



**THE MORAL AND LEGAL IMPLICATIONS OF THE RESPONSIBILITY TO  
PROTECT: THE CASE OF LIBYA**

By

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*Submitted to*

**Bindura University of Science Education  
Department of Peace and Governance**

*In partial fulfilment for the requirements of the Master of Science Degree in Peace and  
Governance.*

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Bindura, Zimbabwe  
2017

## Abstract

*This research focused on the moral and legal implications of the Responsibility to Protect, Libya being the case study. It follows that this research provides some information on the progress of peace building in the country. The main problem identified by this study rests on the fact that the Responsibility to Protect doctrine has been held supreme to the lives of the people and quite a number of people have died. More to it, the economy of Libya has declined due to damage of infrastructure that could generate oil exports. This has eventually affected to a larger degree, the most vulnerable, women and children who have actually been seen migrating to the neighboring countries as refugees where they are also viewed with suspicion. This study became worthy studying as it sought to establish the morality and legality of the intervention by NATO as well as the impact that the intervention had. To do this, this study used qualitative methodology, and followed case study research design which gave the researcher an opportunity to have an in-depth understanding of the issues. Respondents pointed out that the R2P principle in relation to the Libyan intervention was merely mentioned but never followed. They also pointed to the controversy in interpretation of R2P by countries that constituted the United Nations Security Council brief meeting before the 2011 intervention. Other researches had pointed to the situation during the intervention and some had been superseded by time, so this research found its way in light of the knowledge gaps cited. The research concluded that morality of R2P is relative and the legality of it a paradox as the findings showed controversies on whether R2P was to be used or not. The research study recommended that the UNSC needs to be democratic enough to constitute developing countries whose representative remain a shadow yet resolutions passed there affect them.*



## **Dedication**

To my parents, husband, kinsmen whose philosophical dictum, ‘no further than the mouth is it from the nose’ always inspired me during my hunt in the academic jungle!

## **Acknowledgements**

I have been occupied with this research during many working hours. My commitment to it made me a stranger to the most important people in my life. I eventually found myself in a quandary position, to meet these social demands and/or to commit myself to research thereby occupying my very own shadowy world. I cannot refrain from expressing my thanks to my husband, who gave a nod to my commitment to this work. My son too requires special mentioning. He had to miss mom, a lot. My mom too began to wonder whether things would be the same again. Thank you for your patience and support. My sisters, you are really awesome. Gogo and uncle, your wisdom and support gave me strength whenever I wanted to give up.

My greatest thanks go to my supervisor Dr Mwatwara. He was patient with me, and he shoved me into an intellectual, through his constructive criticism. Dr Mwatwara, am indebted to you. My thanks can never be enough; compared to the help you gave me. Finally, thanks to everyone who participated in this research from its infancy to its ripening, you guys deserve more than what I can offer you.

## **LIST OF ABBREVIATIONS AND ACRONYMS**

AU- African Union

BBC- British Broadcasting Corporation

CEDAW- Convention on the Elimination of all forms of Discrimination Against Women

CRC- Convention on the Rights of the Child

GDP- Gross Domestic Product

HRW- Human Rights Watch

ICC- International Criminal Court

ICISS- International Commission on Intervention and State Sovereignty

LAS- League of Arab States

LNA- Libyan National Army

NATO- North Atlantic Treaty Organization

OHCHR- Office of the United Nations High Commissioner for Human Rights

OSC- Organization of Islamic Countries

R2P- Responsibility to Protect

SC- Security Council

UN- United Nations

UNSC- United Nations Security Council

UZ- University of Zimbabwe

ZNA- Zimbabwe National Army

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## **CHAPTER ONE**

### **1.0 Introduction**

#### **1.1 Background of the Study**

The evolution of the principle of the Responsibility to Protect (R2P) can be traced back to the 1990s, where controversy arose over a series of military humanitarian interventions into states in conflict, from which the principle of the Responsibility to Protect (R2P) developed (Wheeler, 2008). This controversy revolved around arguments supporting state sovereignty and a strict policy of non - intervention into the internal affairs of a sovereign state, and alternative arguments supporting the right of military intervention in situations of humanitarian crisis (Wheeler, 2008). The debate on interventions on the grounds of genocide or massive violations of human rights gained force at the end of the Cold War (Evans, 2008). The violent crises that took place in Somalia, Rwanda, the Great Lakes region, the former Yugoslavia and Haiti led to heated discussions, slow reactions, and controversial actions (Wheeler, 2008). With international events, the R2P zeros in on the protection of humans from abuse of their inalienable rights.

The Canadian Government took up challenge and supported the creation of the International Commission on Intervention and State Sovereignty (ICISS). In December 2001, after considerable consultation around the world, the ICISS published a report entitled R2P (ICISS, 2001). The core tenet of the R2P is that sovereignty entails responsibility. It recognizes the responsibility to protect population on the part of both national governments and the global community (ICISS, 2001). This drew on existing thinking in the 1948 International Convention against Genocide; in which the United Nations and its members recognized that there were times when sovereignty should be disregarded to prevent crimes against humanity (Evans, 2008). It went further arguing that a vital part of sovereignty was the responsibility of the state to protect its people, and that if a government is either deliberately targeting part of its population, or failing through inaction to protect them from serious harm, then it forfeits this sovereignty and the international community will be obliged to intervene to uphold these rights in particular cases (Bellamy, Davies and Glanville, 2011). It is from this backdrop that the idea of R2P gained widespread international acceptance when world leaders unanimously agreed at the United Nations 2005 World Summit and adopted it (Bellamy, 2010). This research therefore is an

attempt at finding out the extent to which R2P since its inception has been adhered to, considering its moral and legal parameters.

From the point of view of the so-called liberal intervention, the right to protection was exercised in Kosovo in 1999, when the North Atlantic Treaty Organisation (NATO) intervened against the Serbian forces that committed acts of ethnic cleansing against the Albanian-Kosovo population (Kurth, 2005). This action was justified on the grounds of the right to humanitarian intervention. NATO's action was controversial, given the lack of support from the UN Security Council due to Russia's opposition (Gray, 2006). From the start, the right to humanitarian intervention raised many doubts; in particular amongst governments and analysts from Southern countries such as Kosovo. The recent intervention in Libya has added fuel to this debate. Suspicious of the interests of some Northern states, several questions arose: Who defines when it is right to intervene? Why intervene in Kosovo and not in other similar situations such as Syria? What type of intervention is legitimate? In the case of Kosovo, several analysts, from the North and South, argued that intervention was carried out too early and too forcibly (Schnabel and Thakur, 2000). Further during the UN World Summit in 2005, a number of states voiced concern that powerful states would use R2P as a pretext to intervene in weak states or the R2P's call for military intervention could even violate international law. With these questions raised over the Albanian-Kosovo intervention, it remains to be seen whether the same questions can still be asked on the Libyan case, or the Libyan intervention is just a mere dress rehearsal of the Albanian-Kosovo case.

With the advent of R2P, the international community accepted for the first time the collective responsibility to act should states fail to protect population from genocide, ethnic cleansing, war crimes, or crimes against humanity. The Libya situation in 2011 has become the most famous instance of R2P being operational. On 26 February 2011, the UN Security Council adopted Resolution 1970, which determined that the widespread and systematic attacks against the civilian population may amount to crimes against humanity; recalled the Libyan authorities responsibility to protect its population; imposed a variety of sanctions such as an arms embargo, travel ban and assets freeze; and referred the situation in Libya to the International Criminal Court (Randelzhofer, 2012). Former Libyan President Muammar Gaddafi's lack of compliance with Resolution 1970, and his further attacks on civilians, then led to Resolution 1973 of 17

March 2011, which authorized Member States to take all necessary measures to protect civilians and civilian populated areas under threat of attack (Weiss, 2011). In the Preamble to Resolution 1973, the following determination was added: reiterating the responsibility of the Libyan authorities to protect the Libyan population and reaffirming that party to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians. Disagreements between states over the scope of the mandate for the use of force in Libya quickly emerged (Pattison, 2011). Longstanding fears among Russia, China, and other non-Western states that R2P could be used as a pretext for regime change returned to the fore as the legality and legitimacy of the North Atlantic Treaty Organization's (NATO) military action was called into question. Hence the purpose of this research is to explore the moral, legal and practical implications of the Responsibility to protect doctrine, as to whether the R2P is sincere in its jurisprudence or the implementation of it in Libya was skewed.

## **2.0 Statement of the problem**

The responsibility to protect has violated the *de jure* rights, privileges and general human dignity of the people of Libya. The NATO intervention and its failure to observe moral and legal principles of R2P have caused untold suffering of the people of Libya. The problem is punctuated by the R2P which has been held to be more supreme than the lives of the people of Libya as evidenced by the blatant and statistical death toll recorded since the NATO defacto intervention. This not only speaks volumes of subjective interpretation of R2P but sink its tentacles in political, economic and legal codes that presumably knit the interpretations together. It follows that the interpretation of R2P seems to ride above any sovereignty of States as well as human dignity and this might impact on multilateralism and bilateralism in the international relations jurisprudence. The economy of Libya has declined with a projected deficit of GDP at 28% in 2017 and downside risks remain as political stalemate continues (World Bank, 2017). This has made the people of Libya to find it difficult to meet their basic needs as prizes are skyrocketing and goods and services provision becoming minimal. This economic downturn coupled with political stalemate has jeopardised unity and progress in Libya thereby causing massive exodus of the natives of Libya to the neighbouring States. Remedy to this would be peaceful negotiations and commitment to rebuilding the country by the Libyans themselves.

### **3.0 Purpose of the study**

The goal of this study is to understand the moral and legal considerations of the R2P in bringing peace and stability in conflicting states. It follows that the implementation of R2P in Libya has had some effects which range from political, economic, social, legal, moral and demographic considerations. This study therefore intends to unpack the interplay of these dimensions in the context of legality and morality of the intervention itself.

### **4.0 Significance of the study**

This study helps the people of Libya to take inventory of their commitment to peace as the research potentially unearths some of the causes of civil unrest stifling peace and stability to prevail in the country. This research study potentially unearths the situation in Libya that presumably is punctuated by instability and general civil unrest. Before the intervention by NATO in 2011, Libya enjoyed relative peace. This study therefore indirectly makes a comparative analysis of the situation prior to the intervention and the situation today in a bid to challenge the Libyans to make introspection on what matters to them and for posterity's sake.

This research also acts as a monitoring and evaluation tool to establish the current situation in Libya and the impact that the NATO intervention had. The Arab League may benefit as they see the extent to which their sanctioning of the intervention impacted on the socio-political and economic landscape of Libya and the countries that traded with it. This research study gives the AL an opportunity to make an evaluation of the situation in Libya prior to their sanctioning of military intervention and the situation now. Potentially, the AL may learn to make rigorous attempts to resort to peaceful negotiations than mere military intervention which proves to be an antithesis of peace.

