearly distinct from civilian elements (such as armoured vehicles, aircrafts, artillery). Airstrikes were therefore a *proportionate mean* to neutralize the heavy military equipment used by Gaddafi’s forces to terrorize civilians. However, and perhaps because of the lack of capacity on the ground which could have provided a better pointing at military targets, NATO’s airstrikes also caused civilian casualties. The close monitoring of NATO’s operations by independent organizations indicated that these casualties could have been avoided, as some apparently occurred in non-military target sites. Even though some argue that NATO’s airstrikes caused a relatively small number of civilian victims, it is finally still hundred more than the zero casualties confidently promised by NATO strategists. It may be not surprising that the use of bombs inevitably kills people, but a significant worry in the case of Libya is that so far, NATO did not showed signs that it would carry investigation and acknowledge the reason why civilian sites were attacked. Lack of transparency and accountability may have negatively impacted the perception of NATO in post-Gaddafi’s Libya (HRW, 14 May 2012).

A no-fly zone in Syria can prevent attacks on civilians

Since mid- October 2014 until mid- March 2015, the human rights organization SOHR has documented 10.263 aerial attacks carried out by the Syrian regime, including 5.335 explosive barrel bombs dropped by helicopters. These attacks have resulted in 2.172 losses of civilian

lives, including women and children. More than 10.000 other civilians were wounded and lots of people have been forced to flee their homes. The material damages are enormous, leaving people homeless and without medical infrastructure where the wounded can be treated (SOHR, 20 March 2015).

According to a recent report published by AI on 5 May 2015, many citizens of Aleppo but also basic infrastructures such as hospitals and schools are forced to move underground to escape relentless aerial bombardment by government forces. A resident described the aftermath of an attack on al-Fardous neighbourhood in 2014 to AI: “After the bombing, I saw children without heads, body parts everywhere. It was how I imagine hell to be” (AI, 5 May 2015). Philip Luther, AI’s director of the Middle East and North Africa Program considers bombings by the Syrian Army as crimes against humanity:

“Many (*Syrians*) feel abandoned and have lost all hope for the future. More than a year ago the UN passed a resolution calling for an end to human rights abuses, and specifically barrel bombs attacks, promising there would be consequences if the government failed to comply. Today, the international community has turned its back on Aleppo’s civilians in a cold-hearted display of indifference to an escalating human tragedy” (AI, 5 May 2015).

The Syrian crisis has features of unconventional conflicts, notably with the implication of police forces, political opposition, and civilians. As the crisis worsened, urban warfare (where fighters are using buildings and ruins to operate concealed) has been increasingly deployed together with heavy military equipment. The latter is being used mostly by the Syrian Army, whose Air force is put at use to deliver non-conventional weapons in an indiscriminate fashion over densely populated areas. Such weapons have been the major cause of non-armed civilian death during the Syrian conflict, and one of the best ways to prevent this loss of life would have been to stop military helicopters and planes to fly over the towns controlled by the opposition.

The enforcement of such no-fly zone may have required costly military effort by countries willing to participate, given the strong operative capacity of the Syrian Army. A no-fly zone in Syria may have met serious challenges. However, a coalition of States succeeded to impose a no-fly zone in Northern Iraq in 1991 in order to create “safe havens” for Kurdish people who fled repression and threats of mass murder from Saddam Hussein’s regime. The

so-called operation “Provide Comfort” provided humanitarian aid and at the same time effectively prevented Iraqi Air force to participate in the retribution against Kurds. Despite the apparent success, critics questioned the legitimacy of this operation, which was not endorsed by the Security Council. There as well, divergences opposed members favourable to the military intervention (including those who actually participated to it) and those defending non-interference in internal affairs (Russia and China) (Bellamy and Wheeler, 2008).

If the Security Council today managed to authorize a no-fly zone over Syria, with a strictly defined mandate such as the one decided for Libya, it would create an immediate relief for the Syrian populations living under the bombs. It is possible that intervention of ground troops could have been further required to completely stop the violence against civilians. However, one can also consider that just a significant decision from the Security Council such as the no-fly zone could give sign to the Syrian regime that it cannot benefit from support at the highest authority.



