

**ATILIM UNIVERSITY**  
**GRADUATE SCHOOL OF SOCIAL SCIENCES**  
**DEPARTMENT OF INTERNATIONAL RELATIONS**  
**INTERNATIONAL RELATIONS MASTER'S PROGRAMME**

**INTERNATIONAL HUMANITARIAN INTERVENTION**  
**(THE CASE STUDY OF LIBYA 2011)**

**Master's Thesis**

**IBTESAM NASER**

**ANKARA - 2017**



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**IBTESAM NASER**

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**ANKARA - 2017**

## ACCEPTION AND APPROVAL

This is to certify that this thesis titled “International Humanitarian Intervention (The Case Study of Libya 2011)” and prepared by Ibtesam Naser meets with the committee’s approval by a majority vote as Master’s Thesis in the field of Department of International Relations following the successful defense of the thesis conducted in 15/08/2017.

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- I prepared this thesis in accordance with Atılım University Graduate School of Social Sciences Thesis Writing Directive,
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01/09/2017

**IBTESAM NASER**

## ÖZ

NASER, İbtesam. International Humanitarian Intervention (The Case Study of Libya 2011), Yüksek Lisans Tezi, Ankara, 2017.

Çalışma, yeni uluslararası sistem içerisinde insan haklarını korumak için bir mekanizma olarak uluslararası insani müdahalelerin uygulanmasına ilişkin uluslararası gelişmelerin etkisinin yanı sıra Libya vakasında, insani müdahalenin ne kadar başarılı olduğunu incelemeyi hedeflemektedir. Uluslararası sistemdeki değişiklikler, insan haklar kavramını etkilemiş ve ülkelerin yerel sorunlarından, uluslararası sorunlara odaklanmalarını zorunlu hale getirmiş değişiklikler yaratmıştır. Buna ek olarak, bağımsızlık ilkesi, mutlak bir kavramdan esnek bir kavrama doğru değişiklik yaşamış ve başka ülkelerin işlerine karışmama ilkesi, insani müdahale ilkesi adına ikinci plana atılmıştır.

Bu çalışmada araştırmacı, insani boyuta sahip olan konuları ve fenomenleri çalışmak üzere daha uygun bir yöntem olarak, betimsel analitik yönetime başvurmuştur. Bu vakanın çalışılma tarzı olarak da her yönden detaylı ve derin bir şekilde veri toplanmasıyla benzer vakalar için geçerli olan genellemelere ulaşılmıştır. Libya, 2011 yılında güç kullanılmasıyla birlikte uluslararası insani müdahale sürecini gözlemlemiş bir modeldir. Bunun yanı sıra, bu temel kavramların pek çoğunu keşfetmek ve uluslararası insan hakları, insani müdahale, bağımsızlık ve benzerleri gibi ilkelerin yapılarını ve olgusal tarihi gelişimini belirlemek üzere tarihsel bir yaklaşım da benimsenmiştir.

**Anahtar Kelimeler:** İnsan Hakları, Birleşmiş Milletler, Trablus, Libya'nın Bağımsızlığı, İnsani Müdahale, Osmanlı Kontrolü, İtalyan Kontrolü, Arap Baharı-Devrimi, NATO, Libya Krizi, Bağımsızlık

## ABSTRACT

NASER, Ibtesam. International Humanitarian Intervention (The Case Study of Libya 2011), Master's Thesis, Ankara, 2017.

The study aimed to examine the impact of international developments on the implementation of international humanitarian intervention as a mechanism to protect human rights within the new international system or to what extent has the humanitarian intervention achieved its objectives in the Libyan case. The changes of the international system has produced changes affected the concept of human rights and forced them to move from the domestic issues of the countries to the global issues, and the principle of sovereignty concept changes from an absolute concept to a flexible concept, and the principle of non-interference stepped down in favor of the principle of humanitarian intervention.

The researcher in this study depends on the descriptive analytical method as a more proper method to study the issues and phenomena which has human dimension, and style of studying the case as considered a detailed and deep style for collecting data from all sides to come out with generalizations which are applicable to similar cases, Libya has been model witnessed the process of international humanitarian intervention through using force in 2011, it has also been employing historical approach to explore many of the essential concepts and determine their nature and fact-historical development of these principles such as international human rights and humanitarian intervention, sovereignty ,etc.

**Keywords:** Human Rights, United Nations , Tripoli , Libya Independence, Humanitarian Intervention, Ottoman Control , Italian Control, Arab spring-revolution, NATO , Libyan Crisis, Sovereignty.

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## ABBREVIATIONS

- ASU: Arab Socialist Union
- AU: African Union
- BCE: Before Common Era
- GPC: General People's Congress
- GUNT: National Union Transition Government
- HRC: Human Rights Committee
- ICC: International Criminal Court
- NATO: North Atlantic Treaty Organization
- OAU: Organization of African Unity
- OPEC: Organization of Petroleum Exporting Countries
- RCC: Revolutionary Command Council
- UK: United Kingdom
- UN: United Nations
- USA: United States Of America
- USSR: Union of Soviet Socialist Republics
- U.S: United States
- UTA: Union de Transports Aériens
- WWI: First World War
- WWII: Second World War

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## INTRODUCTION

The international system showed many changes after the end of Cold War, which results with new range shifts and new challenges, which affects international relations hardly, because of overlapping and complexity of these transformations, by the leading of one Polar leadership by the Western liberal camp.

International charters and conventions focused on protected human rights, and human rights considered as sacred and should not be violated, these agreements also gave the international dimensions for human rights. this opened the way for states and non-governmental organizations and international and regional organizations to support the right of humanitarian intervention in Libya, especially the United Nations, in which the role of the Security Council in field of International peace and security has been expanded, by recourse to some procedures and measures either military or non-military under the chapter VII of the United Nation's Charter in order to protect human rights.

The right to intervene is being mentioned strongly against the principle of non-interference, which is stipulated in the Charter of the United Nations, and that humanitarian intervention in some respects carrying assault on national sovereignty, on other hand is to protect individual rights from the repressive practices of authoritarian regimes whose hiding behind the idea of sovereignty and the principle of non-interference, despite the declared lofty goal of the international humanitarian intervention the problem is in the duality in execution and using it as a mean to achieve political and economic goals, and to interfere the entire issues of that countries, especially in Arab countries examples the human rights is a mean to undermine its sovereignty.

In 2011 in many Arab countries Popular movements and revolutions asking for freedom and basic rights occurred, but in Libya a political and humanity crisis had occurred which reached to a high level of armed violence, which Summoned the attention of the international, regional and Arab society, and the result was resorting to

Chapter VII of the Charter of the United Nations. Security Council passed resolutions Nos. 1970 and 1973, which contain the use of force and other measures to be taken by the international community to confront these events, and activation of the responsibility to protect by the United Nations, and this international intervention for humanitarian purposes led to end the rule of the Qaddafi regime by force.

## **1. THEORETICAL FRAMEWORK**

### **1.1. Problem**

What is the impact of international variables on the international humanitarian intervention as a mechanism to protect human rights within the new international order and to what extent humanitarian intervention has achieved its objectives in the case of Libya?

### **1.2. Hypotheses**

The study seeks to verify the validity of the following assumptions:

- 1- The correlation between the human rights violations in the country and the possibility of international humanitarian intervention and the detraction of the sovereignty of that country.
- 2- International Humanitarian intervention under specific and standard terms works as effective tool in achieving human rights protection but in some cases, such as our case study (Libya) it revealed the fact-dimensional of western expansion and the quest for control of oil resources and wealth

### **1.3. Objectives**

This study aims to achieve the following goals:

- 1- To understand and to analyze the nature and the relations between international variables and on the other hand the term of international humanitarian intervention.
- 2- To highlight the humanitarian intervention phenomenon from the meaning, development, types, and mechanism sides.
- 3- Extraction the range of effects of humanitarian intervention on states sovereignty.
- 4- To Show the legality and the restrictions of international humanitarian intervention for human rights protection according to international law.
- 5- To identify the Legal basis given as pretext for international intervention in Libya.

- 6- To display the direct and indirect motives to humanitarian intervention in Libya.
- 7- To analyze the results of humanitarian intervention in Libya in comparing with other humanitarian interventions.

#### **1.4. Research Questions**

- 1- What is the nature of theoretical and legal basis that established the concept of humanitarian intervention?
- 2- What are the dimensions of humanitarian intervention and its effect on the national sovereignty of the state?
- 3- Is it possible that humanitarian intervention has become an acceptable legitimate base for members of the International Group?
- 4- Who authorized to achieve the humanitarian intervention?
- 5- What is the effectiveness of the contribution of international humanitarian intervention in Libya in completing the task of protection and bring stability and security and build a new Libyan state?

#### **1.5. Importance**

The importance of this study is being at the core of international relations studies and discussing the international humanitarian intervention and shed light on the case of Libya, and the importance of the study due to a number of considerations, including:

Within the limits of our knowledge there are no previous studies on the subject of international humanitarian intervention in Libya in 2011 and our desire to search stems from our sense of the need for a good understanding of the implications of this issue.

The current sharp rise of the phenomenon of internal crises in the Arab countries and its direct impact on the international, regional and domestic stability, and the consequent humanitarian and legal responsibility of the international system towards them.

The Increasing of political and legal debate over the concept of humanitarian intervention and the posed problems.

The desire to delve deeper into the real reasons for international intervention for humanitarian purposes in Libya, highlighting its effects.

## **1.6. Methodology**

The researcher used descriptive approach because it is more common and fitter in studying issues belong to humanity, and consider as a suitable method to perform the analytical descriptive of this phenomenon by collecting the information.

Descriptive approach contains lots of sub methods like case study by picking a case in which the researcher deeply study it, and in Libyan example which saw the humanitarian intervene by force, so the method based upon search deeply and standing on all its aspects and taking all variations in consideration which leads to more accurate results.

## **1.7. Terminology**

### **1.7.1. Humanitarian intervention**

In politic literature is a general authority performed by a state on land of other one without its permission, and this term can't cover nowadays issues because it limits the intervention by one state although it could be done by a group of states or just like NATO. For that *Raymond John Vincent* put another terminology as the following: works which done by a state or a group within frame of state or group of states or international association to intervene by using power in internal issues of another state, and has beginning and end and against the Authoritarian regime of that state, could be Legal and illegal but it Violates the traditional example of international relations.<sup>1</sup>

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<sup>1</sup> John Bellis and Steve Smith , *Awlamet Alseias Alalameia*, Dubai, Merkez Alkhaleej Lelabhath., 2004, p. 981

### 1.7.2. Human rights

It is a group of demands and needs which have to be available to all people, in any society, without skin color or type religion or original discriminations, the term right can be changed by time and places for that it's hard to put Comprehensive and precise definition for the term human rights, right is the power of will and the person has the right to fulfill this power on all Material things which consist the right.<sup>2</sup>

### 1.7.3. The International system

*Waltz* said it is a group of units which interact with each other. But *Stanley Hoffman* was more accurate as he saw it is a relation method between the basic international unites, and this method determined by a building or the structure of the world, and some changed could occur to this system through technological developments or changes in basic goals of unites of system, or as a result of changes in struggle between these unites. The international system means a political unites either at level of countries or smaller or larger than, which interact in between to reach a reciprocal reliably in which these unites work as integrated parts work together.<sup>3 4</sup>

### 1.7.4. Sovereignty

It is adjective to authority, and authority with sovereignty form beside place and population columns of state, and without those 3 aspects state never formed, sovereignty is the most important adjective in modern states and people who owned it according to the theory of sovereignty of the people, or nation because it is a group of people according to the theory of sovereignty of the nations.