Another importance stems from the idea that the UN is the one that sanctioned the military intervention. This research works as feedback to the UN on the impact of the military intervention in Libya that it sanctioned.

Research always informs decision making and adds to the authenticity of an organisation. Bindura University as a research-driven and research focused organisation benefits from this research as it adds to the library of published research that in the long run contributes to the ranking and marketability of it.

## **5.0 Assumptions**

This study assumes that:

1. The Responsibility to Protect has failed to bring peace and stability in Libya. It follows that the UN has recorded about 6000 deaths in 2011 from January to June, an antithesis of the potential deaths that Colonel Gaddafi before the intervention would inflict, as per the motivation of the 2011 intervention (UN, 2011).
2. Adherence to the R2P statutes during the 2011 NATO intervention was not religious. It follows that bombs were thrown in a callous manner and one would wonder how such a move would 'protect' civilians.

## **6.0 Research objectives**

This study intends to:

1. Examine the moral principles guiding the Responsibility to protect concept in interventions
2. Explore the legal status of R2P in relation to intervention strategies
3. Assess the impact of the 2011 NATO intervention in Libya
4. Establish other alternative intervention strategies in troubled states

## **7.0 Research questions**

This research will be guided by the following questions:

1. How moral principles that guide R2P in interventions understood?
2. To what extent is the R2P legal as an intervention strategy?
3. How did the NATO 2011 intervention impact on Libya?
4. What other intervention strategies can be adopted to intervene in troubled states?

## **8.0 Limitations of the study**

This study encountered a challenge of accessing information from departments and ministries in the government of Zimbabwe. The researcher visits Ministry of foreign affairs, the Libyan embassy, ZNA, and UN offices seeking documents which spell out how the intervention took place, the R2P document as well as the information on how the Libyan government responded to the intervention. The researcher had to make use of documents obtained from the Centre for conflict resolution based in South Africa.

## **9.0 Delimitations of the study**

The study is confined to Libya and will cover the period from 2011 to 2017. The study will look at the creation, development and implementation of the R2P norm, from an idea promulgated in the 1990s to the development of the norm and to the eventual implementation in 2011 in the Libyan Crisis. The study will focus on the moral and legal considerations of R2P and its failures to bring peace and stability in Libya. Further, the study will explain the controversial issues surrounding R2P's military humanitarian interventions. However, the study will not cover the Arab Spring revolts that gave rise to civil war in Libya.

## **10.0 Definition of key terms**

**Morality:** is derived from a Latin word *moralis* meaning character, manner or proper behaviour. Morality then can be defined as the body of standards or principles derived from a code of conduct from a particular philosophy, religion, or culture, or it can be derived from a standard that a person believes should be universal. (Orford, 2011).

**The Responsibility to Protect (R2P):** is defined as a global political commitment which was endorsed by all member states of the United Nations at the 2005 World Summit to prevent genocide, war crimes, ethnic cleansing and crimes against humanity (Orford,2011).

**Mass atrocity:** is defined generally as large-scale and deliberate attacks on civilians. It is distinct from armed conflict, even as they usually occur in conjunction with it (Claes, 2011).

**Human rights:** this research defines human rights as liberties that people are born with, and these are inalienable and non-negotiable (Kottack, 2002).

## **11.0 Proposed chapter outline**

The research shall be comprised of five chapters.

### **Chapter one: Introduction**

This chapter has explained the background of the study which basically stipulated the information on Libya and what motivated this research. It also spelt out the problem statement which pinpointed that civil unrest has been rife in Libya and this has caused deaths and suffering of civilians, most notably, women and children. Economic decline has been cited as shown by the massive ebb in oil exports. The chapter also outlined objectives of the research, and research questions which stemmed from the former. Significance of the study was explained and the stakeholders that stand to benefit from this research were cited. Limitations and delimitations were explained. The chapter ended explaining definition of key terms which feature throughout this research study.

### **Chapter two: Literature Review and Theoretical Framework**

This chapter focused on reviewing literature. Major research studies were selected and explained using Just War Theory as lens of analysis. The Just War Theory was explained and its relevance to this research study given. One of the relevance was to ascertain whether the Libyan intervention was just or a mere extension of policy by other means, as Clausewitz, suggested in his on war theory. Gaps in knowledge were cited and point of departure for this research was given.

### **Chapter three: Research Design and Methodology**

This chapter focused on qualitative methodology and case study as the research design. These were justified in light of the topic under study. The population was explained and given as well as the sample which basically chose ZNA colonel, Lieutenants, UN senior officers, and UZ academics in the department of political science as respondents. The choice of the aforementioned was justified. Data collection included interviews with key informants and secondary sources complimenting the primary data gathered through interviews. The chapter also outlined thematic analysis as the way by which data would be presented and analysed. The chapter observed some ethics one of which was to underscore informed consent.

#### **Chapter four: Data Presentation, Analysis and Discussion Findings**

This chapter presented data gathered following the methods explained in the preceding chapter. The data was presented using the thematic analysis and views of respondents were accurately captured. Primary data was complimented by literature got from centre for conflict resolution based in South Africa as well as other information got from the departments where respondents work and the internet.

#### **Chapter Five: Summary Conclusions, Recommendations and Areas for Further Research**

This chapter makes a summary of the whole research study, from chapter one to chapter five. Every chapter's contents are summarised. Conclusions are made based on the objectives of the research and each objective is explained. Recommendations are made based on the findings explained in the preceding chapter. Areas for further research are explained and these are informed by the findings of the research.

## **CHAPTER TWO**

### **2.0 LITERATURE REVIEW AND THEORETICAL FRAMEWORK**

#### **2.1 Introduction**

This chapter seeks to review relevant literature and information in order to establish knowledge gaps regarding the concept of the Responsibility to Protect (R2P) and its moral and legal implications thereof. This is done in line with the preceding chapter's preoccupation with the research objectives and research questions which stand as a measuring stick in this research. It demonstrates how the theoretical framework best provide analytical lens for conceptualising and contextualising how the concept of R2P was implemented in Libya as basis for evaluating the sincerity and credence R2P. It discusses how the literature is related to the research problem as a basis for evaluating findings within the context of the theoretical framework.

#### **2.2 Theoretical Framework**

This research utilises the Just War Theory which recognizes that sometimes war is fought for legitimate reasons. The Just War Theory originated with the ideas of Hugo Grotius theories of natural law (Chesterman, 2001). Hugo Grotius a late 16th and early 17th century natural rights theorist is perceived as the father of international law. He defined natural law as a perceptive judgment in which things are good or bad by their own nature. Grotius' just war theory divides war into three parts to determine whether a war is conducted justly which are: 'Jus ad bellum' meaning that the justice of resorting to war, 'Jus in bello', referring to just conduct in war and 'Jus post bellum' which means that there should be justice at the end of war (Christopher, 1999). The Responsibility to protect doctrine does not explicitly contradict any of the standards for war established by Grotius (Chesterman, 2001). According to the Just War Theory, in order for a war to be just it has to be declared by the proper secular authority. Similarly, the Responsibility to protect doctrine includes a proper authority section which states that humanitarian interventions must be authorized by the United Nations Security Council and the Secretary General (ICCIS, 2001). The Just War Theory interrogates the authenticity of the Libyan intervention, the justification of it, the morality as well as the legal status of it to be worthy warranting. The theory therefore suits well with the thrust of this research study which basically thrives to ascertain the legality, morality of the intervention as well as the implications thereof.

## **2.3 Literature review**

### **2.3.1 Roots and efficacy of the Responsibility to protect doctrine**

This study tries to fill the gap between morality and legality as principles of the responsibility to protect which need to be adhered to before and during international military intervention. The R2P has become the justification for external military intervention in States for human protection purposes. Since its introduction in 2001 by the Report of the International Commission on Intervention and State Sovereignty (ICISS), several literatures have been written about it (ICISS, 2001). But, it was in Libya that the R2P was first used since its introduction and this has also generated several view points on the R2P (ICISS, 2001). In the past few decades, external military intervention for human protection purposes has been controversial both when it has happened as in Somalia, Bosnia and Kosovo and when it has failed to happen, as in Rwanda (Evans, 2001). In response to these challenges, the international community sought to articulate and implement standards for intervention by positing a responsibility to protect. The Government of Canada, together with a group of major foundations, announced at the General Assembly in September 2000 the establishment of the International Commission on Intervention and State Sovereignty (ICISS) (Evans, 2001). The Commission came out with a report which was largely completed before the appalling attacks of 11 September 2001 on New York and Washington DC, and was not conceived as addressing the kind of challenge posed by such attacks (ICISS, 2001). The report has aimed at providing precise guidance for States faced with human atrocities.

Prior to the birth of the R2P doctrine, the legality of international action against gross human rights violations was always open to debate. The ICISS (2001) report stressed that external military intervention for humanitarian protection purposes has been controversial both when it has happened as in Somalia, Bosnia and Herzegovina and Kosovo as well as when it has failed to happen, as in Rwanda. The advocates of the sovereignty principle have claimed that domestic events are not concerned with the international community. It follows that the morality and legality dimensions of R2P are seemingly trial and error since the implementation thereof is parochial and relative to the interpreters of fertile grounds for R2P implementation.

In their separate studies, Weiss and Groves (2011) note that the Responsibility to Protect initiated by the United Nations allowing military intervention into a State for humanitarian

purposes has long been a controversial topic. Meanwhile Deqiang, Seybolt and Stahn (2006), provide that the responsibility to protect reverses and modifies humanitarian intervention with; one, the responsibility to protect implies an evaluation of issues from the point of view of those seeking or needing support, rather than those who may be considering intervention; two, it acknowledges the fact that the primary responsibility rests with the State concerned that is only if the State is unable or unwilling to fulfil this responsibility, or it is itself the perpetrator that it becomes the responsibility of the interventional community to act in its place. Three, it means not just the responsibility to react, but as well the responsibility to prevent. The responsibility to prevent entails efforts to build a better early warning system, root cause prevention and economic, legal and threatened sanctions. The responsibility to react applies to the situations where preventive measures fail or the state concerned is unable or unwilling to redress the situation, wherever possible, coercive measures short of military intervention ought first to be examined and generally preferable. However, Seybolt and Stahn have not factored in the idea that the State, in line with sovereignty principles, cannot declare itself inept and unable to resolve domestic problems. In this case, the sole onus rests with external players to define a situation as constituting intervention which as a consequence might have legal and moral implications, an area that this research seeks to explore.