Figure 5: Group picture posted on the Internet by residents of Kafranbel in the Idlib governorate. Activism through Internet and the social media is widely used by different parties of the Syrian conflicts.

4.3.6 Reasonable prospects

The *reasonable prospects* include diverse considerations, which relate to the situation of the country after a military intervention for humanitarian purpose is decided. One of the most obvious considerations is whether or not the military intervention will actually manage to protect the populations under threat. Ideally, the military intervention for humanitarian purpose should have the capacity to quickly neutralize the threats to civilians and yield immediately to rebuilding and peacekeeping efforts. Therefore, the decision to intervene can be strongly dependent on the capacity to reach and assist the population under threat, and on the resources which can be mobilized for the intervention.

Other considerations are rather related to what is happening after the military operations have ended. To prevent further conflicts, rebuilding efforts should be engaged rapidly with substantial international support. The deployment of the military intervention should be carefully planned in order to optimize the situation post-conflict. I previously mentioned the use of *proportional means* to minimize material losses, but the military intervention must also be backed by series of plans to assist the country politically and economically. These long-term perspectives can prove very difficult to apprehend. It is especially relevant for complex countries such as Syria and Libya, which have a high degree of cultural and social stratification, and countries tightly connected to their neighbours. According to Seybolt the criterion of reasonable prospect is as critical to legitimate military intervention for humanitarian reasons as the just cause criteria (Seybolt, 2007). Even though the post-intervention situation can appear uncertain and even risky, it provides an opportunity to engage the host country into a brighter development.

Libya descending into chaos shortly after NATO's intervention

In nowadays Libya, four years after NATO's intervention, the human rights situation has deteriorated and the country is facing deep problems of security. Different militias are roaming out of control, attacking civilians and civilian properties sometimes with violations that amount to war crimes. HRW, who documented violations of international law in Libya since 2011, claimed that the violations are so organized and widespread that they amount to crimes against humanity. The post-Gaddafi conflict has killed hundreds of people and hundred of thousands are internally displaced, contributing to a rise in migrant boats

departing Libya for Europe and spilling over to neighbouring countries. Libya today may represent a safe haven for terrorist organizations.

One can wonder if such situation could have been foreseen when the decision for NATO's military operation was made. The collapse of the central government is one of the reasons for the present chaos in Libya. Some may argue that the repressive regime of Gaddafi, despite its brutality and illegitimacy, was a key element to keep stability in Libya. However, if NATO's intervention did not happen, there was a risk that Gaddafi's brutal answer to the uprising triggered further radicalisation in the opposition, possibly a terrorist one. This would have also led to increased violence in Libya, perhaps different to the present one, or perhaps similar to the situation that developed in Syria. *Reasonable prospects* were certainly present in Libya at the time immediately following NATO's military intervention. Libya's civic institutions were not in such a bad situation, as a transition government was made to function quickly and war criminals were supposed to be tried in national courts. Even though the 2011 conflict had caused damages, the economy of Libya could be rapidly restarted and the infrastructures rebuilt. The deterioration of the situation is mainly imputable to political rivalries in a context where armed militias were more or less in charge of the national security. Soon, stockpiles of weapons from the fallen regime reached criminal groups faster than the implementation of efficient security forces. The international society may have underestimated the efforts necessary to disarm the groups, to transition to a democratic system and to rebuild a strong security apparatus. Countries neighbours of Libya could have provided active support to the democratic transition and could have decreased the defiance towards foreign assistance by showing signs that the new Libya is welcomed and respected as a regional entity. The US President Barack Obama expressed regrets that the coalition underestimated the need to follow up:

“If you want to do this, then it is the day after Gaddafi is gone (...) at that moment, there has to be a much more aggressive effort to rebuild societies that didn't had any civic traditions (...) That's a lesson that I now imply every time I ask the question should we intervene militarily, do we have an answer the day after? ” (Obama, 8 August 2014).

Syria: is it too late to intervene?

In order to answer the question “would a military intervention in Syria have *reasonable prospects?*” one has to remind that the Syrian conflict is now in its fourth year, that it escalated from a popular protest to a civil war, and that multiple occasions were offered for the UN to decide a military intervention.

