

Roaring in Libya, Whispering in Others: UN Security Council's Posture During the 'Arab Spring'

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ABSTRACT *This paper examines the position of the United Nations Security Council (UNSC) during the Arab revolutions of 2010-2013. In the early 1990s, the UNSC devised the doctrine of 'humanitarian intervention' which was premised on the view that systematic and comprehensive human rights violations within a state could pose a "threat to international peace and security." Nevertheless, the Security Council consistently failed to act during the course of Arab uprisings due to a number of structural and procedural problems, including the primacy of national interests, permanent members' disagreement about the meaning of 'collective security,' and the isolated nature of decision-making whereby the substance of major resolutions is negotiated behind closed doors.*

Major Problems in the Doctrine of Humanitarian Intervention

The doctrine of 'humanitarian intervention,' which the UNSC expounded in the immediate aftermath of the Cold War era, gave the Council new powers, *inter alia*, against regimes that violate human rights on a grand scale. According to Sean Murphy, humanitarian intervention can be defined as:

"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 deprivations of internationally recognized human rights."¹

UNSC actions, known as 'humanitarian intervention,' stem from humanitarian considerations such as ethnic cleansing, mass murder, illegal overthrow of democratic governments, civil wars that mostly victimize civilians, and collective human suffering due to starvation. In a remarkable departure from old orthodoxies about the definition of 'threat' to international peace as stemming

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solely from military aggression, the UNSC, in a presidential statement adopted in 1992, expressed the view that:

“the absence of war and military conflicts among States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security.”²

This meant that the essential principles of sovereignty and non-intervention would henceforward be cast aside in the pursuit of greater human rights protection, thus reflecting the general progress of international law in the direction of individual human rights and human security at the expense of the firmly established principle of ‘state sovereignty.’ The weakening of the considerations of sovereignty, at least theoretically, could justify UN sanctioned offensives against mass killings, war crimes or illegal overthrow of elected governments with bloody consequences. Indeed, by virtue of a series of resolutions originating in an expanded definition of Article 39 of the UN Charter³ concerning threats to international peace and security, the Council has since authorized

numerous military interventions in response to humanitarian crisis which have been essentially ‘domestic’ in nature.⁴ These include interventions into Somalia (1992), Haiti (1994), Libya (2011), South Sudan (2011) and Côte d’Ivoire (2011).

However, the UNSC’s performance since the endorsement of the doctrine of humanitarian intervention has not been consistent. Although scores of resolutions were passed by the UNSC condemning Serb aggression against the recognized state of Bosnia

in April 1992, members of the Council with military muscle refrained, for instance, from protecting ‘safe havens’ like Sarajevo, Bihac and Tuzla from Serb attacks. Up until the commission of genocide in Srebrenica in July 1995, when 8,000 Bosnians were wiped out by the Serb forces, the UNSC opted for a non-committal posture in the face of a long list of ‘war crimes’ and ‘crimes against humanity’ committed in Bosnia between 1992 and 1995, representing one of the low points for the UN.⁵

The dismal record of the UNSC in the course of the Rwandan genocide further eroded the prestige and credibility of this world body. Once the orgy of mass killings committed mainly by Hutu militias began in April 1994, permanent members of the UNSC such as the US and Britain spoke of this drama as a ‘civil war.’ They succeeded in limiting the Council’s objective to the attainment of a ceasefire.⁶ When the killings ended in July 1994, roughly 800,000 Rwandans, most of whom were Tutsis, had perished.

The UNSC’s performance since the endorsement of the doctrine of humanitarian intervention has not been consistent

The human rights disaster in Chechnya further tarnished the image of the UNSC in the post-Cold War era, as the Council took no action while the Russian troops, seeking to quash the armed insurrection for Chechnya's independence, committed massive war crimes against the breakaway region of Chechnya between 1994-1996 and 1999-2009. All in all, while thousands of innocent civilians were killed, nearly 300,000 Chechens out of a population of 1.1 million people were forced to leave their homes.⁷ The mass killings of innocent people in Algeria by elements of the military junta after the second round of elections was cancelled in 1991 in order to prevent the Islamic Salvation Front's victory were likewise brushed off by the UNSC.

Failure of the UNSC to act in a principled and consistent manner has served to diminish the credibility and legitimacy, not only of the Council, but the entire system of the United Nations. The very existence of permanent membership generates double standards in the application of humanitarian intervention, since there is almost no possibility of punishing the 'permanent members' of the UNSC (the US, Britain, Russia, China and France) or their allies for crimes of a humanitarian nature (or, crimes of aggression) due to the accompanying 'right of veto.' Hence, a mechanism that bypasses state sovereignty is bound to 'hurt' the states/regimes that lack patronage in the Council. Indeed all the cases of humanitarian intervention have, as far as the states at the receiving end of such operations are concerned, involved small and/or economically impoverished states, as in the case of humanitarian crisis in (northern) Iraq, Somalia, Haiti⁸ (1994) and Sudan (Darfur region; 2004 onwards)⁹.

In the remaining parts of this essay, we shall see how these factors played themselves out in the course of the Arab Spring. It has been argued that, by virtue of the doctrine of 'humanitarian intervention', the UNSC possesses the necessary powers to put in motion a series of resolutions appropriate to the specifics of a particular Arab country in order to prevent, or at least keep at a minimum, massive human rights abuses committed by most of the Arab regimes bent on maintaining the status quo. The main concerns of this presentation are formulated around the following questions: With regard to which cases did the UNSC adopt resolutions? What was the substance of the resolution(s)? Were there any cases of aborted draft resolutions? If yes, why were they aborted? How have the individual permanent members viewed the Arab revolutions? What lessons can be drawn from the UNSC's attitude in the course of the civil uprisings in the Arab world?