Deqiang (2006) states that military intervention when applied in extreme and exceptional cases should be conducted under six threshold criteria; right authority, right intention, last resort, proportional means, just cause and reasonable prospects. The responsibility to rebuild means that if military intervention action is taken, there should be a genuine commitment to help build a durable peace, and promoting good governance and sustainable development. The three pillars of the principle of responsibility to protect therefore include the first pillar which stresses that the state have primary responsibility to protect, the second pillar addresses the commitment of the international community to provide assistance to states in building capacity to protect; and the third pillar focuses on the responsibility on the international community to take timely and decisive action to prevent or halt genocide, ethnic cleansing, war crimes and crimes against humanity when a state is evidently or manifestly failing to protect its populations. Holzgrefe (2003) defines humanitarian intervention as the threat or use of force across state borders by a state or a group of states aimed at preventing or ending widespread and grave violations of fundamental human rights of individuals other than its own citizens, without the permission of

the state within whose territory force is applied. In this definition, non-forcible interventions such as the threat or use of economic, diplomatic or other sanctions; and forcible interventions aimed at protecting or rescuing the intervening state's citizens are clearly underscored. With these principles in mind, it becomes apparent that the R2P parameters are set and if religiously followed, yield set and expected goals. However, this submission is too theoretical and do not in earnest vindicate the Libyan intervention thus giving room for this research to specifically explore the Libyan case.

In his study on humanitarian intervention, Deqiang (2006) explained that humanitarian intervention is the threat or use of force by a state, group of states, or international organization primarily for the purpose of protecting the nationals of the target state from widespread deprivation of internationally recognized human rights. Implicit in this definition is unilateral intervention and multilateral intervention. Unilateral intervention refers to the use of force or intervention exercised by a state or a group of states without authorization of the UN Security Council, while multilateral humanitarian intervention is the use of force authorized by UN Security Council.

In their studies on the responsibility to protect, Western and Goldstein (2011), note that humanitarian intervention has benefited from the evolution of international norms about violence especially with the emergence of the responsibility to protect, which holds the international community having a special set of responsibilities to protect civilians by force, if necessary, from war crimes, crimes against humanity, ethnic cleansing, and genocide when national governments fail to do so. The NATO's implementation of no-fly Zone and humanitarian intervention beginning with its first air strike in Libya was thrown into controversy (Hillstrom , 2011). Not long after the UN Security Council authorised international forces to protect civilians and establish a no-fly zone, NATO seemed to go beyond its mandate as several of its members explicitly demanded that Libyan leader Muammar Gaddafi should step down (Thakur, 2011). With these research-based revelations, it remains to be seen whether responsibility to protect merely implicate removal of a country leader or drawing lines of operation in which civilian protection is ensued. In that regard, it becomes the preoccupation of this research to explore the legal and moral implications of interventions in a bid to draw parameters which Hillstrom (2011) and Thakur, 2011) would not focus on.

Despite the initial setbacks in Libya, NATO's success in protecting civilians and helping rebel forces to remove an alleged corrupt leader is was successful. NATO's intervention in Libya reflects how the world has become more committed to the protection of civilians (Ahmed, 2011) Western and Goldstein (2011) submit that despite this, the humanitarian intervention has accomplished the primary objective of Resolution 1973. It saved civilian lives by halting an imminent slaughter in Benghazi, breaking the siege of Misratah, and forcing Gaddafi's tank and artillery units to take cover rather than commit atrocities but did not explain why NATO's intervention failed to bring peace and stability in Libya, hence this research tries to fill this gap. Despite the initial military setbacks and some frustrations over the length and cost of the operation, intervention contributed to the end of the civil war between Gaddafi and the rebels which otherwise might have been much longer and more violent. However, this commendable effort is not vindicating the apparent violence and counter- development trajectory that Libya is taking.

The UNSC Resolution 1973 constitutes an unexpectedly broad authorisation for the use of force in Libya (Thakur, 2011). The mandate does not allude to a time limit nor is it substantially restrained. In respect of admissible measures, only occupation forces are explicitly excluded, which means that the deployment of ground troops was generally allowed as long as they did not seize effective control over parts of Libyan territory. Although the authorisation has a humanitarian mandate, it was not explicitly aimed at regime change. The explicit and the declared objective of the resolution, that is, the protection of civilians and civilian populated area, allowed the military measures that facilitated and advanced the overthrowing of the Gaddafi regime while protecting human rights (Claes, 2011) The violent reaction of the Libyan regime against the protests was condemned globally by international and regional organizations as well as by states and NGOs. In other words, there was a general consensus that the regime's reaction was intolerable and constituted an evident and massive violation of human rights. With the imminent threat of Gaddafi recapturing Benghazi and the rising fears that this would result in massive civilian casualties, the international community support for no-fly zone and the authorization of measures which includes military actions for the protection of civilians was overwhelming (Hillstrom, 2011). Hence the R2P doctrine was implemented in Libya for the first time through the use of force.

### **2.3.2 Controversy of the Libyan intervention in retrospect**

The moral acceptability of the intervention in Libya largely turns on two fairly tricky assessments. These are, first, whether the situation was sufficiently serious at the time the intervention was launched (the just cause question), and, second, what the predominant purposes of the intervention were that there should be a right intention (Walzer, 2011). In regard to just cause, the question is, was the situation in Libya sufficiently warranting humanitarian intervention? Walzer (2011) in his writing after the launch of the NATO intervention in Libya doubts it. He further argues that a military attack which took place in Libya was defensible only in the most extreme cases, which is indicative of his claim in *Just and Unjust Wars* that intervention is permissible only in response to acts that shock the moral conscience of mankind. Nevertheless, as has often been noted, Walzer's (2011) account of just cause seems unconvincing since, first, it arbitrarily sets the bar extremely high for intervention, and, second, it is unclear precisely what constitutes acts that shock the moral conscience of mankind. Furthermore, according to ICISS (2001) a more morally defensible test is the one proposed by the International Commission on Intervention and State Sovereignty. This test requires that there be circumstances of actual or apprehended large-scale loss of life, with or without genocide intent, which is the product of deliberate action or neglect, or large-scale ethnic cleansing, whether carried out by killing, forced expulsion, or acts of terror or rape (ICISS, 2001). More so, the question is, does the intervention in Libya meet this test? This seems likely according to Bellamy (2011). In his contribution Bellamy (2011) notes that, Qaddafi indicated that his regime intended to commit a massacre in his now infamous no mercy speech, where he called on his supporters to go out and cleanse the city of Benghazi. Moreover, by the time the intervention was launched, the regime had already demonstrated its willingness to use force against its own people, given that an estimated 1000 to 10000 people had already been killed (Bellamy, 2011).

In addition, the subsequent random shelling of Misrata provides further evidence of the regime's willingness to use force against its people (Downie, 2011). Nevertheless, although there may have been just cause for humanitarian intervention, the situation in Libya did not seem to be serious enough to provide just cause for regime change or, more precisely, forcible regime change by an external party in support of a rebel movement (Pattison, 2011). Meanwhile, the dangers of regime change are generally greater than that of humanitarian intervention because a larger number of innocent individuals are likely to be killed; the potential for instability in

neighbouring regions is greater; and the costs of intervening in terms of the intervening soldiers' lives may be much higher, given the likely need for a significant deployment of ground troops (Pattison, 2011). Given these harms, the bar for permissible regime change should be much higher than that for humanitarian intervention. This is because an exceptionally grave situation more serious than that is required for humanitarian intervention to be permissible is necessary to allow room for sufficient good to be done to outweigh these harms. However from the researcher's assessment, the bar is unlikely to have been met in Libya. Although the Qaddafi regime is brutal and oppressive, forcible regime change can all too often do more harm than good, as the war in Iraq has shown (Downie, 2011). The issue is whether the intention of the intervention is predominantly the protection of civilians (a humanitarian objective) or the removal of Qaddafi. In the early stages of the intervention, at least, it seems that the predominant intention was the protection of civilians (Pattison, 2011). In addition, Pattison (2011) highlighted that the military targets selected for bombing were largely those that were a clear threat to civilians. He further indicated that, if regime change was the primary objective initially, the coalition would have bombed Qaddafi's troops wherever they were likely to be found, with less regard for civilian casualties. Thirdly, Pattison (2011) stated that the coalition would have immediately armed the rebels and potentially deployed ground troops.

Pattison (2011) said that in the early stages of the intervention regime change did appear to be an intention, but only a secondary one. The limited scope of the intervention, the establishment of a no-fly zone and the protection of civilians as well as the desert battle space meant that there was a reasonable expectation of fidelity to the principles of *jus in bello* for example, the number of innocent casualties would be relatively low (Pattison, 2011). In addition, UN Security Council Resolution 1973 provided the coalition with the legitimate authority to intervene (ICSSI, 2001). According to Walzer (2011) the imminent attack by Qaddafi's forces on Benghazi meant that the requirement of last resort (interpreted as requiring that reasonable alternative measures be attempted before the resort of force) was met. Hence there were no other alternatives measures that would have prevented the attack. Additionally, the intervention had significant support from the individuals under threat and from the international community more generally including, notably, the Arab League (ICSSI, 2011). Fifth, the intervention had a reasonable hope of success

in protecting civilians although, as this research suggests, this point may be challenged. NATO's intervention was, then, morally permissible considering the mass atrocities which was committed by the Qaddafi regime but the current situation does not vindicate this initial justification, paving way for this research to establish whether the intervention can have a sustainable justification or not.

### **2.3.3 The legal status of R2P**

The fundamental piece of law on the legality of the recourse to war by states is the UN Charter of 1945. It makes two contributions that are central to today's legal regime on war: it outlaws the use of force on the part of individual states, and it empowers the Security Council to make all decisions on collective measures that involve military force. Article 2(4) establishes the first element by requiring that states not use or threaten force against other states. It also states that all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations (UN Charter, 1945). This is a general prohibition, set in the section of the Charter that defines the common and primary obligations of UN membership and of the organization itself, and it is often cited as the primary contribution of the UN system to international order. Therefore the use of force in Libyan crisis is prohibited according to Article 2(4) of the UN Charter. It goes along with Article 2(3), which insists that UN members settle their interstate disputes by peaceful means. Article 2(4) takes away from states the legal right to use force, and Articles 24, 39, 42, and others then deliver this power to the Security Council. These sections of the Charter establish that the Council has the primary responsibility for the maintenance of international peace and security (Article 24) and that it can take what measures it deems necessary in that pursuit, including military action against states or other threats (Article 42). However, the use of force on humanitarian intervention is seemingly a goal of the framers of the Charter to centralize the enforcement of international order in the hands of the great powers and to pacify the relations among other states by depriving them of independent legal channels to war.

Bellamy (2013), opines that R2P's legal dimension has been subject to debate as a non-binding political concept, soft law, a general principle of international law, an emerging legal norm or even as rhetorical trick which is used cleverly to shift emphasis away from the intervention of the

international community. During the GA debate regarding R2P in 2009, five delegations clearly viewed R2P as a principle without legal character and seven delegations shared the view that the doctrine is not a new one, and it is based on pre-existing obligations (Bellamy, 2013). Such controversy on whether the R2P can be used with *de jure* status makes the Libyan case a paradox.