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<sup>2</sup> Ahmed Al - Rashidi, *Hukuk Alinsan : Deraset Mukarana fe Alnazarea wa Altatbeek*, Cairo, Maktabt Al-Shorouk Al-Dawlea., 2003, p.35.

<sup>3</sup> Abdul Muneem Saeed, *Al Arab wa Mustakbal Alnitham Alalami*, Beirut, Markaz Derasat Al wahda Al Arabia, 1987, p 17.

<sup>4</sup> Imad Jabir., "Al Nitham Al Alamy", *Majallat Al Seasa Al dowliea*, No. 148, April, 2002, p 34.

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## 2. INTERVENTION VERSUS SOVEREIGNTY

### 2.1. Human Rights in the Garden of International Changes

The interest in Human rights issues is the most significant feature of the nowadays international system through the last 3 decades, and human rights issue played a big rule in many revolutions along human history, which shows the importance to be recognized and to be protected and to give all efforts and spirits in seek of it.

And individual rights no longer considered as a sovereignty of the state in which no rights to international society to intervene, on the contrary these rights became with a big international meaning, and one of the most features to be taken in order to judge states behaviors, so this level aims to recognize Human rights and its developments in the garden of international shifts which appeared after the second world war, and international safeguards and mechanisms for the protection of human rights and the effects of these shifts in international system on human rights.

#### 2.1.1. The Meaning of Human Rights

*Magna Carta* considered as the greatest agreement in 1215, which is a right agreement to guarantee the basic human rights, which was written in king John of England's time, for the King to give up certain rights, and it shows to the basic rights and freedom for all human beings, which included the right for living and freedom, and the rights of thinking and expression and equality in front of law, and this agreement takes its value from King subjected to the rule of law and resist the tyranny of King is not considered as an unlawful act.<sup>5</sup>

The phrase "human rights" is relatively new, but the natural rights was the term used in previous decades especially in Middle Ages in Europe that's the human rights are the rights guarantee of keeping lives of human beings which related to its nature in

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<sup>5</sup> Osman Al-Hilaly ,”Hukuk Alinsan wa Dawor Monazmat Hukuk Alinsan fe Hemaitha, Kadia”, *Selesela Shahria, Almarkez Aldwale Lederasat Almostakbalia wa Estraejia*, Vol. 9 No:3, March 2005, p.8.

live and equality and others of which related to his human nature which been mentioned in international agreements.<sup>6</sup>

There is a difference between human rights and general freedom that used to be mentioned as they have one meaning despite there is much differences between them, general freedom always comes along political social and economic system.

Human rights term is difference that the term of international human law which protect people during international armed conflicts and non-international which also named as Geneva Act according to the four Geneva agreements for the year 1949, so the last mentioned is exceptionally Law not been performed except in special times in international armed conflicts and non-international but human rights have to be protected in all times in peace and wars.

Human rights recognized as a group of demands or needs which should be available to all people in any society, without any race color sex religion discriminations.<sup>7</sup>

Human rights also recognized as those inalienable rights of human culturally, socially, economically, and politically, without any race sex color and religion discriminations. (Charter of the United Nations, 1945, The first article)

Another recognition from UN High Commissioner for Human Rights “Universal legal guarantees, for all people, protect individuals and groups against acts or omissions which affects their dignity. (UN, High Commissioner for Human Rights)

Fixed human rights born with human himself and independent of state, but more before it is established, therefore these rights considered as one general base in any place on earth not been invented by such a political system, in the contrary it

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<sup>6</sup> Radwan Ziadeh, *Maseert Hukuk Alinsan fe Alalam Alarabe* , Al-Dar Al-Biedaa, Al-Markez al-Thqafe Al-Arabe., 2000, p.7

<sup>7</sup> Ahmed Al - Rashidi, *Hukuk Alinsan : Deraset Mukarana fe Alnazarea wa Altatbeek*, Cairo, Maktabt Al-Shorouk Al-Dawlea., 2003, p.35.

characterized by union and have the same shape, and considered the same rights to be protected recognized and respected.

### **2.1.2. Human Rights before Shifting In International System**

Human rights system with its parts of thoughts and ideological differences could be considered as a trying to improve the humanitarian presence to a real humanitarian level, but lots of thinkers saw the right culture and the establishment of the recognition of right intellectually and philosophically started in modern philosophical thought, especially in European renaissance. Renaissance philosophers looked to human rights as a natural rights found before the presence of the state itself. European philosophers in 18<sup>th</sup> century built human rights on 2 rights in which all other rights come out and they are freedom right and equality right.

The universality which called by European philosophers based on outsider's culture which not found in Europe that time- because it had an inequality and tyranny culture- it was an independent reference upon time and place and put itself over history, religion was not the basic for European philosophers in 18<sup>th</sup> century in which they depended on while putting human rights, they depended on independent mentality reference exceeded the church authority.<sup>8</sup>

The establishment of human rights which done by European philosophers in modern century exceeds cultural specificity, it is going back with human rights to natural status, in the collected American French and British agreements about human rights showed its adoption of the individual philosophy which based on the individual is the first reality preceded the state, which means the base in individual philosophy is the freedom, and the exception is the intervention of law to limit this freedom to a level ensure non-aggression one person on other, when they practicing their rights and freedom.<sup>9</sup>

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<sup>8</sup> Mohammed Al-Jabri, *Aldemocrateia wa Hukuk Alinsan*, Beirut, Merkaz Derasat Alwehadah Alarabia, 2004, p.146.

<sup>9</sup> Noman Al- Khatib, *Alwaseet fe Alnozom Alsiaseya wa Alkanun Aldestore*, Amman, Dar Althaqafa Lenasher wa Eltwazeh , 2004, p.105.

The Westphalia agreement in 1648 consider as the first agreement in the world in protection of European human from wars murder and non-exploitation, and after that many agreements were held about such human rights like Paris for peace in 1814, and 1815, and declaration of Verona in 1922 which consist of in total the cancelation of slavery, and then the two international agreements in 1904 and 1910 which related to trafficking women and children.

Western continued in adopting and sharing humans rights tell 1917 without any real challenges, but after the Communist revolution in Russia and the appearance of USSR as a great power after the second world war and its presentation of another example deferent than the existent western one, and in this frame the group not the individual became the essence of human rights, and then the social and economic rights became the center of interest in the socialist bloc, and these differences between western and eastern one along the cold war had its reflections on adopted states towards their attitude for human rights violations, and then their attitudes from the humanitarian intervention. So America and other western states didn't cared about human rights violations, instead and according to Reagan agreement- a distinction was made between loyal authoritarian regimes and non-loyal ones- USA declared quite frankly that it support all states which are standing against communism wherever founded and whatever their violation of human rights.

### **2.1.3. United Nations and Human Rights**

No doubt that the position of the United Nations Charter of Human Rights represents a major breakthrough, and a big revolution in the field of international regulation, these rights stated in the traditional international law as internal issues of any state without any matters of international law, so that we can say the United Nations Charter was the first document in human history frankly indicated clearly to the responsibility of international society for protection of human rights and aimed to put a general international system to determine these rights and to protect them.

And lots of this charter states that UN is responsible for publishing, strengthen, and guarantee of human rights in the world. But we see clearly this charter didn't show what these rights and freedoms are, except the right of self-determination equality and sex religion race non-discrimination, for that it leave to relevant agencies especially General Assembly and the Economic and Social Council the mission to determine these rights and publish them and protect them.<sup>10</sup>

Human rights were put in UN Charter in 1945, in which its 68th material said to establish human rights committee by the Economic and Social Council, and this had done according to a group of agreements and treaties.

### **2.1.3.1. Human Rights Protection Guarantees**

International society put a group of guarantees in order to protect individuals and people such as the following:

#### **A. The Universal Declaration of Human Rights 1948**

UN started to translate what stated in the Charter, which related to human rights protection, in order to issuing a document or a declaration to explain these rights and human rights committee which Emerged from Economic and Social Council started to study this suggestion immediately, and the wording of announcement items itself didn't take long time, but it raised important questions of sovereignty and internal affairs and if the UN agencies will have the role in supervision and to ensure that the states committed to all rights contained in the declaration.<sup>11</sup>

And in 10<sup>th</sup> of September in 1948 the world took through United Nations General Assembly a historical decision to adopt the "Universal Declaration of Human Rights" as the international reference to determine the recognized rights, which must be respected and reinforced to all human beings without any discrimination, and this is

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<sup>10</sup> Hassan Nafaa, *Alomam Almotaheda fe Neseif Karen :Derasa fe tatwer Altanzeem Aldawlee mezu 1945*, Kuwait, Al-Majles Al-watne Lethakhafa walfenon waladab , 1995, p.209.

<sup>11</sup> Ibid.

the minimum humanitarian rights which provide the right conditions to achieve development, justice and equality and international peace.

And the declaration texts came globally towards human beings wherever he found regardless their religion race color and sex, which means not included the nationality characteristics for a particular state or a particular nation.

The international declaration for human rights expressed of its reciprocal reliance between human rights in number of its materials, the most important is 30<sup>th</sup> material which said: “in this declaration there is no text to let any group or individuals the right to perform any action in order to destroy rights and freedoms mentioned in”. (NU, Universal Declaration of Human Rights, 30th material)

The declaration didn't considered as international treaty, it is a group of principles without any values according to most attitudes, while some Authorities recognized it with legal value and considered the origin from which other rights came out.

After years passing on the end of cold war, some states decided to committee with human rights. And then became acceptable to be discussed in this stage as international declaration not just universal one, despite some states pushed in theory of consideration of cultural specificity while application of thought and principles of human rights.

Amartya Sen said “There is an intense anxiety divided on itself about how to treat with a difficult subject which is human rights in non-western societies, the western societies must encourage and press on non-western societies to walk along their values from freedoms to independency, and then wondered: isn't this cultural Imperialism? Then he answered human rights based on shared idea for humanity, these rights not derived from the right of any citizen of any country or any nationality they came from their universality.<sup>12</sup>

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<sup>12</sup> Sen Amartya, *Tenmiat Alhuria Fe Alem Alfeker*, Kuwait, Edited Shawkee Jelal, Almajlees Alwatnee Lelthakafah wa Alfenon wa Aladab., 2004, p.40.

## **B. The two international agreements about human rights**

These two agreements known as the international covenant in year 1966, first one interested in economic social and cultural rights, and approved in 03/01/1976, but the second one interested in political and civil rights, and approved in 23/03/1976, which they considered as an important step in seek of legal protection of human rights in international relation level, they characterized as they binding the states which signed them.<sup>13</sup>

The reality is the traditional international law was incapable to present a protection to individual against state authority and the principle of sovereignty, which saw the changes in internal issues in International treaty which get it out from internal scale to international scale, except in cases in which the internal law apply the principle of self-merger, which considered as the international law base after its integration in internal law system part from the last and thus it will enjoy the power of national constitutional base.<sup>14</sup>

### **2.1.3.2. Mechanism and Agencies to Protect Human Rights**

#### **A - Human Rights Council**

To overcome the negatives of the work of human rights committee because of its politicized selective and duplication in their reports and the method of selecting its members, and through the growing quest to repair UN and its Institutions and the reactivation of the respectfulness of human rights principles, United Nations General Assembly took a decision in 15<sup>th</sup> of march 2006 for establishment of human rights council to replace human rights committee which founded by economic and social council in 1946.(General Assembly decision number 60/251/RES/A)

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<sup>13</sup> Ziadeh, *Alarabe*, p.45.