Revolt in Libya

A dramatic episode in modern history unfolded as truly historic events shattered the Arab world in 2010-2013 when the disgruntled Arab masses began

toppling regimes one by one in Tunisia, Egypt, Libya (coupled with international armed support) and Yemen. The uprising in Bahrain has been crushed thanks in particular to the Saudi military intervention, although the ruling dynasty promised significant changes. In the case of Syria, after peaceful demonstrations calling for an end to the authoritarian regime were confronted with a violent response by the security forces, the opposition formed armed units to wage war against the regime. Before abrogating power, the unpopular regimes sought to crush the revolts through brute force by, *inter alia*, ordering security forces to fire on demonstrators. Moreover, hundreds of demonstrators were arbitrarily arrested, some activists were kidnapped and many prisoners were tortured. Increasing civilian deaths and injuries resulted in the ensuing refugee crisis, particularly in Libya and Syria, where the confrontation between insurgents and security forces was more violent than in others. This was a historic opportunity for the UNSC to prove that it could take a principled stance in the face of these momentous events in the Arab world. Of course, this involved hard choices about whether to resort to ‘humanitarian intervention’ on account of massive human rights violations, which were undoubtedly tantamount to ‘crimes against humanity,’ committed by the crumbling regimes.

During the course of the Arab revolutions, the UNSC, relying on the doctrine of humanitarian intervention, took ‘effective action’ only in one case: the uprising in Libya.¹⁰ In this case, the Council decided to confront Libya after the Gaddafi regime declared war on demonstrators with an ensuing wave of civilian massacres. Indeed, relying on Chapter VII of the UN Charter, the UNSC passed Resolution 1970¹¹ in February 2011, which called for “an immediate end to the violence” and “steps to fulfill the legitimate demands of the population.” Resolution 1970 also referred the Libyan authorities, who were involved in human rights crimes, to the Prosecutor of the International Criminal Court (ICC). Finally, this resolution imposed an arms embargo on the Libyan state, travel ban on selected individuals assuming state authority, and asset freeze of listed individuals. While implicitly suggesting that the situation in Libya was a ‘threat to international peace and security,’ this resolution did not, however, envision forceful action against Libya. As the Libyan episode became ever bloodier, the UNSC adopted Resolution 1973, which set “to protect civilians and civilian populated areas under threat of attack” in Libya. Furthermore, under the same resolution, the whole of Libya was declared a no-fly zone. Thus, the UNSC authorized the use of “all means necessary” to protect civilians in Libya.¹² This resolution was the final product of the joint initiative by France, the US and Britain, all of which are permanent members of the Council, and was put into effect by NATO member states from March 2011. The NATO operation, in liaison with the Libyan armed opposition, succeeded in bringing down the Gaddafi regime in October 2011.¹³

From one standpoint, one could speak favorably of a resolution that authorized a no-fly zone in all of Libya against a despotic regime that had become a

'threat' to its people. Resolution 1973 could thus be praised for making civilian protection its major goal and its support of the freedom struggle of the Libyan people. From another point of view, however, the Libyan campaign may be criticized for its selectivity, the apparent imperial greed that colored the behavior of the executioners of the operation, namely the US, France, Britain and Italy, and for the arbitrary implementation of Resolution 1973, which defied its wording. Although Resolution 1973 introduced a no-fly zone, the NATO-led military operation escalated into a full-scale war with the Libyan government forces, whose specific goal was *in fact* to bring about a regime change in Libya. This was no doubt a manifestation of bad faith, a breach of the principle of *pacta sunt servanda*, and lack of respect for UN Charter rules. In the words of Schmitt, "absent such an authorization, a no-fly zone would amount to an unlawful 'use of force' against the target state, in violation of Article 2(4) of the Charter."¹⁴ Apparently, the US and Britain in particular wanted to settle 'old scores' with the Gaddafi regime, which in the past had stood up against the hegemonic endeavors of the US, Britain and Israel in the Arab world and North Africa, supported the unity of the Arab world, and nationalized some of the foreign-owned petroleum companies in the 1970s. Perhaps most important of all was the fact that Libya possessed rich petroleum reserves; thus the US and its Western allies wanted to get the upper hand in the upcoming 'scramble' for Libya.

The UNSC's assertive attitude in the Libyan crisis was not, however, matched by an equally robust posture when similar violations were being committed in the course of other Arab revolts. Indeed, during the peaceful uprisings in Egypt, nearly 850 people (almost all being civilians) were killed and 6,000 were wounded as the consequence of the dangerous standoff between protesters and security forces. In Tunisia, nearly 225 people were killed and more than 500 wounded. In Yemen, by the end of March 2012, nearly 2,000 people were killed and thousands wounded. In Bahrain, more than 70 people were killed and 2,700 wounded by early 2012. In the case of the crisis in Syria, which escalated into a civil war, about 60,000 people had been killed by the end of 2012, while at least 2.5 million people had been uprooted from their homes. For the sake of consistency,¹⁵ the UNSC could take a similarly robust stance in regards to massive human rights abuses committed against the protesters in the Arab world by employing the doctrine of 'humanitarian intervention.'¹⁶

It is now time to look at the three Arab countries that manifested the necessary ingredients for attracting the UNSC's attention in the form of an 'effective' resolution, namely Yemen, Syria and Bahrain.