The R2P doctrine is viewed by many supporters as a legal norm or an emerging norm of customary international law. In 2006, Weiss, one of the major researchers of the ICISS, stated that the R2P certainly qualifies as emerging customary law (Weiss, 2012). Evans (2012) indicated that the supporters of R2P argue that the explicit approval of paragraphs 138 and 139 of Resolution 60/1 has given birth to R2P as instant customary law. In addition, the practice of the UNSC in Resolutions 1973 and 1975 of 2011 manifest an *opinio juris* (Meyer, 2011). The opponents argue that R2P needs more support in international customary law rather than non-binding resolution of the GA (Evans, 2012).

A fair number of proponents of a legal obligation are of the opinion that the R2P doctrine is deeply rooted in pre-existing, treaty-based law, namely, in human rights covenants, the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the Fourth Geneva Convention, international humanitarian law and the UN Charter (Weiss, 2011). Further, Weiss (2012) believe that R2P is well-grounded in international law and it is not a completely novel idea and does not add anything new to the primary rules of international law. Tharkur (2011) also argue that R2P is not a new customary norm; indeed, R2P as a declaration has just given added emphasis to the duties that were already inherent in international law. Evans (2012), reason that a number of Articles of Draft Declaration on Rights and Duties of States of 1947, The Universal Declaration of Human Rights<sup>165</sup> or Rome Statute of the International Criminal Court of 2002 stand out as applicable to the R2P doctrine. Moreover, Bellamy (2008) hold the opinion that war crimes, crimes against humanity, genocide and ethnic cleansing are prohibited by international law and considered unlawful; thus, one can conclude that states have already the existing duty and responsibility, regardless of the R2P doctrine. As noted above, there is an inconsistency and ambiguity concerning the legal status of R2P. Anthea (2008) believes that R2P is a novel construct which innovatively uses pre-existing legal principles as building blocks for a new edifice. However from the above argument one can submit that R2P is an established hard

norm with regard to the host state, and an emerging legal norm with regards to other states and the United Nations.

Hobe (2011) indicates that academic commentators have had a tendency to deny the legal nature of R2P due to the lack of specific normative content. Masahiro (2013), indicated that what is clear is that R2P is not an international legal rule because it has not been codified in an international treaty; and it lacks the state practice and sufficient *opinio juris* to give rise to customary international law; hence does not qualify as a general principal of law. In an attempt to spell out the legal consequences of the concept of R2P postulated as a binding legal principle of international law, for the SC and its members, Anne (2011) argues that the binding legal force of R2P is not yet settled and once R2P is accepted as a full-fledged legal principle, the Security Council and its members would be under a legal obligation to authorize or to take sufficiently robust action in R2P situations. A major reason for the reluctance to accept R2P as a complete legal obligation, incumbent on the SC, is that the Council is dependent on the political will of those states which contribute troops. It therefore follows that the intervention in Libya without legal backing raises eye-brows as to establish legal vindications of such action.

Genser and Cotler (2012) further explain that the desire to legalize the R2P must be balanced against its further substantive development and expanding political consensus of support. As it appears from the debate, a lot remains to be done to enshrine R2P as a legally binding instrument with an implementation mechanism.

#### **2.3.4 Adoption of SC Resolution (1973) as a paradox**

The Arab Spring protests which occurred in Tunisia and Egypt, broke out in Libya on 15 February 2011(Masahiro, 2013).The uprising began peacefully, and later turned violent because of the brutal response of the Gaddafi regime (Bellamy, 2011). The uprising rapidly escalated to a full-fledged civil war aiming to oust the Gaddafi regime. Fermor (2012) stated that Gaddafi declared war on the opposition and by March 2011, loyalists re-controlled much of Libya, and it was highly likely that the opposition might be crushed in Benghazi. Bellamy and Williams (2011) indicated that the rapidly disintegrating situation in Libya, various regional and sub-regional organizations together with the UN condemned the gross violations of human rights in

Libya and established the grounds for future intervention. For instance, on 22nd of February 2011, the UN High Commission for Human Rights called on the authorities to stop using violence against demonstrators, which may amount to crimes against humanity (Reuters, 2011). On 22 February 2011, UN press release (2011) announced that the situation in Libya is a concrete case of R2P. Ban Ki-Moon's Special Adviser on the Prevention of Genocide said that the regime's behaviour could amount to crimes against humanity and insisted that it comply with its 2005 commitment to R2P. The EU (2011) also condemned the violations of human rights in Libya. Bloomberg news (2011) indicated that the League of Arab States (LAS), the Organisation of Islamic Countries (OIC) and the Peace and Security Council of the African Union (AU) vehemently condemned the brutal crackdown on the opposition. These condemnations however gave impetus to the usurp implementation and not necessarily to the negotiations which the R2P seems to theoretically and initially give full throttle. Williams (2011) submits that the AU was reluctant to sanction the UNSC, or consult the SC the way forward. It follows that the adoption of the resolution 1973 was a mere decision of the security council and Williams (2011) seems to have been hesitant to show that in his study in 2011 or it would be too early for Williams to have indicated that whilst the crisis was taking place. This research therefore takes it upon itself to make an informed enquiry into the processes that were at play in the sanctioning of the resolution 1973 for the Libyan intervention.

Convincing evidence of gross human rights violations was circulated by media such as Aljazeera, BBC News and France. At this stage, in response to the atrocities, the global community charged the Gaddafi regime with crimes against humanity. The UNSC adopted Resolution S-15/1 and asked the Libyan regime to meet its responsibility to protect its population and immediately put an end to all human right violations on 25 February 2011 (UNSC, 2001). The Human Rights Council opened a Special Session on 'the situation of human rights in the Libyan Arab Jamahiriya' and passed a resolution that asked the Libyan officials to halt the further bloodshed (OHCHR 2011). As the violence escalated, the SC unanimously passed Resolution 1970 and expressed deep concern about the situation in Libya and considered that the wide-spread and systematic attacks against civilian population may amount to crimes against humanity (Resolution 1970, 2011). The resolution affirmed the Libyan official's responsibility to protect its population as well as imposing an arms embargo on Libya and targeted sanctions on the Libyan administration and Gaddafi family (Bellamy and Williams, 2011). The SC also

referred the situation in Libya to the ICC (2011) to convey a strong message to Gaddafi. The interplay of these procedures and how R2P came to be implemented in Libya is a case in point. Bellamy and Williams (2011) were seemingly in support of the intervention but they seem to have lacked sight of the potential damage that intervention could cause. This research therefore submits that information is needed to make any vindications, if there are any, of the intervention, and this research seeks to do that.

Consequently, the International Criminal Court established a prima-facie case that the 'Gaddafi regime' was guilty of crimes. All the above-mentioned responses and diplomatic efforts by the global community did not manage to change Gaddafi's behaviour. Gaddafi forces continued bombarding rebels and the humanitarian crisis was deteriorating (Dembinski and Reinold, 2012). On 12 March 2011 in an unprecedented move, the Gulf Cooperation Council called for the SC to take all necessary measures to protect civilians, including enforcing a no-fly zone over Libya (Resolution 7360). Eventually, the attempts of the global community bore fruit and the UNSC followed up with Resolution 1973. On 17 March 2011 Gaddafi declared that he would stage an attack on Benghazi and threatened the rebels that his troops would show no mercy and pity hence this led to the adoption Resolution 1973 UNSC (UNSC, 2011).

### **2.3.5 The Resolution 1973 and the Responsibility to Protect**

The relationship between Resolution 1973 and the R2P can be explained by Gaddafi's speech which acted as a stimulus for the decision of the UK, Lebanon, France and the U.S. to put the draft resolution to a vote. The Resolution 1973 was adopted with 10 votes in favour and five abstentions by China, Brazil, Germany, Russia and India. The SC pointed out that if the situation in Libya continued, it would be constitutive of a threat to international peace and security. Thus, pursuant to Chapter VII of the UN Charter, the SC passed several measures including the use of military force. The Resolution 1973 also contains: the protection of civilians, the creation of a no-fly zone, an asset freeze, the enforcement of the arms embargo and a ban on flights. The most important part of the resolution is that it allowed the UN member States to take all necessary measure to protect civilians and civilian populated areas of Libya. Initially, the airstrike campaign began on the March 19th conducted by a coalition of Western states backed up by Qatar and the UAE (Reuters, 2011). On 24 March 2011, the Operation Unified Protector was

launched under the umbrella of NATO. NATO declared that the operation would be limited to the enforcement of Resolution 1973 and would be ended as soon as the Libyan government satisfied the following demands: a) End attacks against civilian populated areas. b) Withdraw to bases all military forces. c) Permit unlimited humanitarian access.

Despite these promises, the impression was quickly formed that NATO was not an impartial player. Indeed, willingly or unwillingly, it was after a regime change. Leading NATO members clarified their intention to oust the Gaddafi regime. In a remarkable jointly-signed statement, Barak Obama, David Cameron and Nicolas Sarkozy reaffirmed their commitments to the Resolution 1973; however, kept on arguing that “it is possible to imagine a future for Libya with Gaddafi in power.

### **2.3.6 Applicability of the R2P doctrine to the Libyan intervention**

The authorization of the use of military force to protect Libyan citizens against atrocities has been embraced by several member states with open arms. This agreement provides an indication of their acceptance of the R2P doctrine. A number of scholars consider Resolution 1973 a great success for the R2P principle. Secretary-General Ban Ki-Moon stated that Resolution 1973 affirms, clearly and unequivocally, the international community’s determination to fulfil its responsibility to protect civilians from violence perpetrated upon them by their own government ([www.un.org/sg/statement](http://www.un.org/sg/statement)).

Thakur (2011) stated that Resolution 1973 is a concrete example of military implementation of R2P and the intervention in Libya has guaranteed the future of the R2P doctrine. He also noted that Resolution 1973 marks the first military implementation of the doctrine of Responsibility to Protect. In fact, Weiss (2012) indicated that those in favour of the intervention viewed the military intervention in Libya as a concrete case of the Responsibility to protect policy adopted by the UN at the 2005 World Summit. According to Evans (2012), the international military intervention in Libya was not about bombing for democracy or Muammar Gadhafi's head but legally, morally, politically, and militarily it has only one justification of protecting the country’s people.

However, the case of Libya as a highly successful example of R2P and implementation of Resolution 1973 has been under fire by many member states (Boreham, 2011). In addition, Boreham (2011) stated that the use of force in Libya made a political solution more difficult to achieve. Furthermore, Resolution 1973 refers to R2P, but solely to its first element, which is the responsibility of the state to protect its citizens, in its preamble (ICISS, 2011). Significantly, the expansion of Resolution 1973 into regime change provoked severe criticism. Critics believe that the protection of civilians is the stated objective of R2P, not the removal of 'alleged' dictators. Thus, the regime change in the case of Libya might have negative effects on future attempts to invoke the R2P doctrine (Evans, 2011).