A military intervention would have been legitimate when first reports of crimes against humanity perpetrated by the Syrian regime were made available. At the end of 2011, the attacks against civilians were part of a large-scale campaign of terror from the Syrian regime to silence the protests. The Security Council could have mandated an extensive monitoring operation in the places of uprising, and it could have requested immediate cessation of violence with the threat to intervene militarily. If such plan had been assorted with sanctions directed against the regime, Bashar al-Assad would have had a clear sign that he could not continue the repression without facing consequences. If he chose to ignore them, a military intervention would have met all the criteria for granting its legitimacy. Given that the opposition was essentially unarmed at this moment, the intervention would have consisted in preventing the security forces to reach the main places where protests occurred. However, to be effective such operation would have required troops on the grounds. In order to prevent a risk of being perceived as an invasion of a Muslim country by Western powers, the participation of neighbours such as Turkey could have been instrumental.

In the context of a civil war, a military intervention for protecting human beings can be perceived more just, but can paradoxically have consequences harder to foresee. Preventing police forces to occupy a city can be regarded as a disrespectful act of interference, whereas preventing planes to drop toxic gases on cities is generally viewed as a brave act of humanity. As argued previously, a military intervention that implements a no-fly zone is the best way to prevent further attacks which are now killing most of the people in Syria. However, the Syrian opposition is now armed, controlling a significant part of the country and unwilling to negotiate with an opponent they view as the illegitimate leader of the country. Therefore, there are risks that a military intervention in Syria now leads to radical changes. These risks could include a complete military victory of the opposition and the collapse of the regime. As the opposition is divided, this first eventuality would likely result in a complete chaos similar or worse to the present Libya. Another risk would be that parts of

the country effectively protected by the military intervention and under control of the opposition, become *de facto* autonomous political entities. Now, as a consequence of the conflict, regions administered independently from Damascus actually exist on the Syrian territory under the control of opposition groups, Kurdish people or the IS.

Importantly, the Syrian conflict shifted from a pro-democracy protest to a sectarian war involving radical elements. This seems to indicate that early as 2011 and still actually, an intervention to protect people from retaliation by the Syrian regime would have had one important *reasonable prospect*, which is to prevent radical Islamic groups to gain further ground among the opposition to Bashar al-Assad. To the eyes of many oppressed Syrians, religious militants appears as a more serious way to obtain justice and freedom from tyranny, compared to the little help the international society is able to provide.

| | | <u>Libya</u> | <u>Syria</u> |
|------------------------------|--|--------------|--------------|
| <i>Independent variables</i> | <i>Just cause</i> | + | + |
| | <i>Right authority</i> | + | - |
| | <i>Right intention</i> | + | + |
| | <i>Last resort</i> | + | + |
| | <i>Proportional means</i> | + | + |
| | <i>Reasonable prospects</i> | +/- | +/- |
| Dependent variable | Military intervention for human protecting purposes | + | - |

Figure 6: Application of the most similar system analysis to Libyan and Syrian crises. Most of the independent variables are similar in both cases. The two cases differ by their final outcome, the dependent variable.

Chapter 5. Conclusion

How populations, left abandoned by their government and under threat of atrocities, can be protected by the international society? My thesis attempted to find answers to that question by examining two recent conflicts. The crises in Libya and Syria had fundamental elements in common, such as large-scale human right atrocities committed by the State on its own citizens, and the emergence of a civil war. However, the two crises differed significantly by the reactions they triggered in the international society. I have examined elements of the Libyan and Syrian crises to find out which are the facts that play a critical role in permitting the international society to intervene military for protecting the populations at risk.

Based on guidelines set out by the ICISS, concerning when and how to intervene for humanitarian purposes, I have shown that both crises in Libya and Syria present features that can motivate such military intervention. In both cases, a military intervention may have been decided because *the just cause, the right intention, the last resort, and the proportional means* were satisfied. However, the two cases differ, as *the right authority* was present in one and not in the other. I showed that this criterion was a determining factor to cause different outcome for the cases, which is that military intervention took place in Libya, but not in Syria. The inspection of the Libyan and Syrian crises also reveals that *the reasonable prospects* can have a significant influence on both determining the decision of a military intervention and its success.