The very existence of permanent membership generates double standards in the application of humanitarian intervention



Libyans protest the General National Congress in major cities last December.

EPA

Revolt in Yemen

The rulers of Yemen were likewise harsh on those who took to the streets for democratic change in the country. The security forces were ordered by the regime to shoot at demonstrators whose ‘crime’ was to call for President Ali Abdullah Saleh, who had been ruling the country since 1990, to step down and demand democratic reforms. From when the mass mobilization began in early 2011 until the end of March 2011, roughly 2,000 people, mostly innocent civilians, had been killed by government violence. The issue of the ‘escalation of violence’ in Yemen was brought to the UNSC’s attention in April 2011¹⁷. To the disappointment of the Yemeni opposition, the Council failed to adopt any decisions on this crisis. Prior to the Council meeting, Russian Foreign Minister Sergei Lavrov dashed the hopes of anti-government protesters by warning them that they should not pin their hopes on outside intervention, such as the one afforded to the insurgents in Libya. This meeting ended in failure because of Russian intransigence, although the Western members of the Council did not support taking harsh measures against the Yemeni regime. As the political strife continued unabated, the UNSC eventually adopted Resolution 2014¹⁸ on Yemen on October 21, 2011, whereby it condemned the shooting of hundreds of innocent people by security forces. The resolution also raised concerns about human rights abuses committed by both the government forces and the opposition. The Council also expressed its concern about the presence of Al-Qaida forces in Yemeni soil, called on all the parties to the conflict to end violence, and urged all the parties

in Yemen to agree on the Gulf Cooperation Council's plan for a peaceful transition of power. The resolution was remarkably soft on President Ali Abdullah Saleh and his regime, as they were apparently treated as a willing partner for an anticipated 'soft' change in Yemen. Besides, the resolution directed accusations on the opposition as well, although opposition abuses were miniscule compared to the human rights breaches of the government. Finally, the resolution was not backed up by the threat of sanctions in case that the Saleh regime declined to act in accordance with the resolution, unlike the resolutions on Libya.

Although it was known that the 30-year-old Saleh regime ordered his security forces to use deadly force against peaceful demonstrations (which began in early 2011), neither China nor Russia nor the Western states displayed any willingness to mobilize the Council against the Yemeni regime. Leaving aside China and Russia, which were motivated by fears about the erosion of state sovereignty and by national interest, the hard fact was that the Saleh regime was an ally of the West in the 'war against terror' and a reliable bulwark against the 'threat' of an Islamic takeover in Yemen.¹⁹ The same 'immunity' was also enjoyed by the Bahraini regime, which was a loyal ally of the US in the Gulf region and was considered a cushion against the likelihood of a 'radical' Islamic takeover in Bahrain. Hence, the US was apparently interested in regime stability in Bahrain, which was home to its Fifth Fleet.²⁰

Revolt in Syria

The unfolding of events in Syria has dragged the country into a terrible civil war with catastrophic consequences for the people and the nation's infrastructure. The UNSC has manifested an apparent reluctance to take military action against Syria, although horrific crimes are being committed on a massive scale by security forces or forces loyal to the government against, *inter alia*, innocent civilians. By November 2013, the death toll in Syria had escalated to well over 120,000 people.²¹ The way the Libyan and Syrian regimes reacted to the popular demands of their own people for freedom was almost identical, as both wanted to wipe out the opposition by brute force when people took to the streets for change.²² Once it became clear that the non-armed opposition would be crushed by security forces, a rebellion ensued. The state responded with the indiscriminate killing of members of the opposition on a massive scale. If any, the Syrian Baath response to the insurgents was bloodier and harsher than the one in Libya. However, "in contrast to the decisive and unified action on Libya, the Council's activities with respect to Syria have been faltering and divisive."²³

In October 2011, the US and some European states tabled a draft resolution within the UNSC calling on the Syrian government to halt its use of brute force against the demonstrators who, from March 2011, had begun demanding politi-

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cal freedom. In order to get full support from other members, the drafters deleted any reference to sanctions against Syria. However, even this watered down resolution was unacceptable for Russia and China, which vetoed the draft.²⁴ In the subsequent months, Western members of the UNSC labored once again to condemn state repression and violence in Syria. A draft resolution supporting the Arab League's peace plan for Syria was introduced in the UNSC in February 2012. The proposed text demanded that Syria immediately end violence against its people, release all individuals arrested arbitrarily, and withdraw military forces from residential areas. Finally, the resolution would, if accepted, have asked for "an inclusive Syrian-led political process conducted in an environment free from violence, fear, intimidation and extremism, and aimed at effectively addressing the legitimate aspirations and concerns of the Syrian people."²⁵

One should not lose sight of the fact that this draft did not refer to possible military intervention in case of non-compliance by Syria. Doubtless, the UNSC's military enforcement action is conditional on finding states that are ready to provide soldiers, weaponry, logistics and financing. Unless the US participates, the industrialized world shows considerable reluctance to take part in UN military operations.²⁶ In the Syrian case, the US was apparently weary of active military involvement, which prompted other Western members of the Council to seek non-military options. Even in the absence of military commitment, the motion proved too much for China and Russia, as both of them used their veto.