<sup>14</sup> Yousef Basil, *Seyadet Aldewal Fe Daw Alhemaia Aldawlia Lehukuk Alinsan*, Abu Dhabi, Markez Alemaraat Lederasaat Walbohout Alestratejia, 2001, p.19.

The power of the council is to spread the international respectfulness of international principles of human rights and basic freedoms, without any type of discriminations and in a fair and equal for all, and also the council watches human rights violations, and to present necessary recommendations to stop such like violations and to reduce it, at the same time the council works to publish the human rights culture and to get sure of the importance of public awareness of general and special freedoms of people.

### **B - International Justice Court**

The court played a rule in this field, realistically the court mentioned many issues related to human rights in its judgments and advisory opinions. And the court treated these issues; either in general, or concerning right or set of rights, in many shapes through UN agencies in collaboration with member States but this role stated in encouragement framework and development of human rights issues, I doesn't intervene to protect these rights except in case of violation in which the international peace and security are exposed to risk.

### **C - UN High Commissioner for Human Rights**

In the year of 1993 UN could establish position of high Commissioner for Human Rights according to the recommendation of Vienna conference in 1993 in which its responsibility represented in reinforcing and the real protection of all political civil cultural economic and social rights, and to perfume all the orders coming from other UN agencies and reinforces and protects of the right of developments and prepares and sending annual reports related to human rights to human rights council and to UN General Assembly.<sup>15</sup>

### **D - International Criminal Court**

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<sup>15</sup> Ahmed Abou El Wafa, *Alhemaia Aldawlia Lehukuk Al insan*, Cairo, Dar Alnahda Alarabeya., 2000, p.158.

Which established according to Roma agreements in 1998 which works on protection of human rights and taking care of them, and followed those who Perpetrates crimes against humanity.( Primary law of international Criminal Court,1998)

## **2.2. The Effects of the Changes of International System on Human Rights**

The end of cold war appeared a new global reality by falling of eastern bloc and socialist model, and widely believed among formal and academic westerns not just their system won but also the need for the globalization of this model which they considered it as the suitable model to the world after the period of cold war, to become the reference for human behaviors inside the state or outside between international actors.<sup>16</sup>

Language of human rights in liberal meaning came in place of the free space after ending of large political theory after cold war, and Vienna conference came in 1993 to establish a leap quality in the field of human rights and basic freedoms, it used efforts and experiences of humanity along decades to devote respectfulness of human rights and the basic freedoms as absolute priority for international system.

After 11 of September 2001 against USA, western meaning of human rights became part and parcel of western and American strategy to achieve security in full meaning, and an instrument for hegemony and unilateralism to lead the international system, W. Push reflected in his speech in chamber of Commerce in Washington in November 2003 this, he said “Communism failed because it didn’t respect its people, and didn’t encourage creativity and genius and human rights”.<sup>17</sup>

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<sup>16</sup> Joe Magih , *Elhazara Elgharbia Johaoha wa Malmehoha wa Tatheroha* , Elsiasa Aldawlia, Vol. 49, No. 6, July, 2002, pp.69-71.

<sup>17</sup> Hassan Al-Subaihi, “Kerah fe Msharee Aleslah”, *Mejalet Araa Merkaz Alkhalej lelabhath*, Vol. 22, No. 2, July, 2006, pp.62-63

We will try to observe the most important influences that affected the human rights philosophy in field of international shifts which the world has seen after the cold war.

### **2.2.1. Vienna Conference**

UN called for many regional conferences for human rights to accompaniment with international shifts in 1989, preparing for Vienna conference in 1993, and the last document of universal conference for human rights in Vienna in 1993 concentrated on global values, Integration and indivisibility between rights which came in 49<sup>th</sup> circle of UN general assembly in 1994 “Should be recognized that all civil culture economic political and social human rights are global and indivisible and threaded and similar, and countries have to work regardless their political economic and culture to reinforce all human rights and his political freedoms and to protect them.( decision of General Assembly, A/49/36)

### **2.2.2. The Globalization of Human Rights**

Globalization of human rights refers to a breakthrough in manners on which human rights built, which in total refers to a reality that respect of individual freedom in belief and thought, which means create a culture based on new manners in the dealing with social issues of every state, poses a disruption between what is national and what is penetrative by means of usual penetrative, starting from the difficulties or the impossibility of applying of a universal culture to all societies, and this disruption will create social cultural and economic problems which will leave effects on nature of understanding the real human rights.

Also there is an increasing effects due to interactions between inside and outside, state exposed many pressures from great powers to spread the idea of (democracy ) as philosopher existence regime based on achievement of citizen political empowerment condition, through spreading the principle of citizen is the source of legitimate, and thus the political legitimacy became evaluative process of political systems, based on insider reference which is citizenship, and outsider which is the layout of global human

rights, and this in contrary with past political theory to the world before the end of cold war which was the people choosing the nature of authoritarian regimes either traditional one or modern one.

The main job for government is to protect the right of living and freedom, and others, which is not be able to dispose of them or change them, and by this the judgment on institutions be done according to their performance which is protection of rights, and to achieve democracy according to globalization, UN linked all its agencies with human rights, democracy and sustainable development and this which consist of center of all political systems for groups which consist of the international society.<sup>18</sup>

### **2.2.3. The Increasing of Role of International Non-Governmental Organizations in Protection of Human Rights**

Human rights issues received interest from many international non-governmental organizations from the end of First World War, and this interest duplicated obviously after the Second World War.<sup>19</sup>

Creation of UN had a big influence in development of international non-governmental organization, in which improved its interest in all discussed issues and one of them was the human rights, international non-governmental organizations increased its activities to include many parts of life including increased of human culture and improved it, and to respect what existent regimes did of international agreements and treaties.<sup>20</sup>

Technological and communication revolution destroyed borders between countries, which reflected to its role, and they became in place of recognition from international family. Some international shifts pushed the role of these organizations

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<sup>18</sup> John Bellis and Steve Smith, *Awlamet Alseiase Alalameia*, Dubai, Merkez Alkhaleej Lelabhath , 2004, p. 981.

<sup>19</sup> Ahmed Al - Rashidi, *Hukuk Alinsan : Deraset Mukarana fe Alnazarea wa Altatbeek*, Cairo, Maktabt Al-Shorouk Al-Dawlea, 2003, p.286.

<sup>20</sup> Ammar Jafal, "Kwa wa Moassassat Alowlama : Altahadiat wa Alestejaba Alarabia", *Almejala Aljazarea Lealolwom Alsiasia wa Alamia, university of Algeria* ,Vol. 15, No. 1, 2003, p.169

towards global dimensions which made it one of effective power on global level, and these shifts:

1. Work on improving and supporting the status of international humanitarian law within modern international law.
2. Work in war fields, and the important role of international Committee of the Red Cross.

These organizations became active in many human activity fields, like committee of the Red Cross, doctors without borders, Amnesty International, the International Federation for Human Rights, and these organizations have a great reputation and credibility, and their annual reports have big values all around the world.<sup>21</sup>

#### **2.2.4. Strengthen the International Legal Status of the Individual**

This status had been reinforced after cold war, especially when human rights became one of important bases when been violated requires punishment (Vienna conference 1993),and thus individual status not less the statue of international law men, and this importance understood from the over-caring of these rights, and from concentrating of international society on individual responsibility of War Crimes.<sup>22</sup>

Many channels appeared from which the individual could interact with existent global situation considering one of those included in international law so any violation to his rights considered one of legal methods to be discussed in international relations and this considered as an important development in human rights field.<sup>23</sup>

Many countries contains international organization to support human rights which made human rights as a global movement, and therefore ministries for human

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<sup>21</sup> Hassan Nafea and Mohamed Abd elaal, *Altanzeem Aldawle*, Cairo, Maktabet Alshorouk Aldawleya , 2002, p.284.

<sup>22</sup> Mohammed al-Majzoub, *Alqanoon Aldawle Alaam*, Beirut, Meshorat AL-halbee Alhoqukia, 2003, p.297.

<sup>23</sup> Ahmed Al – Rashidi, “Hukuk Alensan fe Arbat Uquad Enjazat Kabira Wa Eshkaliat Mostamera”, *Alsiasa Aldawlia*, Vol. 34, No. 161, July, 2005, p.68.

rights became available, and thus these rights became international issue subjected to what called international humanitarian law.<sup>24</sup>

### **2.2.5. The Dilemma of Responsibility to Protect and Humanitarian Intervention**

Humanitarian intervention (HI) refers to armed interference on the sovereignty of one state by a state or a coalition of states with the objective of terminating or reducing the suffering of the population within the target state; it is aimed at protecting the population from crimes against humanity or natural disasters by creating an environment for freedom from the violations and further humanitarian assistance based on basic needs such as food and water, shelter, health care, security, etc.<sup>25</sup> The suffering may be the result of humanitarian crises or atrocity crimes such as genocide committed by the occupied nation or state. The goal of HI is the minimization or complete removal of the suffering of the civilian population in the target state.

The rationale behind intervention is the belief embodied in international law (IL), in a duty under certain circumstances to play down state's sovereignty in order to preserve humanity<sup>26</sup>. There are contradictions inherent in the concept of HI which are primarily due to lack of clear conditions on the right and responsibility to intervene. This lack of clear conditions has always made it difficult to separate the humanitarian motives from the political or economic interests of the intervening state or powers.

The UN Declaration of Universal Human Rights in 1948 and the institutionalization of IL may have sent the right message to individuals and states that the international community would hold them responsible for violations of human rights within their domains. This idea by implication placed a heavy burden on the states and individuals alike.

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<sup>24</sup> Mohammed Yakoup Abd Al-Rahman, *Altadkul Alensane fe Alalakat Aldawlea*, Abu-dhabi, Merkez Alemarate lelderasat wa alelbohout Alestratejia, 2004, pp.58-110.

<sup>25</sup> Rice & Loomis, 2007

<sup>26</sup> Zuber, 2009

The concept further stresses the centrality of the state and the associated norm of sovereignty in international relations<sup>27</sup>. Sovereignty is defined as a state's exclusive internal competence and its external equality among states<sup>28</sup>. In practice, it essentially means the act of non-interference in the internal affairs of a state by other states irrespective of the motive. This concept has however been challenged by governments and organizations due to developments and changes occasioned by intrastate conflicts, globalization, trade, formation of international organizations (IOs) and non-governmental organizations (NGOs), transnational movements or migration and growth in human rights (HR) advocacy amongst others. As IL governs the relationship between states<sup>29</sup>, these developments have introduced new challenges to traditional ideas of IL and international relations. The developments in the field of HR in particular have significantly redefined the idea and powers of the state. The concept of HR seeks to empower the individual as the basis from which state power should flow. It ascribes to the individual certain rights considered inalienable and which states should strive to protect always<sup>30</sup>. It is against this background that the concept of the Responsibility to Protect (R2P) emerged. The concept of R2P has no precise universally acceptable definition. However, opinions differ widely on the concept<sup>31</sup> and it has been given different meanings and interpretations by policy makers and scholars<sup>32</sup>. Essentially, R2P is a call for the international community to protect citizens of a state where the state is unwilling, fails or is incapable of protecting its citizens against large scale atrocities<sup>33</sup>. The act of protecting the citizens by external forces is what the concept of HI is all about. The concept of R2P was originated in the report of the International Commission on Intervention and State Sovereignty (ICISS), in 2001, and became a central theme in the recommendations of the UN High-Level Panel, *A More Secure*

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<sup>27</sup> Jeffrey, 2009

<sup>28</sup> Fox, 2002

<sup>29</sup> Reza, 2009

<sup>30</sup> UN Declaration of HR, 1948

<sup>31</sup> Jan, 1997

<sup>32</sup> Alvares, 2001

<sup>33</sup> ICRtoP, 2010

*World*, in 2004 and of the UN Secretary-General, *In Larger Freedom*, in 2005<sup>34</sup>. It was adopted as a resolution of the UN General Assembly during its 60th Session in 2005 following the World Summit outcome<sup>35</sup>. The atrocity crimes against humanity that accompanied the conflicts in Rwanda, Bosnia, Somalia, Kosovo, etc., in the 1990s, led to the concept of the R2P.