Finding the right authority

The attitude of the UN Security Council, viewed as the sole body with the responsibility for maintaining international peace and security has been determinant in shaping the international action in Libya and Syria. In Libya, the Security Council succeeded, at least partly, its goal to protect humanity from conflict by mandating the military intervention that halted Gaddafi's regime attacks on civilians. The indecision of the Security Council regarding Syria is viewed as a dramatic failure of UN to protect humanity. Witness of an apparent dysfunction of the decision-making process in the Security Council, French diplomats proposed, in October 2013, a "code of conduct" for the use of veto. In situations of mass atrocities (genocide, war crimes, crimes against humanity and ethnic cleansing) the five permanent members (China, Russia, France, Britain and United States) should refrain from

using the veto. The change would be implemented through a mutual commitment from the permanent members thus avoiding to amend the UN Charter. “If the Security Council were required to make a decision with regard to a mass crime, the permanent members would agree to suspend their right to veto” (Fabius, 2013). In the French proposition, a common initiative from at least 50 member states of the UN General Assembly can lead the UN Secretary General to initiate an investigation on mass atrocities. Such measure could permit to elude quickly the nature of crimes when a crisis occurs. If the Secretary General has confirmed mass atrocities, the code of conduct would apply immediately in the Security Council. In order to be “realistically applicable”, such code of conduct would exclude cases where the vital interests of a permanent member of the Council are at stake (Fabius, 2013). However, if such changes were to be implemented in the UN system, a strong demonstration of the nature of “vital interests” would have to be required, in order to prevent a familiar deadlock of the Security Council in situations of humanitarian crisis.

Political will: a worldwide commitment to address humanitarian crises

In the RtoP principle, the “political will” is a major factor that can influence the decision to intervene militarily for human protecting purposes. We understand the political will as the action a country provides for defending some goals, because these are judged either beneficial or morally just. In the modern era, the consent of the majority of the people is becoming increasingly important for the stability of political systems. In this context, it is beneficial for a government to show its real interest for human beings, even those living abroad. The moral responsibility is thus a powerful factor to raise concern in the international society and to initiate action towards resolving a humanitarian crisis. Because non-interference is sometimes viewed as standing above the protection of humans, such moral responsibility is not always perceived as an obligation. However, a country may judge that solving a humanitarian crisis that takes place at its borders is good for its national interest, and would thus engage the political will to address the problem. The principle of RtoP may earn strength by showing that in a globalized world, a humanitarian crisis can have negative consequences for many countries located away from it. The Syrian crisis is one excellent example. First, Syrian refugees are mostly welcomed in neighbour countries, some of which are in dire economic situations and suffering from inter-community tensions. Second, the sectarian nature of the Syrian conflict promotes the radicalization of populations abroad, who identify themselves to one or the other part of the conflict. Some members of the Security

Council may feel that their country is not at risk there, but they never know if it might be the same when the next humanitarian crisis will unfold. The building of international solidarity is a *reasonable prospect* that may emerge from the increased involvement of the international society in taking action toward humanitarian crises.

In reality, most political leaders think with a shorter perspective, and one argument that can seriously oppose the decision of a military intervention for humanitarian purposes, is that such decision would have consequences that are unbearable for long-term peace. For example, one could argue that by preventing the Syrian Air force to operate and bomb civilians, you will contribute to the progression of terrorists groups. To refuse to act because of this reason does not necessarily offer better prospects, as the problem of civilian refugees fleeing to neighbour countries remains. In order to convince the international society to take action, a plan for military intervention has to be backed with measures that aim at addressing all the possible threats to peace in the host country. Ambitious measures should come with an extensive material support and should not refrain to include political changes, for example partition as in the case of South-Sudan, if it is necessary for long-term stabilization. The *reasonable prospects* of an intervention are ultimately dependent on the efforts that the international society can provide to rebuild the host country, to implement democratic institutions and to coordinate reconciliation.

“Syrians haven’t given up. The world should not give up on them.” (UNOCHA, 2015 – Yacoub El Hillo).

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