With few exceptions, some of which are mentioned below, Russia and China went along with the rest of the UNSC after the Cold War in cases when the Council wanted to condemn or impose sanctions against certain states for breaching international peace and security. Russia has abandoned the confrontational posture of its predecessor (Soviet Union), while China's behavior in the UNSC, which by no means is revolutionary, can be understood "as part of a persistent effort to ingratiate itself with certain members of the international community especially the United States and other members of the Western bloc."²⁷ In spite of that, however, both China and Russia did not hesitate to challenge the Western posturing in situations when their essential interests were at stake. Indeed, they jointly vetoed the draft UNSC resolutions within the past decade on Myanmar²⁸ in January 2007 (for massive human rights violations), on Zimbabwe²⁹ in July 2008 (for intimidation of and attacks on the opposition and their supporters), and on Syria in October 2011 and February 2012. What have been the motivations behind the intransigence of Russia and China concerning the Syrian case?

First, both Russia and China feel that they were deceived by the UNSC's declaration of no fly zone in Libya, as it was used by the US, Britain and France to bring down the Gaddafi regime by direct military involvement in the war, which included massive aerial bombing campaign. Second, Russia and China consider Syria to be a key ally in the Middle East and a critical outpost in the geopolitical rivalry between the US on the one hand and Russia and China on the other. Russia is in possession of a military base in Syria and is the main weapons supplier to the Syrian regime. Third, both states were apparently alarmed at the implication of the proposed UNSC resolutions on Syria for 'state sovereignty' and the principle of 'non-intervention.' They also objected to the idea of 'humanitarian intervention' in Syria. Finally, both Russia and China are against the ascendancy of Islamic political forces to power. Russia, in particular, detests the possibility of an 'Islamic takeover' in post-revolutionary Arab countries, which it fears will have direct implications over the Muslim minorities of Russia and in the new Muslim republics of the former Soviet Union.³⁰

However, the Chinese posture in the Syrian crisis appears to be inconsistent with its previous policy of paying some attention to the posture adopted by regional states when emergency arises. This is well put by Mohamed:

“China historically has given weight to the opinion of regional stakeholders; but whereas China stated that it laid significant emphasis on the support of the Arab League for a no-fly zone in Libya, it has shown no deference to the body's recommendations with respect to Syria, and instead has aligned itself solely with Russia. By doing so, China has distanced itself not only from the Arab League, but also from South Africa and India, despite its traditional cooperation with the Non-Aligned Movement.”³¹

Apparently, China is extremely concerned about its own dissidents who have long been demanding political freedom in the one-party state. Like the Syrian regime, it has acted ruthlessly against its own opposition, as the world witnessed during the Tiananmen carnage in 1989.

In addressing the UN General Assembly on February 12, 2012, Navi Pillay, the UN High Commissioner for Human Rights, said that in all probability the Syrian regime was committing 'crimes against humanity' on account of widespread civilian killings, torture and arbitrary detention, which required immediate international action.³² The UN General Assembly, in a resolution³³ on Syria which it adopted on August 3, 2012, criticized some big powers in the Council –meaning Russia and China- for disabling the potential role which the UNSC could play in the 'Syrian drama,' and condemned the Syrian regime for its heavy crackdown on opponents. The resolution explicitly mentioned the crimes committed by the Syrian security forces: “killing and maiming, arbitrary arrest, detention, torture and ill-treatment, including sexual violence and

use as human shields.” The resolution demanded that both the security forces and the armed militias fighting against the regime cease armed hostilities. It also called for the implementation of a plan for political transition in Syria. However, this resolution did not carry much ‘legal’ weight considering that the General Assembly resolutions are not binding.

A suburb of Damascus, Ghouta, was shelled by chemical weapons launched by government troops on August 21, 2013, resulting with the death of well over 1,500 people and the injury of thousands. This appalling crime brought Syria into limelight once again and was universally condemned. The calls for punitive action against the Syrian regime and firmer support for the opposition seemed, at long last, likely to bear fruit, especially with the US and some of its Western allies flexing their muscles for possible military intervention against Syria in order to cripple the military capacity of the Assad regime. (Of course, without authorization by the UN SC, this operation would be illegal.) However, in an attempt to abort the upcoming aerial operation, the Syrian regime, in close contact with Russia, offered to destroy all of its chemical weapons arsenals, resulting in the shelving of US military plans in favor of a UNSC resolution that would oversee the implementation of the Syrian pledge. Eventually, the UNSC unanimously passed Resolution 2118 on September 27, 2013, which provided for the elimination of Syria’s chemical weapons stockpile.³⁴ The single message that came out of this resolution was clear: the Syrian regime could continue to kill its people with impunity so long as it was done by conventional weapons.