Like all new phenomena or concepts, R2P came with its challenges. It is therefore not surprising that despite its noble aspirations, it has not enjoyed much success in practical terms. A number of reasons such as unilateralism by some super powers, the issue of hegemony or authority vis-à-vis subjectivity or selectivity as well as institutional and political preparedness could be adduced to its lack of success; in addition to these inherent challenges, the concept of R2P also poses unique challenges to some traditional and fundamental concepts of IL such as sovereignty and the principle of non-intervention or non-interference.

#### **2.2.5.1. Tenets for R2P and HI**

Before the 1990s, the powerful states adduced different reasons centered on humanitarian assistance for embarking on HI when actually the reasons were either political or economic<sup>36</sup>. This was possible because there were no defined conditions or tenets for HI. In R2P, that gap has been bridged. R2P maintains that the responsibility to protect citizens remains that of the States<sup>37</sup>.

State sovereignty therefore implies responsibility, and the primary responsibility for the protection of the people lies with the state itself.<sup>38</sup> Where the state is unwilling, fails or is incapable of protecting its people, it has the responsibility to seek for assistance; at this point, the onus is on the international community to protect civilians from mass atrocity crimes such as genocide, mass murder, ethnic cleansing, etc.

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<sup>34</sup> ICG, 2009

<sup>35</sup> UNSC, 2005

<sup>36</sup> Thakur, 2007

<sup>37</sup> UNSG, 2009

<sup>38</sup> ICISS, 2009

Responsibility for individual states in this regard means protection to their own citizens and to help other states build their capacity to do so. On the part of the international organizations, including the UN, R2P means the responsibility to warn, to generate effective prevention strategies, and when necessary to mobilize effective reaction. Equally, for civil society organizations (CSOs) and individuals, R2P means the responsibility to force the attention of policy-makers on what needs to be done, by whom and when<sup>39</sup>.

The concept of R2P as a guiding principle for the international community, rest on four cardinal objectives; these objectives are first, the obligations inherent in the concept of sovereignty and the responsibility of the Security Council under Article 24 of the UN Charter for the maintenance of international peace and security; second, are the specific legal obligations under human rights and human protection declarations; third are the covenants and treaties on international humanitarian and national laws; and fourth is the developing practice of states, regional and sub-regional organizations and the Security Council itself.<sup>40</sup>

In order to achieve these set objectives, there are three fundamental elements on which the objectives should rest. These elements are first the responsibility to prevent, which is aimed at addressing the root or remote and immediate causes of internal conflict and other man-made crises or natural disasters putting populations at risk; second is the responsibility to react, which is aimed at responding to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases HI; third is the responsibility to rebuild, which is to provide, particularly after a military or HI or natural disaster, full assistance by the UN or CSOs for recovery, reconstruction and reconciliation, addressing the causes of the harm that the intervention was designed to halt or avert. Amongst these elements of prevention, reaction and rebuilding as stated above, prevention remains the most important dimension of the responsibility to

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<sup>39</sup> ICISS, 2009

<sup>40</sup> ICISS, 2009

protect. This is because prevention options must always be exhausted before contemplating R2P or intervention. This suggests the need for more resources to be devoted by states for peace management as conflict prevention measures.

### **2.3. The International Humanitarian Intervention and the Problem of National sovereignty**

The issue of national state, as being a fundamental activist according to the reality perspective in the field of international studies, has attracted a great deal of dispute regarding its location in the heart of changes taking place on both national and international levels, specifically, subsequent to the cold war stage, during which any individual enjoys the protection of the international system. Moreover, the most important of these changes are the decline of the principle of absolute state sovereignty and the principle of non-intervention in the internal affairs of the state, as doing so is considered a state sovereignty violation.

Furthermore, a state throughout ages undertook many important roles by means of traditional functions assigned to it, in particular, the issue of sovereignty. Sovereignty is one of the thoughts on which the lofty tower of the current international law has been built. The theory of sovereignty has gone through many stages. After the scope of state sovereignty included its people and its region in an absolute manner, the development of international relations through time has carried with it some sort of adjustment on this scope in a gradual manner.<sup>41</sup> In addition, after the involving of the human rights issue in the scope of the international law, legal dispute has emerged concerning the legitimacy of interfering with internal affairs of states for the sake of human rights violation prevention. Consequently, dispute has appeared about the principle of sovereignty as whether it is an absolute or relative given the new international changes. Based on that, the study shall deal with three basic issues. The first one shall concentrate on the decline of the absolute sovereignty concept. The second issue shall deal with the deviation in the principle of non-intervention in internal

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<sup>41</sup> Abou El Wafa, *Alinsan*, p 38.

affairs of states from the solid interpretation into the flexible interpretation. As for the third issue, it shall focus on explaining the dialectic relationship between the preserved field of state sovereignty and the international filed.

### **2.3.1. The Decline of the Concept of Absolute Sovereignty to Limited Sovereignty**

The new changes in the international system have forced the occurrence of changes and deviations in numerous concepts. One of these concepts is the concept of Westphalia sovereignty, as trends appeared claiming that sovereignty is in danger or it is in a state of abrade and deterioration, which requires redefining it in a way that guarantees better understanding of changes and new active forces in the field of international politics. Moreover, for treating this development, the content of sovereignty and its impacts must be illustrated.

Sovereignty is a legal situation assigned to a state, which attains materialistic ingredients such as individuals, a region, and an organizing and ruling institution. After Bodan has defined it as “the high authority on citizens and nationals, which does not abide by law”, we find a great number of jurisprudents agree on its characterizations as one, undividable, inalienable, cannot be subject to earned or failing out-datedness.<sup>42</sup>

Sovereignty has two phases; internal and external. Internally, sovereignty enjoys a positive content through the elevation concerning society individuals. As externally, sovereignty content becomes negative for not accepting any higher authority. Therefore, external sovereignty means the state does not recognize any higher authority so it cannot be restrained in the international arena except for pledges and treaties the state has concluded itself announcing its sovereignty and independency. Therefore, sovereignty is the expresser of the highest degree of authority in the state and it takes the positive internal content and the negative content in international relation.<sup>43</sup>

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<sup>42</sup> Remon Hadad, *Al-Alkat Al-dawlea*, Beirut, Dar Alhakuka , 2000, p.19.

<sup>43</sup> Ibid.

The general approach of many writers' heads for the opinion that sovereignty has five features, as follows:<sup>44</sup>

1-Absolute: It means that there is only one authority or organization higher than that in the state, which makes it the highest of state attributes. Consequently, the state has authority over all citizens, even though, without a doubt, there are some factors affecting practicing sovereignty, which can be considered legal borders.

2-Inclusive: It means it can be applied on all state citizens and those residing in its regions except that which is mentioned in international pledges and treaties such as diplomats, international organizations' staff and embassies.

3- Unassignable: It means that state cannot waive it away or otherwise it loses its self. Russo says: "As sovereignty is nothing but practicing general will, this makes it unassignable. Sovereignty bidder, which is nothing but a collective being, cannot be represented by anyone other than him. Authority is something that is transferable, however, will cannot be transferred. Essentially, if it is possible for the special will to meet at a point with the general will, then it is impossible at least for this meeting to be permanent and endless".

4-Endless: It means it lasts as long as the state is there and vice versa. The change in government does not mean the loss or lapse of sovereignty as governments do change whereas the state remains and so does sovereignty.

5-Undividable: It means that, in any state, there is only one sovereignty and the charter of the united nations has emerged after the end of the second world war to determine the legal scope in which the state sovereignty occurs during the era of the international formulation. The state sovereignty would mean in this context and according to the classic international law, the state's highest authority over its region and those living inside it, and it means the state's independence of any external powers or authorities.

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<sup>44</sup> Mohamed Mehana, *Nazaryet Aldawla wa Alnozoum Alseiasia*, Al-Eskandaria, Almakteb Aljame Alhadeeth , 1999, p.55.

The principle of sovereignty remained, since Jan Bogdan drew attention to it, the milestone of the modern state formulation as most protocols, regulations, laws, treaties and traditions have articulated it despite the gradual draw back that afflicted it in view of the criticism that was directed to it regarding the attribute of absoluteness.<sup>45</sup>

Amongst the most accurate and important modern formulations of the concept of sovereignty is what has come out from the trend led by “Francis Deink” in his book “Sovereignty Accountability”, as sovereignty means the general connotation contained within the implication that sovereignty should not be look at as an absolute privilege. However, it can be deferred if the states fail to perform their tasks and responsibilities towards their citizens. In spite of that, the concept of sovereignty has been experiencing noticeable change since the mid of twentieth century due to many issues as follows<sup>46</sup>:

a-The increasing growth in concluding treaties and the international systems that include rules and regulations compulsory to all nations and states.

b-The growing trend towards valuing human rights, their basic freedoms and towards securing international warranties and guarantees, which pave the way to appreciating such rights and ensuring its respect and fulfillment by national governments.

c- There is an opinion supported by many scholars on top of them is “John Art Cholet” which states that the era of sovereignty has ended and concluded and the justifications for its existence have finished. Furthermore, globalization has participated largely in shaking the grounds of the classic Westphalian system. As when the borders demolish in a steam of electronic information flow, then preconditions become very significant for practicing any active sovereignty over a land of a state that is disappearing from the universe. Therefore, sovereignty has become threatened by the new international order prevailing in our world today.

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<sup>45</sup> Mansour Mahmoud, *Alaolama: Derasa fe Almafhoom wa Aldahera wa Alabad*, Al-Eskandaria , Dar Aljamea Aljadeeda , 2003, p.44.

<sup>46</sup>Ibid, p.45.

### **2.3.2. The International Humanitarian Interference between the Preserved Field of State Sovereignty and the International Field**

The international law has become in the shade of the “New International Order”, one of the tools of penetrating the superiority of internal authority and the perfect means to limit sovereignty. Moreover, Dr. Okra Rat Brine has written, under the title of “The Sufferance of Sovereignty” what follows: Many progresses in our modern times started to challenge the credibility of sovereignty principle. Today, we live in the stage of growing of exclusive and exchangeable reliance as caring for human sufferance and human rights used to stop at a certain limit in the past.<sup>47</sup>

Therefore, the essence of the matter remains as to know what are the matters that constitute the core of internal authority for states, which are announced as “the preserved filed” and for its determining the international jurisprudence, which is the most dominance, as the International Law Institute, has used a simple and active manner to define it as” that in which all state activities or specialties are not limited by the international law”. Consequently, this definition has resulted in a very significant issue which is that the private filed of state is lessening as state liabilities of contractual and conventional nature grow bigger.<sup>48</sup>

Therefore, due that reason the principles of international law have expanded to the degree that they start to place boundaries on states and determine for such states what can and cannot do including matters of great sensitivity as for instance the relationship between a state and its citizens concerning the field freedoms and human rights and the issues of women, child employment, environmental issues, and so on and so forth. Moreover, many reasons have participated in preferring the trend that demands limiting internal specialty of states in favor of expansion in the specialties of international organizations, and to allow the later to have more effective management

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<sup>47</sup> Mohammed Al-Husseini, “Almojtama Eldawle wa Hak Atadahoul, Selselt Almarefa Leljamea”, *Meshorat Ramses*, Vol. 47, No. 18, 2000, p.238-239.