As highlighted before, the ICISS (2001), based on Just War theory, issued six criteria which must be met before intervention. First there has to be a just cause and there should be large scale loss of life which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation (ICISS, 2001). It is quite clear that it was so in the case of Libya, mainly due to the heavy casualties where the ICC estimated that about 500-700 people were killed by security forces in February 2011. As a report by the International Commission of Inquiry of the UN Human Rights Council (2012) pointed out that international crimes, specifically crimes against humanity and war crimes, were committed by Gaddafi forces ([www.responsibility to protect.org](http://www.responsibility to protect.org)).

Second there must be a right intention and the major intention of the intervention should be to halt or avert human suffering (ICISS, 2001). As noted before, a number of member states claim that NATO was after the regime change under the pretext of protecting civilians. Thakur (2012) pointed out that if stopping the killing has been the real aim, NATO states would have backed a ceasefire and a negotiated settlement rather than repeatedly vetoing both.

However, there are three distinguishing benchmarks of Libyan intervention which can guarantee that the right intention criterion is fulfilled. First, it is essential that intervention is carried out in a collective way. The military intervention in Libya was a multilateral operation. Second, the intervention must be backed by the people of that country. The population of Libya asked for an intervention to stop the gross human rights violations by the Gaddafi regime. The third element is the support of other states in the region. In the case of Libya, the GCC and LAS called on the international community for a no-fly zone and appeared utterly supportive.

([www.europesworld.org](http://www.europesworld.org)). Therefore, the three distinguishing benchmarks for a right intention for the intervention in Libya were fulfilled (Tharkur, 2012). The use of military intervention in Libya can be labelled somehow as a last resort. Prior to the intervention, several diplomatic efforts had been made and arm embargo and targeted sanctions were imposed (Bellamy, 2013). Critics claim that the case of Libya cannot be described as a last resort because peaceful measures were not fully exhausted ([www.e-ir.info](http://www.e-ir.info)). There were no attempts to apply peaceful methods to protect civilians, and the speed of the intervention by NATO has become also the target of criticism. As Simmon (2011) noted that it seems as though the UNSC was unwilling to pursue other options, and thus appears to have failed to take into account one of the primary precautionary principles enshrined by R2P.

The fourth benchmark set forth by the R2P doctrine is that the intervention must be proportional. The coalition chiefly used the enforcement of a no-fly zone, and it was rather effective (Hillstorm 20110). Thus, one can argue that the coalition applied proportional force. As Meyer (2011) noted that there are no indications that the scale, duration or intensity were out of proportion to the Libyan military intervention. However, the Libyan case has been questioned by some critics because of the arming of the rebels by NATO, which violates the principles of the R2P doctrine (Hillstorm 20110).

The fifth yardstick is Reasonable prospect. Evans (2008) posed the following question to test this criterion: “Will those at risk be overall better or worse off?” In case of Libya, it is rather difficult to respond to this question. Many believe that the NATO operation rescued tens of thousands of citizens in Libya (Evans, 2011). Nevertheless, some, including those members of the UNSC who abstained from the vote on Resolution 1973, firmly believe that NATO overstepped and abused the UNSC’s mandate (Rieff, 2011). According to Human Rights Watch (2012), the NATO-led intervention has been under attack because a considerable number of unarmed civilians were killed. As underscored before, critics also strongly condemned NATO for taking the rebel side and not observing neutrality of civilian protection as well as pursuing regime change. Findlay (2011) noted that the R2P concept stands for the prevention of the massacre of innocent civilians and not for the support of Libyan rebels.

Eventually, one can claim that the Right Authority criterion was fulfilled in case of Libya, since the R2P doctrine states that there is no better appropriate body than the United Nations Security

Council to authorize military intervention for human protection purposes (ICISS, 2001). The R2P report is also worded as following Right intention is better assured with multilateral operations, clearly supported by regional opinion (ICISS, 2011). As under-scored before, the intervention operation was multilateral and received the support of regional organizations.

Meanwhile, despite the considerable criticism, the case of Libya has been hailed as a successful first true test of R2P. Noticeably, the responsibilities to prevent and react have been addressed in Libya. However, according to ICISS (2001) paragraph 7 the international responsibility to rebuild which requires intervening actors to establish a clear and effective post-intervention strategy, has remained a critical issue. All three elements of R2P, namely, the responsibility to react, to prevent and to rebuild are of great importance to the ICISS. As noted by the ICISS (2001), R2P is about a continuum of intervention, which begins with preventive efforts and ends with the responsibility to rebuild, so that respect for human life and the rule of law will be restored. In the case of Libya, the success has been undermined by the failure of the international community to implement the responsibility to rebuild. The international responsibility to rebuild should deal with sustainable development and economic growth in Libya, as well as disarmament, national reconciliation and recovery built from the ruins of Libya's political infrastructure. Maximilian (2012) cited that although Libya is still wrestling with the underlying problems that produced the original intervention action, when taking Libya's transitional period into consideration, it is rather difficult to see how diligently the responsibility to rebuild will be pursued.

### **2.3.7 Libya in a political stalemate**

According to UNSMIL and the Office of the United Nations High Commissioner for Human Rights (2014) (OHCHR), there has been numerous attacks in Tripoli and Benghazi since May 2014, often of an indiscriminate nature due to the lack of training and discipline of militia members, the poor quality of weaponry and the spreading of the fighting to residential areas with no prior warning to allow civilians to evacuate. Human Rights Watch (2014) confirms that some indiscriminate attacks, including indiscriminate fighting in Tripoli and to the south-west of the capital, could amount to war crimes. The submissions of the aforementioned organisations on political instability are not exhaustive. It follows that these submissions are not inclusive of the

atrocities that were made by the NATO intervention. It is more logical to make a comprehensive analysis of the situation in Libya before the intervention and establish the situation then, then make a comparison in order to establish whether this civil unrest is entirely the make of the Libyans or not. The research therefore attempts to make that enquiry as it discusses the impact of the NATO intervention in Libya.

Meanwhile HRW (2016) estimated that about 250 people were killed in politically motivated assassinations between January and September 2014 in Benghazi and Darna. The perpetrators remain unknown. HRW (2016) stressed that systematic or generalised killings of civilians by conflicting parties could be considered a war crime. Non-political crime is also rising in Libya such as criminally motivated abductions, armed robberies, carjacking, burglaries, smuggling and trafficking occur frequently. Celebratory gunfire is a significant public safety issue. According to the findings of a survey conducted in Libya by the Small Arms Survey research project of 2016, insecurity is the main concern expressed by those who were interrogated, even though they declared their own neighbourhood to be safe. Fighting between militias and tribes, combined with political instability, increases the feeling of insecurity. In addition the Human Rights Watch (2017) confirmed that Libyan National Army (LNA) forces have committed war crimes, including killing and beating civilians, and summarily executing and desecrating bodies of opposition fighters in the eastern city of Benghazi on and around March 18, 2017. The army forces allegedly intercepted civilians trying to flee a besieged neighbourhood, some accompanied by opposition fighters, and the whereabouts of some civilians are unknown. These atrocities remain blame to the people of Libya, but further interrogation is needed in that area.

### **2.3.8 Economic effects of the responsibility to protect concept in Libya**

Libya's popular revolution of 2011 unleashed the potential for more diverse and inclusive growth. In the short term, the country faced the complex and costly tasks of rebuilding its economy, infrastructure, and institutions, and responding to the demands of its population, especially for improved governance. Following the lifting of earlier United Nations (UN) sanctions in 2003, economic activity increased steadily for seven years. During 2004–10, average real GDP growth was approximately 5 percent, annual consumer price inflation averaged less than 4 percent, and official foreign assets increased from \$20 billion at end-2003 to

\$170 billion at end-2010(Findlay, 2011). While the non-hydrocarbon sectors grew rapidly, underpinned by an ambitious public investment program, Libya remained one of the most hydrocarbon-dependent countries, with its exports among the least diversified in the world; its small private sector was handicapped by the ubiquitous dominance of the state and by crippling institutional failures. Consequently, social and governance indicators remained poor, job creation was lacklustre, and dependence on expatriate workers increased. Violent protests in Libya erupted on February 17, 2011, escalating rapidly into conflict. The UN Security Council imposed sanctions on Libya on 16 February 2011, which was broadened on 17 March 2011 to include a mandate for limited foreign military intervention and a freeze on Libya's foreign assets. With these restrictions on Libya, its economy has not been performing well given the interplay and strong connection between politics and development. It follows that this study intends to establish the current performance of the Libyan economy primarily focusing on the standards of living of the people of Libya.

The loss of hydrocarbon income during the conflict reduced Libya's current account surplus. Exports declined from \$48.9 billion in 2010 to \$19.2 billion in 2011, while imports dropped from \$24.6 billion to \$14.2 billion during the same period (Findlay, 2011). Findlay (2011) further points to the then current account surplus narrowed from 21 percent of GDP in 2010 to less than 4½ percent of GDP in 2011. The 2011 budget was reallocated to address the drop in hydrocarbon revenues, humanitarian needs, and a disruption of most capital expenditures, as well as first-quarter policy changes, including increased salaries. Revenue is estimated to have declined by 69 percent in nominal terms, from 57 percent of GDP in 2010 to 39 percent of GDP in 2011(Findlay). Nevertheless, Findlay's explanations have been superseded by time and were basically comparatively done with the economic status of Libya prior to the revolution. This study analyses the economic status of Libya with respect to the implementation of R2P in 2011 which undoubtedly has effects even to the present day.

The economic upheaval in Libya has had significant pullovers globally and regionally. Prior to the conflict, Libya accounted for 2 percent of global crude oil production, and the loss of Libyan oil exports created a temporary shortfall in the international market (Aljazeera, 2016). In addition, Libya had the intensification of regional turmoil due to the Libyan conflict further contributed to deterring tourism and foreign investment (Aljazeera 2016). Meanwhile, BBC

News (2017) confirms that the economic situation in Libya is in a dilapidated state. Therefore the Responsibility to Protect has had devastating effects which range from the legal and moral to the economic ebb as aforesaid.

#### **2.4 SUMMARY**

This chapter focused on the Just War Theory in explaining the moral and legal implications on the R2P and how it was implemented during the Libyan intervention by NATO in 2011. The Just War Theory showed its strength in interrogating the legality and morality of the Libyan intervention. Literature review looked at the roots and efficacy of R2P, legal status of R2P, political instability and economic collapse of Libya. These themes emerged from the studies done by several scholars and the research study established gaps in the studies thereof. The gaps shown would give this research a point of departure and subsequently justify this research study.

## **CHAPTER THREE**

### **3.0 RESEARCH DESIGN AND METHODOLOGY**

#### **3.1 Introduction**

This chapter focuses on the methodology that underpins this research. Basically this study adopts a qualitative research methodology. Case study research design is the research plan that directs this research novel. Population is described and purposive sampling is used to determine participants in the research. Interviews of key informants are done to gather relevant data. Secondary data is got from the internet and from the participants who voluntarily give the information. Data is presented using the thematic method and the research observes confidentiality and informed consent as ethical principles that guide the research process.