The Syrian drama is precisely the kind of exception for which state sovereignty should not be allowed to get in the way of military intervention, as asserted by former Secretary-General of the UN Kofi Annan:

“Surely no legal principle—not even sovereignty—can ever shield crimes against humanity. Where such crimes occur and peaceful attempts to halt them have been exhausted, the SC has a moral duty to act on behalf of the international community. The fact that we cannot protect people everywhere is no reason for doing nothing when we can. Armed intervention must always remain the option of last resort, but in the face of mass murder it is an option that cannot be relinquished.”³⁵

The hard truth is that the resistance of Russia and China to any effective UN action against Syria is convenient for the US, which does not want a fundamental regime change in Syria that would possibly bring Islamic political forces to power. Indeed, the US is not excited about a possible military intervention in Syria based on the UNSC authorization, which is a position that contrasts with its support for robust action in petroleum-rich Libya.³⁶ The US and Russian positions on post-revolutionary Egypt and Tunisia appear similar. There is also some resemblance concerning their perception of the ‘new’ situation in Yemen and Bahrain.³⁷ In all these cases, the US, China and Russia are united in their

opposition to radical regime changes in the post-revolutionary Arab world, which could undermine the international status quo.

Revolt in Bahrain

Neither the West nor Russia nor China raised considerable objections to the forceful suppression of the opposition movement in Bahrain by government forces during the uprisings of 2011-2012. During the peaceful protests, over 70 people were killed, 2700 injured, and scores were detained illegally and/or tortured by the security forces of a regime that represented partial interests and was strongly averse to democratic change. Due to a fear of upsetting the status quo in the Gulf region, the West, Russia and China declined to stand behind the opposition in this small Gulf country.³⁸

In the view of the Bahraini regime, which was wholeheartedly shared by the members of the Gulf Cooperation Council like Saudi Arabia and Kuwait, massive and long-lasting protests against the regime were

not an expression of a deep-seated desire for change. Rather, the regime saw the demonstrations as a Shia uprising drummed up by Iran in order to enhance its political and military standing in the area. Hence, Saudi Arabia, the United Arab Emirates and Kuwait were determined to pre-empt the prospect, so to speak, of an Iranian geopolitical hold in the region at any cost. Accordingly, these three states jointly sent troops to Bahrain in March 2011 in order to quash the revolt and extend support to the 'Sunni' Khalifa family before the silent gaze of the West, Russia and China. Amnesty International and the Human Rights Watch have since condemned the harsh crackdown on protesters.

Nabeel Rajab, the president of Bahrain's Center for Human Rights, expressed his disillusionment about Western hypocrisy in the Bahraini crisis in the following words:

"We see hypocrisy. We see how they're selling arms to Bahrain at the time where they're killing their own people, and at the time they're asking the Russians not to sell arms to Syria or to Libya at that time... They are supporting the dictators here, the repressive regime. And they are not—I mean, when they speak also about the protests in Bahrain, they ask both party to stop violence, when we are protesting very peacefully. None of our people carry any arm."³⁹

Since opportunism or pragmatism, rather than principles and ideals, underlined the behavior of the P-5 in the UNSC, there has been no attempt by the Council to even condemn the brutal repression of opponents in Bahrain.

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The double standards which characterized the behavior of the UNSC during the Arab revolts do not end here. When the security forces of the Gaddafi regime began to shoot at demonstrators, the major cadres of the regime were promptly referred by the UNSC to the ICC based on the accusation of ‘crimes against humanity.’⁴⁰ This move could of course be commendable if applied consistently. However, the UNSC did not consider referring Yemeni, Bahraini or Syrian rulers to the ICC, although the security forces there took the lives of many innocent protesters, and many innocent bystanders in the case of

Syria, during uprisings. For instance, one could also legitimately ask why the UNSC declined to refer the Israeli decision-makers to the ICC when its armed forces committed all sorts of crimes against civilians during its ruthless assault on Lebanon in 2006 and Gaza in December 2008-January 2009 and November 2012.

Of course, one could not expect Russia and China to support the referral of Syria’s egregious crimes to the ICC, given their (in particular, China’s) discouraging human rights record at home, their general unease about the Council involvement in human rights issues, and refusal to become a party to the ICC’s statute. Generally, the West has likewise displayed an apparent lack of enthusiasm about pressing charges against Syrian high-level leaders because they believed that “such a reference to international criminal law at that time might impede the search for a negotiated solution to the bloody conflict.”⁴¹

A very great part of the problem lies with the UNSC’s structure, particularly: competence, as there is hardly any judicial restraint on the powers enjoyed by it; composition, as five states are privileged as ‘permanent members’; and voting system, where the permanent members are granted the right to veto unwanted draft resolutions, even if a motion is supported by the rest of the 14 states in the Council. It would be a mistake to consider the UNSC an ‘impartial’ body and an effective and consistent dispenser of international peace. On the contrary, as expressed above “the voting scheme in the SC is an area where international law and politics are heavily mixed.”⁴² Indeed, the decisions of the Council often reflect the joint will of the permanent members, which is more often than not shaped by political self-interest. In this post-Cold War order, the ostensibly *legal* rationale of the resolutions enshrined by the UNSC has in many cases been the product of ‘bargaining’ based on the foreign policy interests and priorities of the P-5. This is another way of saying that the UNSC does not act independently of the individual member states’ posture, which is frequently a reflection of foreign policy configurations. This is particularly the case for permanent members, which are tempted to interpret ‘threats to’

international peace and security from a 'political' or 'strategic' perspective, and not necessarily on the *legal* merits of a particular international crisis stemming from human rights breaches or from cases of aggression.