<sup>48</sup> *Ibid*, p.38.

regarding the issues and interests of the international society<sup>49</sup>. Amongst these factors are the following:

1-The vagueness of the separating lines between that, which is internal and that which is an international issue in a manner that is clear and vital in the international law.

2-The interference and blending of interests between international societies and states. In addition, the growing of the degree of exchanging dependence amongst these states because of relation developments amongst them in all fields and arenas under the effect of scientific and technical successive revolutions, consequently, this has doubled the difficulty of conclusive separation between that which is “internal affairs” and that, which is “external affairs”.

3-The weakening of the traditional role of states in international relations due to the emergence of other international activists such as the international organizations, state and non-state, and the multinational cooperations and so on and so forth. Consequently, the reality of the matter has given birth to very dangerous developments concerning the principle of sovereignty. These developments have been embodied in the practices, which appeared to sight after the collapse of the Soviet Union and the end of the cold war. These developments were reflected in the international intervention in matters that are considered mere internal affairs of states. Moreover, this is done in the name of the international law and collective security and under the banner of “international legitimacy”. There are at least three cases that are connected to the issue of international intervention. They are; intervention for humanitarian reasons in order to prevent any wide violation of human rights or stopping it. The second is the intervention for security reasons in order to end an imminent or expected usage of weapons of mass destruction. The third one is the intervention for environmental reasons to end the launch of elements or components that cause wide

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<sup>49</sup> Hassan Nafaa , *Seiadet Aldwal fe del Tahwelat Mawazeen Alkwa Fe Alnezam Aldawle*, 3 March, 2003, Retrived From: URL <http://www.afkaronline.org/arabic/archives/mar-avr2003/nafiaa.html> (Accessed date: 07-03-2017).

and harmful damages to the ecology system and the climate or otherwise to prevent such damages and contain them.<sup>50</sup>

For this reason, it is not acceptable any more-for some people- for the state to justify its stand with its sovereignty and with the principle of illegitimacy of intervention in its internal affairs as it used to happen in the past, for preventing the enablement of international organizations from assuming their responsibilities.

As such, the human rights issue has become one of the international issues that the United Nations pays a great attention for and strives to stop violations of human rights inside states. The summary is that sovereignty is tightly connected, as to its nature and the degree of its application and non-application, with the state self-resources and capabilities, meaning, that force –briefly- is one of the conditions to practice sovereignty and keeping it, which in the end brings up the subject of international justice on all levels. In fact, the theory of sovereignty has been misused to justify internal dictatorship and international chaos and the dominance of strong states over weak ones.

#### **2.4. The Legitimacy of the International Intervention and its Limits**

The development of the international law in the form that makes it responsive to international changes has become a persistent issue, through balancing between the rights of an individual on one side and the rights of the state on the other side. The international society has faced up with challenges as a result of catastrophic events that yielded victims from civilian people and unarmed individuals. Consequently, this requires searching for a mechanism to reconcile between legal limitations on intervention, which is the national sovereignty principle and the principle of non-intervention and between effective efforts to face the humanitarian challenge that

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<sup>50</sup> Jamal Al-Domoor, *Mashroiaet Aljezaat Aldwalia wa Altadkol Aldawle Ded Libya wa Al-Sudan wa Al-Somal*, Amman, Markaz Alqdous Lederasat Alsiasia, 2003, p. 16.

resulted from transgressions and lead to a human sufferance inside states occasionally tends to be a reason for that practice or refraining from it.

#### **2.4.1. The Legitimacy of Humanitarian Intervention**

The subject of humanitarian international intervention, as much as there has been discussion and disagreement regarding its concept, people disagreed even more concerning its legitimacy. There are trends in this regard, some agree, some disagree, and some are conservative.

First Opinion: The Supporters of Intervention:

This trend of ethical and human considerations in the international law, considers that the international intervention is a legitimate principle and it does not conflict with the sovereignty principle. They reinforce their opinion with some legal and political justifications as follows:

1-The first view, which adopts the opinion that supports the legitimacy of international intervention as a mechanism to protect human rights, in particular the use of military force, is based on the following evidences:

-The international intervention falls under the many forms of intervention including one of the following three exceptions, which defies the principle of not using the force or threat of using it in the field of the exchanged international relations. Moreover, we mean by intervention the principle of legitimate defense, either individual or collective defense, which was declared by the United nations in its charter, in the clause 52, consequently, this will leads to the enlargement of the legitimate defense, which does not end at the facing military aggression that a state exposes to, as it goes on to include the right of the state to take necessary measures to defend the rights of its citizens out of its boundaries.<sup>51</sup>

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<sup>51</sup> Ahmed Al – Rashidi, “Hukuk Alensan fe Arbat Uquad Enjazat Kabira Wa Eshkaliat Mostamera ”, *Alsiasa Aldawlia*, Vol. 34, No. 161, July , 2005 ,pp.130-132

2-The international intervention at first degree aims at securing the compulsory humanitarian protection for a group of people who are suffering from oppression during armed conflict. Furthermore, according to International Committee of the Red Cross “a fight that takes place inside a states’ region between the official army and armed groups that are fighting each other. For the fight or the clash to be regarded unintentional armed conflict, it has to reach certain level and continue for certain period of time”. The International Committee of the Red Cross.

3-The legitimacy of international humanitarian intervention can be also justified by referring it to the wording of the clauses 55 and 56 of the United Nations Charter, and these clauses are very clearly declaring the presence of an interest for the international society to enforce the required obligatory respect concerning human rights and to work towards enhancing it in all kinds of fields and arenas. However, this evidence means more politicizing.<sup>52</sup>

#### **2.4.1.1. The Second Opinion: The Opponents of Intervention**

These opponents refuse to accept the idea of humanitarian intervention fundamentally, and they consider it a clear defilement and violation of the principle of national sovereignty and regional security of the state. They also consider that use of force is unlawful unless in the case of legitimate defense. They produce many evidences for the sake of supporting their argument as follows:

1-Originally, international relations is based on non-intervention, which was very clearly declared in the international organizations founding agreements, starting with the United Nations 10<sup>th</sup> clause, passing through the United Nations Charter itself and ending up with regional agreements.<sup>53</sup>

2-The content of the clause 4/2 of United Nations Charter emphasizes that “the participants of the United nations should refrain, in their international relations, from the use of force or utilizing it against the safety and security of lands, political indolence

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<sup>52</sup> Ibid. , p.262.

<sup>53</sup> Basil, *Lehukuk Alinsan*, p.98-99.

of any state and with any form that does not comply with the objectives of the United Nations Charter. United Nations Charter, Clause 4/2.

#### **2.4.1.2. The Third Opinion**

The holders of this opinion are demanding legalizing the field of humanitarian intervention and that there has to be clear violations to human rights. They mean by such violations the cases of ethnic cleansing, collective killing and slaughtering and the mission of interventions should be accomplished within the framework of international societies and according to the regulations and rules of the international law, i.e., the United Nations. The states that do not respect the rights of their citizens makes it lawful for the international society to take necessary measures against it provided that the permission of the Security Council is granted as a last means and after all other measures and procedures have failed completely.

Furthermore, in the context of growing field refusal of the idea of intervention in internal affairs of states with the excuse of sovereignty, realism reveals that most of the world's states do not have the aptitude to comply with the internal responsibility criteria towards their citizens concerning respecting of human rights and even the external rights which include positive commitment to intervene for the sake of oppressed groups and minorities. Moreover, there is a huge gap between the criteria of states behavior, which is based on the western experience and the abilities of most of the third world states. Consequently, this makes it difficult to talk about the presence of a unified and accepted pattern to deal with the internal crisis of states, in particular, with the growing of fear feelings by the decision makers in these states that such humanitarian issues might be utilized to justify legitimacy of external intervening in their internal affairs.

#### **2.4.2. Regulations and Standards of International Humanitarian Intervention**

When talking about practicing of legitimate international humanitarian intervention, there are certain regulations and conditions that should be taken into account, which are originally unexclusive. However, such conditions should be existing before attaining legitimacy for intervention in order to control it from both

legal and political point of view in a manner that prevents from pragmatic use of intervention and in the context of criteria that is met with an international consensus.

These regulations and criteria are as follows: <sup>54</sup>

1. Determining cases that allow for humanitarian intervention only, as in treacherous cases that involve grave violations of human rights including cases of mass killing, cleansing deeds, organized rape of civilians which are practiced in a methodological manner.
2. The humanitarian intervention should not evolve into a military intrusion unless all necessary peaceful measures were taken to prevent such serious violations of human rights.
3. It is really of great significance that the intervention has to go through the following stages:
  - The state involved should be given a chance to solve its internal issues by itself.
  - It should be based on the collective intention and will of the international society, whether regional or international.
  - -The matter should be referred to the United Nations to investigate it further, inside the corridors of the Security Council according to the relevant clauses of the charter.
4. Force should not be used unless according to the principles of necessity and equivalence. It means that the magnitude of the used force and its time interval should be proportional to the basic goal and the force should draw as soon as this objective is accomplished.

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<sup>54</sup> Emad addin Atallah, *Altadkoul Elensane fe Dawa Mabadea wa Ahkam Elkanoun Eldawle* , Cairo, Dar Elnahda Elarabia, 2007,p.427.

5. It should not be amongst the objectives of intervention the attempt to create some change in the frame of authority or regime, the point of intervention. This would benefit some internal parties at the expense of other parties' interests. In addition, it should be governed by a fundamental goal which is emphasizing the respect of human rights and not for any other reason.<sup>55</sup>
6. The intervention should not lead to the occurrence of dangers and risks that exceed the final objective. As for instance, it might lead to occurrence of heavy casualties in civilians or properties or it might lead to a state of chaos and instability as the case in the Somalian tragedy.
7. The international society should resort, after the intervention process, to the building of peace and securing necessary support to construct frames that establish stability of situation and craft trust and faith amongst conflicting parties.

In a response to the challenges that the international society has faced in many intervention cases, the former general secretary of the United Nations, Kofi Anan, has asked the members of the United Nations during 2000 to come up with a common perception by all states, in the context of reconciling between the state's sovereignty and people's sovereignty. Furthermore, in responding to that request, the Canadian Minister of Foreign Affairs has taken the burden of establishing "the International Comity for Intervention and States Sovereignty" which contains many personalities such as states presidents, former ministers and representatives of the United Nations. The comity has issued its report for the year 2001 and the topic of the report was "The Responsibility to Protect."<sup>56</sup>

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<sup>55</sup> Ahmed Al – *Rashidi*, "Hukuk Alensan fe Arbat Uquad Enjazat Kabira Wa Eshkaliat Mostamera", *Alsiasa Aldawlia*, Vol. 34, No. 161, July, 2005, p.132.

<sup>56</sup> Idris Lkrini, *Altadakul fe Almomarasat Aldawlea Bina Alhazer Alkanoone wa Elwaqe Eldawle Elmotagaier*, Beirut, Merkaz Derasat Elwahada Alarabia, 2004, p.67.