#### **3.2 Research design**

The research design is a comprehensive plan for data collection in an empirical research project. It is a blue print for empirical research aimed at answering specific research questions or sampling process (Bhattacharjee, 2012). Thus a research design situates the researcher in the empirical world and connects him or her to specific sites, persons, groups, institutions and bodies of relevant interpretive material including documents archives (Denzin and Lincoln, 2005).

This study made use of the case study research design. Kothari (2004) refers to case study design as an in-depth study into a particular situation or problem. It follows that a case study provides a more realistic response and gives a researcher an opportunity to be near the source of information. Case study in this case was an ideal one because it brought the researcher closer to the respondents through in-depth interviews which gave the researcher a chance to interrogate the respondents' understanding of morality and legality of R2P, as well as the impact of R2P in Libya. The case study design generates new insights about a topic under study. In this case, new insights on the dynamics of the R2P implications were found through in-depth interviews with key informants.

### **3.3 Research Methodology**

Methodology is viewed by Begley (2008) as a body of methods used in a particular activity and describes and analyses methods in research. It guides the researcher in conducting research. A qualitative methodology was used because of its ability to provide a deeper understanding of the phenomenon being investigated. Qualitative methodology uncovers trends in thought and opinions and dive deeper into the problem (Sekeran, 2007). It therefore follows that participants from different sectors participated in this research. The ZNA Colonel and Lieutenants explained on their understanding of R2P, why there was intervention in Libya as well as the impact of the intervention. Their responses were based on their participation in Libya on a peacekeeping mission in 2011. UN senior officers also provided their opinions on the same aforementioned areas and their responses were based on their experiences in Libya where they were deployed on a humanitarian mission soon after the intervention in 2011. Academics in the department of political science at UZ were also interviewed to provide their research-based knowledge of the Libyan crisis.

In addition, qualitative research was suitable for this study as articulated by Sekeran (2007) who states that it provides individual case information and is also useful for studying a limited number of cases in-depth. In that regard, it was the preoccupation of this research to find out some in-depth understanding of the dynamics of moral and legal implications in light of the R2P implementation in Libya.

Qualitative methodology is naturalistic or interpretative and is concerned with understanding the meaning people give to the phenomena within their social setting (Snape and Spencer 2003). In addition, Snape and Spencer 2003, outline a number of key elements which distinguish it from other methodologies among them are: it is the approach which provides a deeper understanding of the world, it is based on a small scale size sample, it uses interactive data collection methods such as interviews amongst others and also allows new issues and concepts to be explored. This research made use of semi-structured interviews as a data collection method as it suits well with qualitative methodology. Semi-structured interviews have an advantage of giving a researcher room for probing and with the questions on the respondents' understanding of R2P; this method gave the researcher room for further interrogation. The interviews were done using an interview guide.

### **3.4 Population**

According to Babie and Manton (2001) population constitutes the entire group of people or things of interest that the researcher wishes to investigate. In this context the target population consisted of senior officers from UN who participated in Libya on a humanitarian mission and based in Zimbabwe, political science academics from the University of Zimbabwe (UZ) who have knowledge and have written articles on R2P in Libya, and Zimbabwe National Army (ZNA) senior officers who participated in Libya on a peace keeping mission and have access to information concerning Libyan situation. A total of 15 participants was the target population drawn from the aforementioned institutions and gender considerations were involved to ensure balanced findings. The total number of 15 was workable since the sample that was taken from this would be subjected to semi-structured interviews. As a matter of principle, semi-structured interviews require a workable sample and that is why the research had to target population that would provide the most needed data.

### **3.5 Sampling**

Sampling is defined as a proportion of a population (Babie and Manton, 2001). This research adopted purposive sampling. Purposive sampling is defined by Kothari (2004) as a deliberate choice of respondents for a particular topic or problem because of their known knowledge and understanding of an issue under study. In this regard, a sample of 10 participants was purposively sampled on the basis of their knowledge of the Libyan crisis. The academics were included because they have written and published papers on Libya therefore their inclusion provided research-based knowledge and articles that would help in balancing with other data provided through semi-structured interviews with other participants. Officials from the United Nations were included because they participated in humanitarian intervention after the military intervention of 2011. Their inclusion helped the research as they gave eye witness accounts of what was going on in Libya during the crisis. ZNA senior officers too were included because they went to Libya in 2011 on a peace keeping mission and therefore they provided this research with information on how R2P is understood and how military action differ from what is written on paper.

The researcher visited the ZNA, UN and UZ's department of political science with a letter of permission given by Bindura University to carry out the research. The ZNA provided me with about five senior officers who participated in Libya and only three voluntarily accepted to

participate in the research whilst the other two cited work commitments. The UN department of humanitarian intervention provided five senior officers who were part of a team that was deployed in Libya on a humanitarian intervention. Three voluntarily accepted to participate and two cited work commitments. Two academics in the department of political science voluntarily accepted to participate because of their interests in the Libyan case. A total of 8 participants became the sample. Interviews were scheduled with these respondents on different dates as per their schedules.

### **3.6 Data collection**

Data collection is a systematic process of gathering information related to the research objectives. In this respect, semi-structured interviews with key informants were done to find out their perceptions and experiences in the Libyan crisis after the military intervention (UN and ZNA officers). Interviews were also done with academics at UZ to find out research-based knowledge. Semi-structured interview was chosen in this research study because of its ability to provide an opportunity for probing. Probing on areas where respondents cited was made possible by the use of an interview guide which basically characterises semi-structured interview method. Since these respondents were purposively sampled on the basis of their convenience to the relevant information, documents accounting the R2P intervention in Libya were also accessed from them, with their consent. The documents that were accessed consisted of the R2P principles, and the debates that surrounded the UNSC deliberations on Libya. Other documents which consisted of their purpose of mission could not be accessed. Nevertheless, the documents provided had secondary data which complimented primary data gathered through interviews. Interpolation of both primary and secondary data underscored a balanced analysis.

#### **3.6.1 Key informants interviews**

A key informant interview involves selecting individuals that have an interest and have in-depth information on the topic under discussion. According to Begley (2008) key informants interviews are conducted using interview guide that list the topic and the issues to be covered. Questions on their understanding of R2P, impact of R2P in Libya, controversies surrounding R2P adoption in Libya are some of the questions which the respondents gave answer to. Three officers from UN were interviewed because they had been in Libya doing humanitarian work and witnessed some experiences there during the military intervention in 2011. Two lieutenants and one Colonel from the ZNA were interviewed. These ZNA senior officers occupy some high

ranks within the Zimbabwean Army and were deployed to Libya on a regional peace keeping mission in 2011. They were chosen on the basis of their experience in Libya during the crisis. They provided eye witness accounts of the activities of the NATO armies and that of the citizens of Libya whom they were deployed to protect under the flagship of the AU. Two academics and specialists in the political science department at UZ were interviewed because they have written and published articles on Libya since 2011. They provided published articles on Libya which addressed some of the aforementioned questions.

### **3.6.2. Secondary data**

Secondary data for Kothari (2004) refers to that data that is already in existence and related to a particular issue. This study made use of documents obtained from the UN officers who participated in Libya during the intervention. They voluntarily provided the information. Officers from the ZNA also provided some documents on the Libyan intervention of 2011. Academics from UZ provided articles that they wrote on Libya as a way of complimenting the primary data the researcher had gotten through interviews. The researcher also had to rely on the internet to access updates of the activities happening in Libya. Newspaper articles and journals had to be accessed to augment primary data. Centre for conflict resolution in South Africa provided documents on Libya, and the controversies surrounding peace keeping missions and R2P which the ZNA, and UN senior officers failed to provide.

### **3.7 Validity and reliability**

Validity refers to how accurate a data collection instrument can be in measuring what it was developed to measure (Dillman, 2010). This study had to make reference to documented data as a way of ensuring that the information got through interviews was accurate. ZNA officers gave documents on R2P, and conditions for military intervention. UN senior officers also provided documents on R2P and humanitarian crisis. Academics in the department of political science at UZ provided articles on Libya written by different scholars which basically focused on morality of the Libyan intervention of 2011. These documents would underscore validity as they allowed a comparative analysis between responses provided in interviews and documented data.

Corbin and Strauss (2008) define reliability as the ability of data collection instruments to yield the same results when used in a similar setting. The research study made use of an interview guide with the same questions that were asked across the sample of participants. Consistency of

questions therefore ensured reliability of the method used. Questions on how R2P is defined, moral principles of R2P, legality of R2P, impact of the NATO intervention as well as alternative strategies for intervention were consistently asked. Same questions asked therefore ensured reliability of responses given.

### **3.8 Data presentation and Analysis**

Data presentation is defined as a systematic process which entails procedures on how information from research is presented (Martins, 2009). This study gathered data using semi-structured interviews (primary source of data) which was complemented by academic literature, and documents accessed from the institutions where participants belong. Data was presented and analysed using thematic analysis. Kothari (2004) defines data analysis as a process which entails cleansing, transforming, modelling and inspecting data with a purpose of discovering useful information, conclusions making and decision making. Thematic analysis was used in this research. Braun and Clarke (2006) define thematic analysis as a method which identify, analyse, and report patterns within data. In this case, thematic analysis established patterns on how R2P was and is understood, with all responses pointing to the same issue. Other patterns were established although some disagreements could be seen in other areas. The adoption of this method was made possible by its flexibility in terms of link with the Just War Theory. Some methods are tied to certain theories but thematic analysis provided flexibility and allowed for rich and detailed description of data.

### **3.9 Ethical considerations**

Creswell (1998) defines ethics as moral standards that the research should consider in all research methods in all stages of the research. This study observed informed consent and this was ensured through giving interviewees informed consent forms which they signed, indicating their willingness to participate in the study. Confidentiality of participants was observed. Their anonymity was ensured through giving them pseudonyms.

### **3.10 Summary**

This chapter indicated that case study research design was used and the methodology was a qualitative one. Population and sample consisted of officers from UN, ZNA and academics from UZ. Inclusion of these participants was justified. Interviews of key informants became the data collection method with the use of an interview guide which ensured validity and reliability. Secondary data was accessed from the ZNA, UN and UZ department of political science. Other documents were provided by the centre for conflict resolution based in South Africa. Thematic method of analysis was justified as a method of data presentation and analysis. The study underscored informed consent by ensuring that participants voluntarily sign informed consent forms indicating their voluntary participation. Confidentiality was ensured through the use of pseudonyms.

## CHAPTER FOUR

### 4.0 DATA PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS

#### 4.1 Introduction

This chapter focuses on data presentation, analysis and interpretation in light of the just war theory that underpins this research. Data obtained is presented using thematic analysis. Thematic analysis brings out emerging themes from the findings of the research. Information given is coded and transcribed into themes that are addressing the research objectives as well as filling the knowledge gaps cited in literature review. Findings are analysed to come up with a reasoned argument on the moral and legal implications of the responsibility to protect in Libya.