The absence of any judicial overview of the UNSC is also an 'invitation' to arbitrariness and selectivity. According to Article 2/7 of the UN Charter, the UN is not authorized "to intervene in matters which are essentially within the domestic jurisdiction of any state." However, the UNSC enjoys complete freedom in interpreting situations that fall into the 'domestic jurisdiction' exception, which means that a crisis *within* a state can be considered a threat to international peace and security if the Council decides. Likewise, deciding as to which actions constitute a 'threat' to international peace and security and those that fall into the ambit of (military) 'aggression' is a matter for the Council itself. Accordingly, in one conflict situation the Council may choose to impose economic sanctions or take military enforcement action against a state which it sees as 'aggressive,' while in a similar situation it may do nothing. This lack of accountability also applies in the case of serious human violations committed by a government against its own people. The Council may take action if it considers a particular situation as a 'threat' to regional or international peace, or it may avoid action if it conceives the situation as 'not sufficiently serious' or being devoid of 'international' repercussions. In the words of Forsythe, "there is no clear system of international judicial review or any other mechanism to authoritatively determine the legality of Council action. This leaves the Council as the final legal arbiter of its own actions."⁴³

An investigation to the 'effective' UNSC resolutions adopted between 2001-2011 vis-à-vis the Middle East,⁴⁴ shows that the Council declined "to display a consistent track record of sanctions against states that endanger or breach international peace and security."⁴⁵ Therefore, the incoherent and inconsistent behavioral posture of the UNSC in the midst of Arab revolutions (2010-2013) may be said to follow the same pattern. While we might be tempted to rejoice at the emergence of the doctrine of 'humanitarian intervention,' which the UNSC formulated in the early 1990s as a sign of its concern with 'human rights' and 'human security,' this new mood has been caught up in the game of power politics and the prioritization of 'national interest.' Therefore, it is no wonder that many developing countries have expressed strong misgivings about the UNSC's new activism:

"Others among the developing countries, recalling their experiences with Western colonialism or other negative experience with Western states, were not always supportive of what they sometimes saw as Western moralistic crusading. Some in this latter grouping saw the Council's expansive and intrusive action as a form of neo-colonialism in which the same old Western powers sought to dictate the internal affairs of weaker states."⁴⁶

Conclusion

Since the end of the Cold War, the UNSC has come under greater scrutiny by the international public because of its selectivity about the choice of states at the receiving end of sanctions and military enforcement actions. As well put by Fassbender, “the issue was not, as in the times of the Cold War, arbitrary obstruction of SC action by one of its permanent members, but arbitrary Council performance.”⁴⁷ Its unconvincing performance in the course of Arab uprisings since 2010 has undoubtedly reinforced this image. Indeed, a focus on the ‘Arab spring’ has shown that the UNSC has failed to exhibit a consistent track record of engagement, motivated by humanitarian considerations, in the course of the ‘Arab Spring.’ Although almost all of the incumbent regimes in the Arab Middle East and North Africa, first and foremost Syria, Libya, Tunisia, Egypt, Yemen, and Bahrain, committed massive human rights violations during the popular revolts, the UNSC only took robust action against the Libyan regime.⁴⁸ In the said case, the UNSC passed a number of resolutions that eventually culminated in the declaration of a ‘no fly zone’ over Libya. Aware of the support for the plan by the African Union and the Arab League, Russia and China chose not to ‘rock the boat’ by abstaining from the vote for Resolution 1973. With the partial exception of the Syrian crisis, it is astonishing that the workload of the UNSC and the UN Secretary-General was almost overwhelmed by the ‘Libyan file.’ Simply put, the geopolitics of oil in the Libyan context was too enticing for the Western members of the UNSC to remain aloof. The UNSC attempted to condemn and then punish the Syrian regime by virtue of a few draft resolutions for its deliberate and *en masse* killing of protesters. However, Russia and China, which are always prickly about the penetration of human rights issues into the UNSC and at high alert on the issue of state sovereignty, killed off the drafts by vetoing them. In other cases, apparently with the tacit agreement of the Western states, as well as of Russia and China, the UNSC deliberately took no notice of state violence and dispiriting human rights breaches in places like Yemen, Bahrain and Egypt. As noted before, the US and its European allies were not enthusiastic about active military engagement in Syria, mainly because of the scarcity of natural resources in its territory⁴⁹ and the unpredictability of the likely successor to the ‘secular’ Assad regime. Considerations of national interest and the amoral rationale of sheer power politics, which dominated the overall mood in the UNSC, combined to squeeze the aspirations of the beleaguered opposition in the Arab world. The UNSC even declined to ‘condemn’ incumbent Arab governments –excepting Libya- for mistreating their people. The dangerous void left by the inertia of the UNSC was partially filled by the UN bodies such as the General Assembly and the Human Rights Council, whose decisions are, alas, devoid of binding effect.

The conclusion is bound to be a bleak one. The UNSC has been losing what little credibility it has because, *inter alia*, of its unprincipled and inconsistent

posture during the course of Arab revolutions. It has also given a bad name to the UN. Therefore, a new mechanism ought to be devised to enhance the effectiveness and consistency of the Council. The multipolar nature of the current international society ought to be reflected in the structure and decision-making process of the Council. Surely, given that the Council's prestige and credibility have been standing on a slippery slope, time does not appear to be on the side of the UNSC.