## **2.5. The International Practice of International Intervention after the Cold War and Related Complications**

The international practice during the cold war indicates that international intervention by mediated states was based on the right of legitimate defense as a foundation to justify their enforced intervention. As after the cold war period, the human element has emerged as a basis for international intervention. International experience in this regard points out the increase of intervention incidents noticeably, in particular, during the nineties, after September the eleventh incident and for various motives similar to what happened in Iraqi, Somalia, Rwanda, Kosovo, Haiti and Libya recently <sup>57</sup>.

The interventions for humanitarian reasons have witnessed some deviation from their original objectives and goals and in some occasions, political considerations have taken over. It is worth mentioning that the international interventions for humanitarian considerations, after the cold war, have seen two types namely; intervention throughout Security Council and intervention out of the Security Council. Moreover, this study deal with three cases namely Iraq, Somali and Haiti. As for the other type of intervention, the case that this study shall be dealing with is the province of Kosovo.

### **2.5.1. Intervention through the Context of International Legitimacy**

The Security Council has dealt with the issue of humanitarian intervention in many cases that witnessed great human disasters, throughout its issued decisions to legitimize such decisions. Despite the fact that some of these issued decisions were based on guenon cases to protect human rights and establish humanitarian objectives, some of them have beheld a clear mixing up between humanitarian considerations and political thoughts. Some intervention cases have reflected confusion and uncertainty. Moreover, cases, which attended such intervention for humanitarian considerations after the cold war, are as follows:

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<sup>57</sup> Samuel Huntington, *Sedam Elhazarat wa Eaadet Sona elnezam Eldawle*, tran. Taleet Elshieb, Cairo, Sotour Leltebah wa Elnasher, 1999, p.36.

***International Intervention in Iraq-1999:***

The resolution of the Security Council 688, issued in the 5<sup>th</sup> of April 1999, concerning the Kurdish Dispute in the north of Iraq, has formed a new turning point in the course of the council and in the evolution of humanitarian based intervention. Consequently, the concept of threatening international and national peace have been widened and bringing about

New regulations related to the international law, by associating between human rights violation and the threat of international safety and security. As a result, the security council has issued its resolution, which represented a legitimate cover for the air strikes that the United States of America has performed, proceeding from the Air Base of İncirlik in Turkey, in order to impose no-flight zone on the Iraqi Air force and to prevent Iraqi fighters from flying over the province of Kurdistan<sup>58</sup>.

The council resolution has treated two points:<sup>59</sup>

The first point: Protecting residents and civilians from illegitimate use of force, terrorism and cruelty that the central Iraqi regime might exercise on the Kurdish people, and the importance of abstaining from such doings and respecting human rights. Safe areas have been established in the north and south of Iraq. In addition, the council has permitted related humanitarian agencies to carry out relief activities to help and assist civilians.

The second Point: Imposing no flight zone areas over the northern area of Iraq to protect Kurdish. Despite the fact that the resolution was not issued according to the seventh chapter, the resolution has considered the use of force relevant matter. The question is as follows: has the situation in the northern of Iraq required this international intervention? Moreover, does the council intervention in the current conflict between the central Iraqi government in Baghdad and the Kurdish represent a dispute with the

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<sup>58</sup> Lkrini, *Elmotagaier*, p.64.

<sup>59</sup> Ahmed Hendawi, *Altadakuł Aldawle Alinsane: derasa Fekhia Watatbekia fe Dawa Kawed Alkanun Aldawle*, Cairo, Dar Alnahda Alarabia ,1997, p.223.

Iraqi sovereignty and an interfering with the internal affairs of Iraq, meaning illegitimate?

In fact, the previous Iraqi regime has used the force extensively and exaggeration in order to end their upright through which they were demanding separation from the central Iraq government in Baghdad. As Huntington sees the matter, these racial and ethnic clashes will take religious, social and cultural elements as their ideological reference at the expense of the changeable factor of identity and origin.<sup>60</sup>

### ***International Intervention in Somalia:***

The international intervention in Somalia has come to existence because of humanitarian considerations in order to introduce help and assistance to civilians who were exhausted by the civil war, chaos, instability and the absence of state. Therefore, the motive for intervention was originally to deliver goods and humanitarian supplies to civilians, refugees and the displaced because of the civil war.

The international intervention through the Security Council was distinguished with the fact that it was the first time in human history the Security Council resorted to military means to protect humanitarian aids and secure their arrival to targeted people, in particular, after some fighting militias have attacked the United Nations forces for peace keeping while it was performing its duty to distribute some aids and supplies to needy propel. The council has issued an official authorization to the members of the organization; on top of them is the United States, to intervene in other countries and save the citizens of that country from dying from hunger.<sup>61</sup>

### ***Intervention in Haiti:***

The intervention in Haiti was for both political and humanitarian reasons as there was a coup against the elected president "Johan Arrested" by the general "Raoul Cheddars" 1999. Therefore, the Security Council has issued the resolution no. 840,

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<sup>60</sup> Huntington, *Talet Elshieb*, p.32.

<sup>61</sup> Lkrini, *Elwaqe Eldawle Elmotagaier*, p.66.

allowing military intervention in Haiti. However, this time was the first time that the council has authorized the use of force to bring back a democratically elected regime and this mission was seen as amongst the new missions the council is performing after considering the situation in Haiti as a form of international peace and safety threat.<sup>62</sup>

### **2.5.2. Intervention outside of the Framework of International Legitimacy**

-Intervention in the Province of Kosovo:

The after the cold war period has witnessed cases of intervention outside of the United Nations umbrella and without consulting with the Security Council. The humanitarian military intervention by the NATO in the province of Kosovo is regarded one of the famous cases in the international relations to stop human misery that the Albanians of Kosovo were living in and to respond to their demand of separating from former Yugoslavia. Despite the fact that Europe was intending to resolve the conflict for fear of spreading to other countries where the Albanians are very strongly existed, such as Macedonia, Albania, Greece, Bulgaria and Turkey and for the fear that this conflict might turn into a regional war in Europe<sup>63</sup>.

After the Ramboulee negotiations have failed in the 19<sup>th</sup> of March 1999 and after all parties were very close to sign a settlement of arranged warning that “the reluctance of Serbs to sign the agreement means the beginning of NATO air strikes on Yugoslavia”. Consequently, negotiations have ended in the 19<sup>th</sup> of March 1999, and the events were escalating very quickly after that. Moreover, four days after that date, the “NATO” has intervened and started its air strikes and marine attacks against some strategic and military targets in Yugoslavia. The assault went on for a period ninety-nine days without a halt and without any prior approval from the Security Council, until the council has issued its resolution supporting the intervention in the 10<sup>th</sup> of June 1999.<sup>64</sup>

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<sup>62</sup> Ibid.

<sup>63</sup> Emad Jad, *Altadukul Aldawle beyna Aletebarat Alensaneia wa Alabad Alseiasia*, Cairo, Merkaz Alderasat Alseiasia Alestratejia ,2000, p.106.

<sup>64</sup> Ibid., p106.

The intervention has shown that the “NATO” is seeking to make profound change in its tasks which is fundamentally, collective defending against any oppression that might take place against any of its members. Therefore, the “NATO” has appeared to change this task into the task of using force against sources of danger and instability, which might result from political, economic and humanitarian reasons including ethnic and regional conflicts that might exist in the Balkan states particularly after the collapse of the former Soviet Union.



### 3. A HISTORICAL BACKGROUND OF THE LIBYAN CRISIS

#### 3.1. Libya as a Regional Actor: 1969-1980– Era of Qaddafi - First Part

Muammar Gaddafi became the de facto leader of Libya on 1 September 1969 after leading a group of young Libyan military officers against King Idris I in a bloodless coup d'état. After the king had fled the country, the Libyan Revolutionary Command Council (RCC) headed by Gaddafi abolished the monarchy and the old constitution and proclaimed the new Libyan Arab Republic, with the motto "freedom, socialism, and unity".<sup>65</sup>

On 1 September 1969, a group of about 70 young army officers known as the Free Officers Movement and enlisted men mostly assigned to the Signal Corps, seized control of the government and in a stroke abolished the Libyan monarchy. The coup was launched at Benghazi, and within two hours the takeover was completed. Army units quickly rallied in support of the coup, and within a few days firmly established military control in Tripoli and elsewhere throughout the country. Popular reception of the coup, especially by younger people in the urban areas, was enthusiastic. Fears of resistance in Cyrenaica and Fezzan proved unfounded. No deaths or violent incidents related to the coup were reported.<sup>66</sup>

Figure (2.2) shows the political map of Libya, following the formation of the Libyan Arab Republic, Gaddafi and his associates insisted that their government would not rest on individual leadership, but rather on collegial decision making.

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<sup>65</sup> Global EDGE, *Libya: History*, (via Michigan State University), Retrieved from: URL <https://globaledge.msu.edu/countries/libya/history> (Accessed date: 01-03-2017).

<sup>66</sup> BBC News: 1969: Bloodless coup in Libya.



Figure 2.1 Map of Libya, source: Map of Libya, Retrieved from: <http://holidaymapq.com/map-of-libya.html> (Access Date: 02-03-2017).

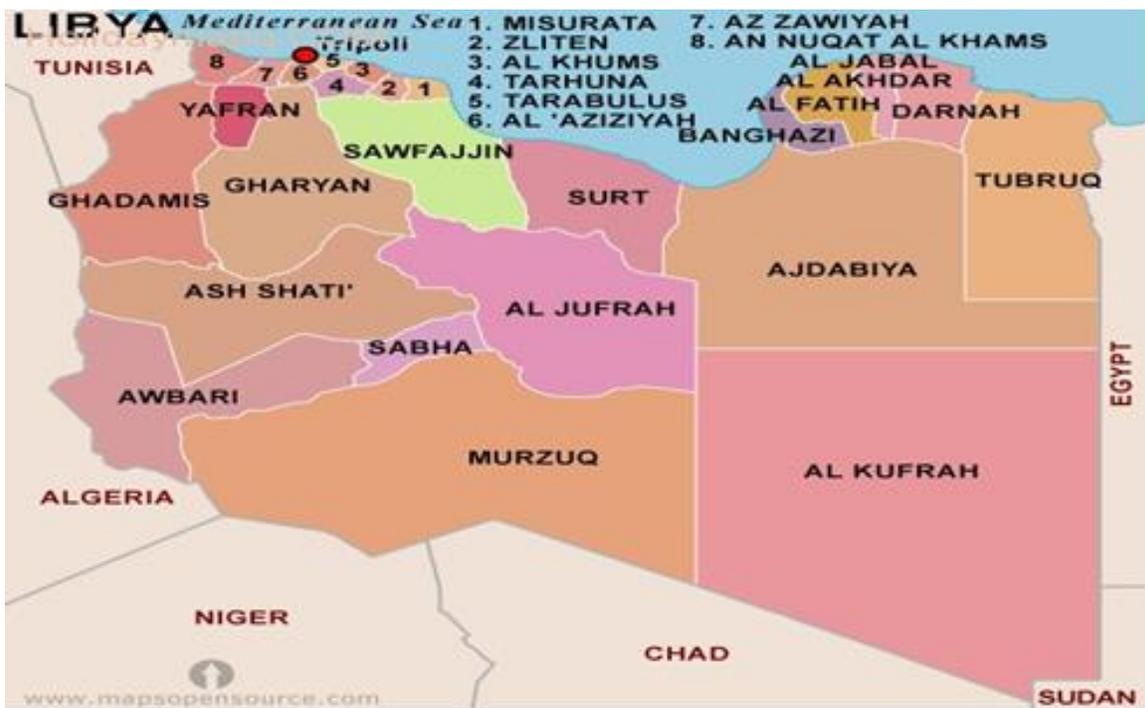


Figure 2.2 Political map Of Libya, source: Map of Libya from: URL <http://holidaymapq.com/map-of-libya.html> (Access Date: 02-03-2017).