#### 4.2.1 Moral considerations of the Responsibility to Protect

When asked about their understanding of the concept of R2P, respondents gave a similar definition. The ZNA Colonel defined it as:

*“A commitment by member states of UN to prevent genocide, war crimes and crimes against humanity”*

An academic from the department of political science at the UZ also defined R2P as:

*“A global political commitment by member states of the UN to prevent genocide, ethnic cleansing, war crimes and crimes against humanity”*

The ZNA Colonel went on to explain the moral standing of R2P saying:

*“The R2P was globally endorsed at the 2005 world summit and revitalised in 2006 by the UN”*

Further elaboration of the mandate of R2P was given by the UN senior officer arguing that:

*“R2p is a set of principles based on the idea that sovereignty is not a privilege, but a responsibility”*

The respondents pointed out that morality and legality of R2P are not absolute but relative. The relativity of R2P then causes interventions to be based on the one willing to intervene in a perceived critical situation. ZNA Colonel pointed out that adoption of R2P is based entirely on those interpreting it and in most cases the interpretation is done by members who form the Security Council (SC) of the United Nations,

*“... There was divergence of opinion on whether to use force in Libya or not, with Germany, Brazil and others perceiving it as premature. China and Russia took a stance of non-use of force while America was vocal on imminent use of force...”*

An academic from UZ also pointed out that a robust support for intervention was fuelled by the African Union, the Arab League, Gulf cooperation council and the Islamic cooperation council. UN officer gave the same sentiment pointing out that the intervention discussions were marred by contradictions with some countries disagreeing to the adoption of resolution 1973 which gives the UNSC power to use force:

*“Other African states were lobbying for peaceful negotiations and the controversy that punctuated the SC on whether to adopt R2P or not speak volumes of how clueless and straightforward the R2P is.”*

If R2P had clearly specified moral and legal parameters which are legally binding, then adherence to it by NATO would not be difficult.

The ZNA Lieutenant pointed out that the adoption of the Resolution 1973 was abrupt and a bit rapid. He lambasted the intervention arguing that:

*“Peaceful negotiations were not given full play as there was some quick adherence to Resolution 1973 over peaceful talks.”*

Documents on UNSC deliberations on Libya even point to partial reference to R2P, with only France and Colombia making just a passing reference to it and not intending to follow it religiously (Downie, 2011). An academic in the department of political science at UZ pointed out that R2P is opted for after a State or government has proved beyond any reasonable doubt that it has failed to contain a looming civil crisis. Downie (2011) says that adoption of the 1973 Resolution was primarily driven by national parochial interests than humanitarily driven. Downie further says that the President of America Barrack Obama went on to publicly condemn Gaddafi and his government as a way of justifying military intervention. However, UN senior officer gave a different point of view to the adoption of R2P arguing that the intervention was justified considering the threats that Colonel Gaddafi had given to the people in Benghazi:

*“The statements by Gaddafi, calling the rebels as coach roaches was tantamount to a possible cleansing of the populations and therefore required an immediate action”*

The UN Senior concluded by saying that the morality of R2P heavily is relative to those interpreting the concept in relation to its applicability

As Downie (2011) notes, the R2P was being used to justify intervention, thus being used as platform for dishonest propoganda. The ZNA Lieutenant pointed out that there was no substantial evidence that Gaddafi had killed some people in Libya as other countries like Syria expressed their reservations while other countries like France felt used by the United States to champion its interests.

#### **4.2.2. Are there any case studies where the concept of Responsibility to Protect was successful?**

When asked about some case examples where R2P succeeded to restore order and normalcy, respondents gave case examples of Cote d’Ivoire and Eastern Congo where in the former; R2P was activated while in the latter, it was not. The ZNA Colonel said that:

*“The UN peacekeeping mission was deployed in 2003 and its mandate in Cote d’Ivoire was to use all necessary means to protect civilians.”*

The Colonel further reiterated that the mission had to monitor the disputable elections and in 2011, the SC passed the resolution 1975 which gave the UN peacekeepers the mandate to use all necessary means to protect civilians. A UZ academic commenting on the Cote d’Ivoire case cited the gross regime change agenda in the adoption of R2P. The academic quickly pointed out that:

*“The regional economic community backed the adoption of the resolution 1975 although the use of force by UN peacekeepers and French troops ended up blurring what was civilian protection and became regime change resulting in diverse interpretations of the 1975 resolution.”*

Vines (2016) in the documents accessed by the researcher pointed out that the UN continues to be obliged to protect civilians in the Eastern Congo but without adoption of force. Vines goes on to point out that more harm is seen in cases where R2P is applied as the peacekeepers in the field fail to adhere to the non-violent means when they perceive a seemingly threatening situation.

#### **4.2.3 Why was the concept of Responsibility to Protect formed as an International law?**

When asked about why R2P was adopted to be a binding obligation of states, respondents gave different views. A UN senior officer pointed out that:

*“The 20<sup>th</sup> century conflicts have shifted from being interstate to be intrastate with civilians being the casualties. There was a need therefore to have an international legal framework to deal with challenges like those which were experienced in Rwanda, Kosovo, Bosnia and Cambodia.”*

The ZNA Colonel pointed to the idea of hegemony arguing that:

*“The R2P was and remains the brainchild of the West to override sovereignty of States. It was activated and remains activated by superpowers to punish weaker states especially those that re perceived to be standing in their way”*

An academic at UZ pointed out that R2P was formed to be an international policy meant to safeguard human rights and avoid dress rehearsal of the Rwandan genocide as well as other cases of human security threats.

Information from documents provides similar interpretations as to why R2P was formed. Institute for global policy (2016), points to the idea of international commitment to end genocide, war crimes and ethnic cleansing. Vines (2016) argued that R2P was formed both with a purely honest commitment to end war crimes and genocide but some intentions were not aired out in the formation which include neo-colonialism and justifications for military interventions.

#### **4.2.4 Legal controversy surrounding NATO military intervention in Libya**

Respondents gave similar responses pointing to the idea that there was and remains controversy surrounding the Libyan intervention.

The ZNA Colonel pointed out that there was subjective interpretation of R2P and this complicated the whole essence of the R2P itself. The ZNA Colonel argued that:

*“The President of United States of America, Barrack Obama, publicly justified intervention and condemned Gaddafi’s position in terms of case-specific circumstances.”*

Morris (2013) quoting Obama’s speech prior to the intervention posits that the President of America talked about his country’s strategic interests and not necessarily the R2P. Morris goes

on to say that America's strategic interests were spearheaded under the guise of the R2P facade. One academic from UZ had to point out that:

*“The R2P is just a mere extension of super powers’ interests in troubled States where they perceive they can siphon strategic resources to augment their supremacist and hegemonic tendencies.”*

As such, the narratives concluded that the R2P is merely a theoretical backing for other hidden agendas that take shape in the international relations discourse. UN senior officer reiterated that the NATO military intervention was punctuated by interests in regime change as well as siphoning oil from Libya. The senior officer pointed out that:

*“The aftermath of the military intervention shows the very intentions of the intervention in the first place. The massive rush and scramble of western companies to Libya to extract oil shows that protection of civilians was not the main cause and reason for intervention.”*

It was presented by respondents that the legal status of R2P is fluid. The respondents pointed to the idea that not all nations have or are signatories to R2P. The ZNA Colonel pointed out that:

*“America, being a superpower is not a signatory to the r2p.”*

The respondents also pointed out that the legal status of R2P is therefore relative to those that constitute the Security Council where decisions are made and passed by the permanent members. According to the UZ Academic, the AU gave the mandate of mediation to South Africa by virtue of its success in mediation processes in Zimbabwe, to represent them on the Libyan case and at least find a more peaceful solution to the crisis in Libya. One ZNA Lieutenant had to say,

*“Much to the chagrin of the AU members, South Africa gave a nod to the military intervention to which the African Union member States felt betrayed.”*

One of the UN senior officers also pointed out that there is controversy on the part of interpretation and usage of R2P,

*“Being subjected to whether it should be adhered to or not, whether it can be seen as a panacea to a crisis or not shows that the R2P is just existing and surviving walking on a slippery legal route.”*

Another revelation by the Morris (2013) pointed out that the very debate that took place between Germany, Japan, China, and Russia on whether to resort to the Resolution 1973 or adopt a peaceful resolution shows that the legal standing of R2P is questionable. Loisele (2013) concurs with this point arguing that the degree of recognition of the resolutions 1970 and 1973 respectively for the transformation of the R2P into a normative international law is still disputable.

Morris(2013 further elaborates saying that the positions of these resolutions and the language States that constituted the SC debate on Libya showed that the member states felt less or not even legally obliged to protect civilian populations that were perceived to be at the mercy of Gaddafi’s alleged rapacious armies.

A UZ academic had to conclude that irregularity on adoption of R2P, made even some African governments to ridicule the SC over the intervention especially Zimbabwe, whose President, Robert Mugabe had to express his misgivings and reservations at the 67<sup>th</sup> session of the United Nations General Assembly in 2012 (UN Webcast 2012),

*“The authority that NATO got under Chapter 7 of the Charter was used to commit murders in Libya as bombs were thrown about in a callous manner”.*

ZNA Lieutenant had to argue that in the most dishonest manner, the R2P was just used to justify intervention with no zeal at all to protect civilians but the very interests of the NATO powers:

*“There was a rapid adoption of the use of force. When comparing with other states that have been through some civil unrest, dialogue and negotiations have been given full play and the international community has nodded to such efforts. Lesotho, Madagascar, Kenya and Gambia are concrete examples of the success of dialogue in solving political instability.”*

Resorting to military intervention according to Grotius’ just war theory cannot be vindicated here, especially with respect to the Libyan case. It follows that the rapid adoption of military intervention was punctuated by parochial national interests of the super powers that constitute

the NATO assembly. It follows that Walzer (2011) argues that interventions are permissible only in scenarios that shock the moral conscience of mankind. ICISS (2001) posit that an intervention is warranted when there is evidence of large scale massacre of people with or without cleansing or genocide intent. Such justification cannot be seen here considering the fact that when the UNSC approved military intervention in Libya, there was no substantial evidence of large scale killing except oral threats by Gaddafi and the apparent standoff between Gaddafi and members of the Arab League together with other western states.

#### **4.2.5. What were the effects of the NATO intervention in Libya?**

When asked about the impact of NATO intervention, respondents gave similar views. They bemoaned gross violations of human rights and suffering of the people. Female senior officer from UN pointed out that during their humanitarian work during the crisis; women became victims of abuse, rape and other forms of violence. She narrated that as civil unrest continued; most women and children became homeless and had to seek refuge in UN camps where they could be protected:

*“I could come across women and children in UN camps who had been raped and others beaten as the political crisis opened up other avenues for social evils amongst the people.”*

The ZNA Colonel concluded that the intervention was a disaster and cannot be justified on the basis that it violated the rights and privileges of women and children which the UN says should be protected as enshrined in the Universal Declaration of Human Rights and Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) as well as Convention on the Rights of the Child (CRC).