Endnotes

1. On the issue of humanitarian intervention, the following studies immediately come to mind: Sean D. Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order*, (University of Pennsylvania Press, Philadelphia, 1996), pp. 11-12. D. J. Scheffer, "Toward a modern doctrine of humanitarian intervention", *The University of Toledo Law Review*, Vol. 23, 1991, 253-293; Lori Fisler Damrosch (ed.), *Enforcing Restraint: Collective Intervention in Internal Conflicts*, (New York, Council on Foreign Relations Press, 1993); Comfort Ero and Suzanne Long, "Humanitarian Intervention: A New Role for the United Nations?" *International Peacekeeping*, Vol. 2, No. 2, 1995, 140-156; Mary Ellen O'Connell, "The UN, NATO, and International Law After Kosovo", *Human Rights Quarterly*, Vol. 22, 2000, 57-89; N. J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, (Oxford, Oxford University Press, 2000); J. F. Holzgrefe and R. Keohane (eds.) *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge, Cambridge University Press, 2002); Mohammed Ayoob, "Humanitarian Intervention and State Sovereignty", *The International Journal of Human Rights*, Vol. 6, Issue 1, 2002, 81-102.
2. *Presidential Statement of the UN SC, "The responsibility of the SC in the maintenance of international peace and security"*, 31 January 1992, http://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2028_SC%20respons%20in%20maint%20IPS.pdf (retrieved on 30 December 2012).
3. Charter of the United Nations, 26 June 1945 (United Nations, New York).
4. Penelope C. Simons, "Humanitarian Intervention: A Review of Literature", Working Paper 01-2, http://ploughshares.ca/pl_publications/humanitarian-intervention-a-review-of-literature/#Guicherd (retrieved on 22 December 2012)
5. Among the numerous resolutions which the SC adopted during the Bosnian crisis are the following: UN SC Resolution No. 752, 15 May 1992, <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/011/11/IMG/NR001111.pdf?OpenElement>; UN SC Resolution No. 757, 30 May 1992, <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/011/16/IMG/NR001116.pdf?OpenElement>; UN SC Resolution No. 758, 8 June 1992, <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/011/17/IMG/NR001117.pdf?OpenElement>; UN SC Resolution No. 819, 16 April 1993, <http://daccessdds.un.org/doc/UNDOC/GEN/N93/221/90/IMG/N9322190.pdf?OpenElement>; UN SC Resolution No. 824, 6 May 1993, <http://daccessdds.un.org/doc/UNDOC/GEN/N93/262/07/IMG/N9326207.pdf?OpenElement>
6. UN SC Resolution 912, adopted on 21 April 1994 when ethnic cleansing against Tutsis was in full swing, condemned the ongoing violence in Rwanda and called for a ceasefire: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/190/85/PDF/N9419085.pdf?OpenElement>
7. A sound analysis of Chechnya's tragedy and lack of international interest can be found in Rachel Denber, "Glad to be Deceived": the International Community and Chechnya", <http://www.unhcr.org/ref-world/pdfid/402ba65c4.pdf>
8. In response to the ouster of the elected president by a coup d'état in 1991 and the ensuing civil war and refugee crisis: UN SC Resolution No. 940, 31 July 1994, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/312/22/PDF/N9431222.pdf?OpenElement>
9. Among a barrage of UN SC resolutions condemning ethnic cleansing and other crimes against humanity in the Darfur region of Sudan and imposing comprehensive sanctions and/or threat of sanctions, one could mention Resolution No. 1556, adopted on 30 July 2004, <http://www.un.org/News/Press/docs/2004/sc8160.doc.htm>; Resolution No. 1591, adopted on 29 March 2005, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/287/89/PDF/N0528789.pdf?OpenElement>

10. Since UNSC Resolution 2118 of September 27, 2013 regarding to the elimination of Syria's chemical weapons stockpile could not be considered an attempt to put an end to the mass civilian killings in Syria, this resolution could not be considered an 'effective' one.
11. UN SC Resolution 1970, 26 February 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement>
12. UN SC Resolution 1973, 17 March 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement>
13. In Libya, due to the combined effect of the civil war and NATO operations, nearly 30,000 people had been killed from all sides of the conflict at the time when the Gaddafi regime collapsed. On the unfolding of events within Libya and shifts in the American, British and French assessment of the 'Libyan crisis,' which eventually culminated in the NATO's military operation in Libya, see Jeremy Kinsman, "Libya: A Case for Humanitarian Intervention", *Policy Options*, October 2011, 81-87.
14. Michael N. Schmitt, "Wings over Libya: The No-Fly Zone in Legal Perspective", *The Yale Journal of International Law Online*, Vol. 36, Spring 2011, 45-58, p. 47.
15. Since the UN Security Council is the heart of the collective security system that represents the international society 'as a whole', one can only expect that the Security Council act consistently. Although the UN Charter does not ask the Council to act 'consistently,' it could be assumed that consistency of the Security Council's posture in regard to matters of international peace and security is a *sine quo non* for its reliability and credibility.
16. This article argues that the Security Council's inertia in the face of massive human rights violations committed by repressive Arab regimes during the Arab uprisings was due to the aversion of the permanent members to the possibility of fundamental political changes within the Arab world, which could upset the international system.
17. *The Guardian*, 20 April 2011.
18. UN SC Resolution 2014, 21 October 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/559/61/PDF/N1155961.pdf?OpenElement>
19. On Yemen's special relationship with the US, see Jeremy M. Sharp, "Yemen: Background and U.S. Relations", 1 November 1 2012, CRS Report for Congress, Prepared for Members and Committees of Congress, <http://www.fas.org/sgp/crs/mideast/RL34170.pdf> (retrieved on 19 January 2013)
20. On the special relationship between the US and Bahrain, see Kenneth Katzman, "Bahrain: Reform, Security, and U.S. Policy", March 21, 2011, CRS Report for Congress, Prepared for Members and Committees of Congress, http://assets.opencrs.com/rpts/95-1013_20110321.pdf (retrieved on 19 January 2013)
21. Of course, some of them have been soldiers and police officers serving for the state.
22. This is not to say that the uprisings in Syria and Libya were identical. Tribal loyalties also played themselves out in the Libyan case.
23. Saira Mohamed, "The U.N. SC and the Crisis in Syria", *Insights*, Volume 16, Issue 11, March 26, 2012.
24. "Russia, China veto U.N. resolution on Syria", *Washington Post*, 4 February 2012.
25. 4 February 2012, SC/10536, <http://www.un.org/News/Press/docs/2012/sc10536.doc.htm>
26. Bardo Fassbender, "Uncertain Steps into a Post-Cold War World: The Role and Functioning of the UN Security Council after a Decade of Measures against Iraq", *European Journal of International Law*, Vol. 13, No. 1, 2002, 273-303, p. 284.
27. Nigel Thalakada, "China's Voting Pattern in the SC, 1990-1995", Bruce Russett (ed.), *The Once and Future SC*, (Macmillan, 1997), 83-118, p. 87.
28. 12 January 2007, SC/8939, <http://www.un.org/News/Press/docs/2007/sc8939.doc.htm>
29. 11 July 2008, SC/9396 <http://www.un.org/News/Press/docs/2008/sc9396.doc.htm>
30. Serge Korepin & Shalini Sharan, *What does the Arab Spring Mean for Russia, Central Asia, and the Caucasus*, Center for Strategic and International Studies, September 2011, p. 9, http://csis.org/files/publication/110912_Zikibayeva_ArabSpring_Web.pdf (retrieved on 12 August 2012)