The first major cabinet change occurred soon after the first challenge to the government. In December 1969, Adam Said Hawwaz, the minister of defense, and Musa Ahmad, the minister of interior, were arrested and accused of planning a coup. In the new cabinet formed after the crisis, Gaddafi, retaining his post as chairman of the RCC, also became prime minister and defense minister.<sup>67</sup>

The Free Officers Movement was renamed "Arab Socialist Union" (ASU) in 1971, modeled after Egypt's Arab Socialist Union, and made the sole legal party in Gaddafi's Libya. It acted as a "vehicle of national expression", purporting to "raise the political consciousness of Libyans" and to "aid the RCC in formulating public policy through debate in open forums".<sup>68</sup> Trade unions were incorporated into the ASU and strikes outlawed. The press, already subject to censorship, was officially conscripted in 1972 as an agent of the revolution. Italians and what remained of the Jewish community were expelled from the country and their property confiscated in October 1970.<sup>69</sup>

In 1972, Libya joined the Federation of Arab Republics with Egypt and Syria but the intended union of pan-Arabic states never had the intended success, and was effectively dormant after 1973.<sup>70</sup>

### **3.1.1. Alignment with the Soviet Bloc**

After the September coup, U.S. forces proceeded deliberately with the planned withdrawal from Wheelus Air Base under the agreement made with the previous government. The last of the American contingent turned the facility over to the Libyans on 11 June 1970, a date thereafter celebrated in Libya as a national holiday.<sup>71</sup>

As relations with the U.S. steadily deteriorated, Gaddafi forged close links with the Soviet Union and other Eastern Bloc countries, all the while maintaining Libya's

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<sup>67</sup> U.S. Library of Congress, Retrieved from: URL <https://www.loc.gov/> (Accessed 02-03-2017).

<sup>68</sup> BBC News, "Timeline: Libya, a chronology of key events", *Country Profiles*, May 16, 2006.

<sup>69</sup> "Libya – Qaddafi". *Countrystudies.us*. 11-06-1970. Retrieved from: URL <http://countrystudies.us/libya/29.htm> (Accessed date: 02-01-2017).

<sup>70</sup> George C. Kohn, *Dictionary of Wars*, Library of Congress, 3<sup>rd</sup> ed., 2007.

<sup>71</sup> "Significant Events in U.S.-Libyan Relations", 2001-2009.state.gov. Retrieved from: URL <https://2001-2009.state.gov/r/pa/prs/ps/2008/sept/109054.htm> (Access date: 02-01-2017).

stance as a nonaligned country and opposing the spread of communism in the Arab world. Libya's army—sharply increased from the 6,000-man prerevolutionary force that had been trained and equipped by the British—was armed with Soviet-built armor and missiles.<sup>72</sup>

### **3.1.2. Petroleum Politics**

The economic base for Libya's revolution has been its oil revenues. However, Libya's petroleum reserves were small compared with those of other major Arab petroleum-producing states. As a consequence, Libya was more ready to ration output in order to conserve its natural wealth and less responsive to moderating its price-rise demands than the other countries. Petroleum was seen both as a means of financing the economic and social development of a woefully underdeveloped country and as a political weapon to brandish in the Arab struggle against Israel.

The increase in production that followed the 1969 revolution was accompanied by Libyan demands for higher petroleum prices, a greater share of revenues, and more control over the development of the country's petroleum industry. Foreign petroleum companies agreed to a price hike of more than three times the going rate (from 0.90 US\$ to 3.45 US\$ per barrel) early in 1971. In December, the Libyan government suddenly nationalized the holdings of British Petroleum in Libya and withdrew funds amounting to approximately 550 US\$ million invested in British banks as a result of a foreign policy dispute. British Petroleum rejected as inadequate a Libyan offer of compensation, and the British treasury banned Libya from participation in the sterling area.<sup>73</sup>

### **3.1.3. 1973 Oil Crisis**

Insisting on the continued use of petroleum as leverage against Israel and its supporters in the West, Libya strongly urged the Organization of Petroleum Exporting Countries (OPEC) to take action in 1973, and Libyan militancy was partially

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<sup>72</sup> George C. Kohn, *Dictionary of Wars*, Library of Congress, 3<sup>rd</sup> ed., 2007

<sup>73</sup> Albert Hourani, *A History of the Arab Peoples*, p. 198.

responsible for OPEC measures to raise oil prices, impose embargoes, and gain control of production. On 19 October 1973, Libya was the first Arab nation to issue an oil embargo against the United States after US President Richard Nixon announced the US would provide Israel with a 2.2 \$ billion military aid program during the Yom Kippur War. Saudi Arabia and other Arab oil producing nations in OPEC would follow suit the next day.<sup>74</sup>

While the other Arab nations lifted their oil embargoes on 18 March 1974, the Gaddafi regime refused to do so. As a consequence of such policies, Libya's oil production declined by half between 1970 and 1974, while revenues from oil exports more than quadrupled. Production continued to fall, bottoming out at an eleven-year low in 1975 at a time when the government was preparing to invest large amounts of petroleum revenues in other sectors of the economy. Thereafter, output stabilized at about two million barrels per day. Production and hence income declined yet again in the early 1980s because of the high price of Libyan crude and because recession in the industrialized world reduced demand for oil from all sources.<sup>75</sup>

Libya's Five-Year Economic and Social Transformation Plan (1976–80), announced in 1975, was programmed to pump 20 US\$ billion into the development of a broad range of economic activities that would continue to provide income after Libya's petroleum reserves had been exhausted. Agriculture was slated to receive the largest share of aid in an effort to make Libya self-sufficient in food and to help keep the rural population on the land. Industry, of which there was little before the revolution, also received a significant amount of funding in the first development plan as well as in the second, launched in 1981.<sup>76</sup>

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<sup>74</sup> Albert Hourani, *A History of the Arab Peoples*, p. 198.

<sup>75</sup> Transcript of talk between Henry Kissinger and Golda Meir, March 1, 1974 (PDF), Retrieved from: <https://web.archive.org/web/20120622215522/http://www.sadat.umd.edu/archives/Egyptian-Israel%20Negotiations/4.pdf> (Accessed date: 01-06-2017).

<sup>76</sup> Hermann Eilts, to Department of State, January 25, 1976. Retrieved from: URL <http://aad.archives.gov/aad/createpdf?rid=110792&dt=2082&dl=1345> (Accessed date: 03-01-2017).

#### **3.1.4. Transition to the Jamahiriya (1973–1977)**

The "remaking of Libyan society" contained in Gaddafi's ideological visions began to be put into practice formally in 1973, with a so-called cultural or popular revolution. This revolution was designed to create bureaucratic efficiency, public interest and participation in the subnational governmental system, and national political coordination. In an attempt to instill revolutionary fervor into his compatriots and to involve large numbers of them in political affairs, Gaddafi urged them to challenge traditional authority and to take over and run government organs themselves. The instrument for doing this was the people's committee. Within a few months, such committees were found all across Libya. They were functionally and geographically based, and eventually became responsible for local and regional administration.<sup>77</sup>

People's committees were established in such widely divergent organizations as universities, private business firms, government bureaucracies, and the broadcast media. Geographically based committees were formed at the governorate, municipal, and zone (lowest) levels. Seats on the people's committees at the zone level were filled by direct popular election; members so elected could then be selected for service at higher levels. By mid-1973 estimates of the number of people's committees ranged above 2,000. In the scope of their administrative and regulatory tasks and the method of their members' selection, the people's committees purportedly embodied the concept of direct democracy that Gaddafi propounded in the first volume of *The Green Book*, which appeared in 1976. The same concept lay behind proposals to create a new political structure composed of "people's congresses." The centerpiece of the new system was the General People's Congress (GPC), a national representative body intended to replace the RCC.<sup>78</sup>

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<sup>77</sup> Robert Carle " (US Embassy in Tripoli) to Department of State", July 22, 1976, Retrieved from: URL <http://aad.archives.gov/aad/createpdf?rid=171008&dt=2082&dl=1345> (Accessed date: 06-01-2017).

<sup>78</sup> The New York Times, "Protesters Die as Crackdown in Libya Intensifies", February 20, 2011, Accessed 20 February 2011.

### 3.1.5. Libyan-Egyptian War

On July 21, 1977, there were first gun battles between troops on the border, followed by land and air strikes. Relations between the Libyan and the Egyptian government had been deteriorating ever since the end of Yom Kippur War from October 1973, due to Libyan opposition to President Anwar Sadat's peace policy as well as the breakdown of unification talks between the two governments. There is some proof that the Egyptian government was considering a war against Libya as early as 1974. On February 28, 1974, during Henry Kissinger's visit to Egypt, President Sadat told him about such intentions and requested that pressure be put on the Israeli government not to launch an attack on Egypt in the event of its forces being occupied in war with Libya.<sup>79</sup> In addition, the Egyptian government had broken its military ties with Moscow, while the Libyan government kept that cooperation going. The Egyptian government also gave assistance to former RCC members Major Abd al Munim al Huni and Omar Muhayshi, who unsuccessfully tried to overthrow Muammar Gaddafi in 1975, and allowed them to reside in Egypt. During 1976 relations were ebbing, as the Egyptian government claimed to have discovered a Libyan plot to overthrow the government in Cairo. On January 26, 1976, Egyptian Vice President Hosni Mubarak indicated in a talk with the US Ambassador Hermann Eilts that the Egyptian government intended to exploit internal problems in Libya to promote actions against Libya, but did not elaborate.<sup>80</sup> On July 22, 1976, the Libyan government made a public threat to break diplomatic relations with Cairo if Egyptian subversive actions continued.<sup>81</sup> On August 8, 1976, an explosion occurred in the bathroom of a government office in Tahrir Square in Cairo, injuring 14, and the Egyptian government and media claimed this was done by Libyan agents.<sup>82</sup>

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<sup>79</sup> Phillip Chiviges Naylor, *North Africa: a history from antiquity to the present*, pp. 120–121..

<sup>80</sup> R. Ernest Dupuy and Trevor N. Dupey, *The Harper Encyclopedia of Military History: From 3500 B.C. to the Present*, Harper Resource, March, 1993.

<sup>81</sup> *The New York Times*, “Protesters Die as Crackdown in Libya Intensifies”, 20 February, 2011, Accessed 20 February 2011.

<sup>82</sup> Hermann Eilts “(US Ambassador to Egypt) to Department of State”, August 9, 1976, Retrieved from: URL <http://aad.archives.gov/aad/createpdf?rid=110792&dt=2082&dl=1345> (Accessed date: 03-01-2017).

The Egyptian government also claimed to have arrested two Egyptian citizens trained by Libyan intelligence to perform sabotage within Egypt. On August 23, an Egyptian passenger plane was hijacked by persons who reportedly worked with Libyan intelligence. They were captured by Egyptian authorities in an operation that ended without any casualties. In retaliation for accusations by the Egyptian government of Libyan complicity in the hijacking, the Libyan government ordered the closure of the Egyptian Consulate in Benghazi.<sup>83</sup> On July 24, the combatants agreed to a ceasefire under the mediation of the President of Algeria Houari Boumediène and the Palestine Liberation Organization leader Yasser Arafat.