*“The Libyan intervention was a total disaster. Look at the civil unrest in the country. This is total failure he”*

The study submits that Grotius’ just war theory which emphasises on effects of war as justifying the original intent and means of intervention cannot be vindicated by the impact of the Libyan intervention of 2011. It follows that there has been an apparent decline in GDP and oil production by 90% according to the World Bank (2017) projections.

Academic from UZ pointed to the economic downturn in Libya because of the crisis. He pointed out that infrastructure which form the basis for production of goods was destroyed as civil strife continued.

*“They argued that oil forms the major resource and remains an engine for the Libyan economy. However, oil production had declined and this has been seen in the massive decline in oil exports in Libya.”*

Loiselle (2013) concurred with this observation arguing that the intervention in Libya was not just as it first attracted economic sanctions on the country which of course would never affect Gaddafi and his government but the ordinary citizens. Loiselle (2013) gives statistical evidence of the fall out of Gross Domestic Product (GDP) from 45% in 2011 before intervention to a projected 30% in 2011 soon after the intervention. The world bank (2017) have given a projected fall of GDP to 28% in 2017 if civil unrest continues as political instability has caused destruction of strategic oil production industries. The World Bank has further pointed out that about 90% of revenue from oil has been lost due to civil unrest. The World bank projection as of 2017 shows a decrease of oil production from 1.6 million barrel per day to 900,000 in six years of war economic decline which Libya is experiencing questions the sincerity of R2P as to whether it’s a pro-citizens doctrine or it just champions the interests of the powerful.

The ZNA Colonel pointed to political instability in Libya between different parties and the battles are over control of oil reserves. World Bank (2017) concurs with the Colonel’s observation arguing that the Libyan Political Agreement that was signed in December of 2015 between rival political parties based in Tripoli, Tobruk and others which would form a government of unity accord. The World Bank points out that this development has not resulted in peace and progress as recent events show range of violence by different parties some kidnapping government officials and others killing them. The Guardian (2017) has projected that as of 2017 only about 5,695 have been killed and about 20,000 injured as of June 2017. The guardian has even submitted that the *UN Report on violence against women and girls* published in 2016 was met with mixed feelings by different Islamist parties. The Guardian indicates that the General National Congress (GNC) opponents were arguing that it was supporting Islamist violence against women. The Guardian further notes that the UN Report was being accused of promoting immorality and indecency of women contrary to the statutes in the Quran and Sunnah. One

narrative concluded that the war in Libya has brought more harm than good as the UN itself has failed to bring peace to Libya as evidenced by the influx of different political parties with different motives and focus.

#### **4.2.6. What are other alternative intervention strategies apart from the use of force?**

Respondents gave similar views on alternative intervention strategies. One academic from UZ pointed out that:

*“Regional blocs should be given the responsibility and full play to make peaceful negotiations than quickly resorting to intervention.”*

ZNA Colonel whom the researcher asked about other alternative interventions that can be put in place responded by asking,

*“How can an intervention be peaceful? There is need for negotiations and peaceful dialogue”*

UN senior officer pointed to the existence of the so-called ‘Good office of the Secretary General’ which promotes dialogue and formation of Governments of National Unity as has been the case in Kenya. The UN Senior officer further noted that:

*“This measure will go a long way in ensuring peace and equal distribution of resources as unequal distribution of resources is cited as another cause which stirred the civil war. It is worthy to note the success of negotiations in Gambia, Lesotho, Kenya, and Zimbabwe. Such successes of negotiations prove that patience is needed when dealing with issues that concern world peace.”*

However, Walzer (2001) points out that patience while human lives are at risk is just an antithesis of the respect for human rights. Therefore, a combination of R2P with peaceful negotiations is rather more probable.

## **CHAPTER FIVE**

### **5.0 SUMMARY, CONCLUSIONS, RECOMMENDATIONS AND AREAS FOR FURTHER RESEARCH**

#### **5.1 Introduction**

This chapter gives a summary of the whole research and adopts conclusions on the basis of the findings and analyses arrived at in the preceding chapter. Recommendations are made in light of the set objectives, knowledge gaps and the findings. Areas for further research are suggested in light of the findings presented and these are suggested on the basis of what the research could not cover.

#### **5.2 Summary**

Chapter one looked at the background to the study where it was established that research on moral and legal implications of R2P was necessary to create a data base as well as to establish current trends into the dynamics of the effects of the intervention. The study also stated the problem statement which pointed out that moral principles of R2P were not followed and this had disastrous effects on the political set up of Libya as evidenced by civil unrest as well as a decline in GDP and oil production which forms the basis of the Libyan economy. The objectives of the study were derived from the problem statement one among them was to find out the moral principles guiding R2P in interventions. Research questions stemmed from the objectives. This study was also subjected to some limitations and delimitations. It also assumed that moral principles of R2P were not religiously followed during the Libyan intervention. Definition of terms was given in relation to the objectives of the study. Chapter two discussed the just war theory as a theoretical framework underpinning this study and established some fault lines in how the Libyan intervention was done. Literature review section focused on discussing published researches on Libya and establishing knowledge gaps. This was done in light of the theoretical framework. Chapter three discussed the case study research design as the design that this study employed. It was justified on the basis of its ability to provide a chance to the researcher to have an in-depth understanding of particular cases. Qualitative methodology was discussed and justified as well as the population and sampling method. Purposive sampling was used because of its convenience in locating key informants. Data collection method used

interviews of key informants and the inclusion of each key informant was justified. Data presentation showed that it would use thematic method of analysis. Informed consent became an ethical issue that the research would observe. Chapter four presented data using thematic method. Different opinions from the interviewees were presented on different questions which were used in interviews. The respondents pointed out that R2P is a clueless doctrine that has and can be abused by the powerful states to punish the less powerful. Respondents also pointed out that there was legal controversy as to whether r2p was to be used or not. They further argued that R2P has left Libya a struggling state with no clue as to how to face the future. Chapter five proceed with summarising the whole research study from chapter one. It also makes conclusions on the basis of the objectives of the research. Recommendations are made to the AU, UN, AL and Libya.

### **5.3 Conclusions**

**5.3.1. Objective one:** To examine the moral principles guiding the Responsibility to protect concept in interventions.

Respondents explained r2p as a legal international framework meant to prevent atrocities that can be categorised as genocide, war crimes, ethnic cleansing or crimes against humanity. Respondents also pointed out that the morality of r2p is relative as there are no legal codes and binding obligations within the r2p doctrine itself. Morris (2013) even submitted that r2p remains fluid in terms of morality as its interpretation and activation depends entirely on the members that constitute the UNSC. However, other respondents differed in understanding the morality of r2p arguing that there was justification for intervention as Colonel Gaddafi had proven beyond doubt his intention to thwart the people that had risen against his government. For these respondents, such a move to intervene was in line with r2p doctrine which intends to prevent than to control human massacre.

**5.3.2 Objective two:** explore the legal status of R2P in relation to intervention strategies.

Respondents pointed out that the legality of r2p is fluid. They pointed out that r2p remains an international framework subject to abuse by superpowers. They further noted that signatories to r2p exclude America and other countries. They further pointed out that the relative application of r2p shows that its legality is disputable. They gave a case of Eastern Congo where r2p was not

used thus giving the idea that r2p is not being regarded as part of international law framework. Welner (2011) even pointed to the idea that super powers that constituted the UNSC negotiations on whether to intervene in Libya or not, loosely gave reference to r2p which shows that the r2p doctrine has not bridged the theory-practice gap.

### **5.3.3 Objective three:** To assess the impact of the 2011 NATO intervention in Libya.

Respondents decried that the NATO intervention in Libya caused untold suffering of the generality of the people. The respondents pointed to the mass exodus of people, mostly women and children to the neighbouring countries seeking refuge. Respondents also pointed to the political and civil unrest bedevilling the country despite efforts to form a government. World Bank (2017) has pointed out that there has been a decline in oil production making the economy of Libya to decline. The World Bank attributes this decline to civil unrest which is causing damage to infrastructure.

### **5.3.4 Objective four:** To establish other alternative intervention strategies in troubled states.

Respondents indicated the success stories of peaceful dialogue in Kenya and Madagascar as indications that dialogue is the most appropriate strategy than interventions. However, Walzer (2001) disagreed with peaceful dialogue only arguing that a combination of action and peaceful dialogue is necessary as relying on dialogue alone whilst people are suffering is self-defeating.

## **5.4 Recommendations**

This study recommends to the AU that research still needs to be done to find out opinions of the Libyans themselves about the implications of the intervention. This study failed to establish the opinions of the native Libyans themselves due to geographical limitations. Further research in this regard needs to be done so that appropriate and context-specific institutional reforms are made to end the crises in the country.

The study also recommends to the UN that military interventions should be adopted when dialogue has proven beyond any shadow of doubt that it has failed. In cases where it's necessary, it must use non-violent means and must be coupled by dialogue to ensure peaceful transition so as to avoid backlash and a continued struggle for power as different parties would be struggling to save their skins.

It also recommends that the UNSC takes continued efforts to restore order in Libya. Further considerations must be done as to the choice of strategies before an intervention is made. Therefore, discussions on Libya at the international level must be done to ensure that peace and stability are restored in Libya. That would then make the UNSC responsible, not just a privileged entity to bully smaller states.

Finally, this study recommends to the people of Libya that dialogue and peaceful negotiations are necessary if peace and stability are the goals of their struggle. Fighting each other only ends with deaths and underdevelopment of their nation.

### **5.5 Areas for further research**

There is need for research to establish the perceptions and experiences of Libyans during the aftermath of the intervention.

Further research is needed to establish the effectiveness of regional blocs in ensuring regional peace and security.

Further interrogation is needed to find out the legitimacy of the UN in promoting world peace. Focus should be on whether it promotes multilateralism or bilateralism.

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## **Reports**

Report of the International Commission on Intervention and State Sovereignty, the Responsibility to protect

**RESEARCH TOPIC:**

**The moral and legal implications of the responsibility to protect: the case of Libya**

INTRODUCTION

I am kindly appealing to you to participate in this study by responding to the questions below. Your responds will be treated in strict confidence and will only be used for the sole purpose of this study. No personal names will be used therefore, please feel free to answer to the best of your ability.

I will be taking notes during the interview and may also use a device in order to capture accurate reliable information. Hope this is comfortable with you.

The interview will take about 20 to 30 minutes.

1. What are the moral considerations of the Responsibility to Protect as a norm?
2. Why was the concept of Responsibility to Protect formed as an International law?
3. Are there any case studies where the concept of Responsibility to Protect was successful?
4. Is there any legal controversy surrounding Libyan NATO intervention?
5. In your own understanding, why was Libya occupied by NATO?
6. In your own understanding, what could be the reasons why African regional blocks did not participate in the Libyan intervention?
7. What are other alternative intervention strategies apart from the use of force?
8. Did the Responsibility to Protect manage to bring peace and stability in Libya?
9. What recommendations do you give for future implementation of the Responsibility to Protect?