31. Mohamed, *op.cit.*

32. 66th General Assembly Plenary Meeting, GA/11206, 13 February 2012, <http://www.un.org/News/Press/docs//2012/ga11206.doc.htm>

33. 66th General Assembly Plenary Meeting, GA/11266, 3 August 2012, <http://www.un.org/News/Press/docs/2012/ga11266.doc.htm>

34. UN SC Resolution 2118, 27 September 2013, [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2118\(2013\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2118(2013)).

35. Kofi Annan, "We the Peoples': The Role of the United Nations in the 21st Century," *UN Millennium Project*, 2000, p. 48, <http://www.unmillenniumproject.org/documents/wethepeople.pdf> (retrieved on 22 December 2012).

36. This was a position largely influenced by France, which was jubilant about military action in Libya.

37. Korepin & Sharan, *op.cit.*, p. 2.

38. *Ibid.*, p. 9. For an insightful analysis of the Bahraini uprising and the core of internal and external dynamics, see Jane Kinninmont, "Bahrain: Beyond the Impasse", A Report for Chatham House, June 2012, <http://www.chathamhouse.org/sites/default/files/public/Research/Middle%20East/pr0612kinninmont.pdf> (retrieved on 19 January 2013)

39. Michael Brull, "What Western Double Standard? Syria and Bahrain", 8 June 2012, <http://overland.org.au/blogs/loudspeaker/2012/06/what-western-double-standard-syria-and-bahrain/> (retrieved on 6 August 2012).

40. UN SC Resolution 1970, *op.cit.*

41. David P. Forsythe, *The UN Security Council and Human Rights: State Sovereignty and Human Dignity*, International Policy Analysis, May 2012, p. 8, <http://library.fes.de/pdf-files/iez/09069.pdf> (retrieved on 3 August 2012).

42. Patrick McLain, "Settling the Score with Saddam: Resolution 1441 and Parallel Justifications for the Use of Force against Iraq", *Duke Journal of Comparative & International Law*, Vol. 13, 233–291, p. 261.

43. Forsythe, *op.cit.*, p. 2.

44. Such as the willingness of the SC to punish Iran for its nuclear programme and force Syrian troops out of Lebanon although the Lebanese government raised no such demand, while disregarding Israel's 'crimes against peace', 'war crimes' and 'crimes against humanity' in Lebanon (2006) and Gaza (December 2008-January 2009). Similar double standards could be seen in the broader framework of the Muslim world: Sudan faced SC sanctions for the atrocities of its security forces in the Darfur region which, in the view of the SC, was tantamount to 'crimes against humanity'; whereas the Russian atrocities in Chechnya (1994-2009) or the Ethiopian invasion of Somalia (2006) never prompted the Council into action.

45. Berdal Aral, "An Inquiry into the 'Effective' United Nations SC Resolutions Relating to the Middle East within the Past Decade", *The Muslim World*, Vol. 102, April 2012, 225-247, p. 245.

46. Forsythe, *op.cit.*, p. 4.

47. Fassbender, *op.cit.*, p. 286.

48. The resolution about the elimination of Syrian chemical weapons stocks was triggered by a joint Syrian-Russian offer which was a ploy to avert the possibility of a US-led military operation against selected military targets in Syria as a punitive action. Therefore, Resolution 2118 on Syria cannot be counted as a 'robust' action on the part of the UN SC.

49. On this point, see for instance Claude Salhani, "What does Syria's lack of oil mean for US involvement?", *The Christian Science Monitor*, 4 October 2012.