### **3.1.6. Great Socialist People's Libyan Arab Jamahiriya (1977–2011)**

On 2 March 1977, the General People's Congress (GPC), at Gaddafi's behest, adopted the "Declaration of the Establishment of the People's Authority"<sup>84 85</sup> and proclaimed the Socialist People's Libyan Arab Jamahiriya.<sup>86</sup> In the official political philosophy of Gaddafi's state, the "Jamahiriya" system was unique to the country, although it was presented as the materialization of the Third International Theory, proposed by Gaddafi to be applied to the entire Third World. The GPC also created the General Secretariat of the GPC, comprising the remaining members of the defunct Revolutionary Command Council, with Gaddafi as general secretary, and also appointed the General People's Committee, which replaced the Council of Ministers, its members now called secretaries rather than ministers.

The Libyan government stated that the Jamahiriya was a direct democracy without any political parties, governed by its populace through local popular councils and communes (named Basic People's Congresses). Official rhetoric disdained the idea

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<sup>83</sup> Ettore Rossi, *Storia di Tripoli e della Tripolitania dalla conquista araba al 1911*.

<sup>84</sup> Peter Lamborn Wilson, *Pirate Utopias, Moorish Corsairs & European Renegades*, Autonomedia, 2 Rev Sub edition, 2003.

<sup>85</sup> Bertarelli (1929), p. 204.

<sup>86</sup> Nora Lafi, *La Libia dalla conquista araba alla colonizzazione italiana*, January, 2006.

of a nation state, tribal bonds remaining primary, even within the ranks of the Armed Forces of the Libyan Arab Jamahiriya.<sup>87</sup>

### **3.1.7. Gaddafi as Permanent "Leader of the Revolution"**

The changes in Libyan leadership since 1976 culminated in March 1979, when the General People's Congress declared that the "vesting of power in the masses" and the "separation of the state from the revolution" were complete. The government was divided into two parts, the "Jamahiriya sector" and the "revolutionary sector". The "Jamahiriya sector" was composed of the General People's Congress, the General People's Committee, and the local Basic People's Congresses. Gaddafi relinquished his position as general secretary of the General People's Congress, as which he was succeeded by Abdul Ati al-Obeidi, who had been prime minister since 1977.

- **Relation with southern neighbors**

Qaddafi made many attempts and took a number of initiatives in the 1970s and 1980s for his dream of Arab states unity. Like his hero Gamal Abdel Nasser, he proposed many initiatives to unite with Arab states like Egypt, Tunisia, Syria and many others, but all failed to achieve his dream. Nasser managed to form a confederation between Egypt and Syria that became the short-lived United Arab Republic (1958–1961[1971]).<sup>16</sup> It is not clear what form of unity Qaddafi was pursuing, but he failed to match Nasser's achievement, as his ideas never took off.<sup>88</sup>

One explanation for the failure of Qaddafi's dream of Arab unity is indeed in Nasser's. As it is normal with humans, people tend to avoid engaging in enterprises that had failed in recent times. Added to this is the conservatism of most of the countries Qaddafi was trying to persuade into his dream Arab federation. In the Middle East, countries such as Saudi Arabia and Kuwait were (and are still) led by leaders that not

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<sup>87</sup> Alen Custovic, *Colonialismo italiano, tra rimozione e mito di grandezza*, Retrived from: URL <http://www.resetdoc.org/story/00000021286> (Accessed date: 11-02-2017).

<sup>88</sup> Elie Podeh, *The Decline of Arab Unity: The Rise and Fall of the United Arab Republic*, Sussex, Sussex Academic Press, 1999.

only were close to the West, but also did not want to put their trust in the dream design of some young and 'naïve' leaders calling for Arab unity. The closeness of these regimes to the West is important here, given that the West, particularly the US, was not in favor of the pan-Arab ideas of Nasser, let alone Qaddafi.

In the North Africa, not only had the successor of Nasser in Egypt abandoned his ideas and allied Cairo to the West, Qaddafi's other immediate neighbor, Tunisia, had a conservative leader in the person of Habib Bourguiba. The latter did not buy his eastern neighbor's idea for Arab unity. Qaddafi's own erratic personality and governance style also contributed to discouraging these other leaders from joining a federation that would either be led by Qaddafi or at least get its impetus from him.<sup>89</sup>

And when Western countries imposed sanctions against Libya over Lockerbie and accused his regime of terrorism in the 1980s, Qaddafi was greatly disappointed by the Arab response. This led him to direct his foreign policy goals towards Africa – the second option of Libya's geopolitics – that had shown more solidarity with it than the former.

- **Qaddafi's 'revolutionary' wars in Africa**

Libya had a foreign policy characterized by active involvement in supporting armed opposition movements that came under various appellations, ranging from revolutionary forces to liberation movements. Qaddafi's support for these movements went beyond Africa, as seen in his support to armed groups in the Middle East (i.e. Palestine), separatist movements in the Philippines, the Irish Republican Army (IRA) in Northern Ireland, and other armed movements in Colombia in Latin America.<sup>90</sup>

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<sup>89</sup> Sicker, *The Making of a Pariah State*, p. 87.

<sup>90</sup> Robert Verkaik, Britain offered Gaddafi £14m to stop supporting the IRA. *The Independent (London)*, 5 October 2009 at [www.independent.co.uk/opinion/letters/adiferent-story-about-gaddafi-and-the-ira-1801700.html](http://www.independent.co.uk/opinion/letters/adiferent-story-about-gaddafi-and-the-ira-1801700.html)

However, it was very clear Libya presumed role in supporting armed groups against their governments in Chad and Sudan in Central Africa, and Liberia and Sierra Leone in West Africa.

Libya's initial involvement in Africa was directed towards curtailing African support for Israel, which was in line with his ideal of Arab nationalism, given that such support was susceptible to undermine efforts at achieving Palestinian emancipation. In 1973, for example, Qaddafi played a considerable role in the break in relations between Chad, Congo, Niger, and Mali and the Israeli state. But as time passed, Qaddafi sought to spread his brand of revolution to other African states, perhaps as a way of extending his own influence across the continent. Thus, he began supporting dissident groups – armed or unarmed, directly or indirectly – against incumbent governments in many countries, including Chad, Liberia and Sierra Leone.

In September 1972, during Idi Amin's first confrontation with Tanzania, Libya intervened with equipment to airlift Ugandan troops, justifying this actions as a support for the Ugandan struggle against colonialism and Zionism. Tripoli fought Chad over the strip of Aouzou from the late 1970s to the mid-1980s. Again, in the early 1990s, Libya was accused of supporting Charles Taylor's and Foday Sankoh's rebel movements that destabilized Liberia and Sierra Leone.

The Chadian operation resulted in Qaddafi's defeat. But Libyan involvement in Chad dates back to the years before Qaddafi came to power. In 1965, a group of Chadian dissidents, calling themselves the National Liberation Front of Chad (FROLINA), declared an open revolt against the regime of President François Tombalbaye. At that time there was interaction between the two states through migration of nomadic tribes, and Libya had irredentist claims to the northernmost portion of Chad dating back to the Italian occupation. Consequently, King Idris of Libya felt almost compelled to support the Frolina against Tombalbaye. However, the king had no particular desire for a confrontation with the French backed regime of N'djamena, and his support for the dissidents was limited.

This changed after the 1969 revolution and Qaddafi's rise to power. He had more ambitious designs on Chad. In particular, he claimed the Aouzou Strip, in the North of Chad, constituting about 1/6th of Chad, based on a non-ratified treaty with the Italian colonial administration. Qaddafi supplied the Frolinat with weapons and funding. The Chadian leader eventually sought French support, which President Charles de Gaulle and his successors provided<sup>91</sup>. But the conflict saw four separate Libyan interventions in four phases in Chad, taking place in 1978, 1979, 1980–1981 and 1983–1987. Between 1973 and 1987, during the crossing of the Aouzou strip and back to Libya, about 3,600 Libyan troops were killed.<sup>92</sup>

Its intervention in Chad alarmed the West, particularly France, as they thought that Qaddafi's success in Chad would encourage him to consider interventions elsewhere. The Chadian adventure, however, ended in military defeat.

In Sudan, Qaddafi was more forthcoming to help Jaafar Numayri's regime (1971– 1989) combat its opponents labelled as 'communists' in the Sudan, but withdrew his solidarity with him when he signed the Addis Ababa agreement in 1972 with Southern Sudanese rebels. It would seem that the difficulty for Qaddafi was not so much the peace agreement but the terms, which accepted an autonomous, regional self-government for the Southern Sudan.<sup>93</sup> Thus, Qaddafi established a base at Jabal Uwaynat and Ma'tan as-Sarra in the Sara Triangle from which to launch a force to overthrow Jaafar Numayri in Khartoum. Numayri was now confronted by a more implacable enemy than the 'communists' were in 1972, and after three days of bloody fighting, he was rescued by a tank battalion that drove into Khartoum to restore order. After the fierce combat in which some 3,000 Sudanese were killed, a deep resentment

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<sup>91</sup> Kenneth M. Pollack, *Arabs at War: Military Effectiveness, 1948–1991*, Lincoln, University of Nebraska Press, 2002, 375.

<sup>92</sup> Hussein Solomon and Gerrie Swart, *Libya's Foreign Policy in Flux*, African affairs, 104 (416), 2005, p. 499.

<sup>93</sup> J. Millard Burr & Robert O. Collins, *Africa's Thirty Years War: Libya, Chad, and the Sudan 1963–1993*, New York, Westview Press, 1999, 81.

spread throughout the Sudan against Qaddafi's violent intervention. This effectively ended any accommodation between Libya and Sudan.

In West Africa, particularly Liberia and Sierra Leone, the Liberian conflict was so destabilizing to the region that the Economic Community of West African States (ECOWAS), spearheaded by Nigeria, Ghana and Guinea formed a West African peacekeeping force (ECOMOG) and intervened in Liberia to put an end to the conflict. Libya helped Charles Taylor's rebellion in Liberia with weapons and it also trained them in guerrilla warfare.<sup>94</sup>

Qaddafi's interest in assisting Taylor can be understood from a personal as well as an ideological perspective. Ideologically, as soon as he took power in 1969, he made it clear to the world that 'he was unambiguously a man of revolution'<sup>95</sup>. He established a revolutionary institute under the Libyan Intelligence Services, to train volunteers from all over the world in revolutionary and guerrilla warfare.

Qaddafi lent support to Taylor on the basis of this ideology and given that Taylor presented his rebellion in revolutionary terms, even though there was nothing revolutionary that could be found in his rebellion.

- **Libya and peacemaking on the African continent**

From a supporter of rebel movements on the continent, Qaddafi has come to play a leading role in peacemaking, although he does not always inspire trust in all the observers or even the protagonists. Some argued that Libya helped President Idriss Déby Itno of Chad while he was leading a rebel movement against President Hissein Habré in 1989.<sup>96</sup> But Qaddafi now plays a mediation role in view of stabilizing that country, both within and in its turbulent relations with Sudan, another country which

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<sup>94</sup> Mansour O. El-Kikhia, *Libya's Qaddafi: The Politics of Contradiction*, Florida, Univ. Press of Florida, 1998, 116.

<sup>95</sup> Issaka K. Souaré, *Civil Wars and Coups d'Etat in West Africa: An Attempt to Understand the Roots and Prescribe Possible Solutions*, Lanham, Md.: University Press of America, 2006, 71.

<sup>96</sup> Lauren Ploch, *Instability in Chad*, Foreign Affairs, Defense, and Trade Division, CRS reports for Congress, 10 September 2008.

has had murky relations with Tripoli in the past. The people of eastern Chad and western Sudan have a long history of ethnic, social, and economic ties that date back to long before the imperialist era. Colonization, and later independence, changed the dynamics within both countries and this led to disputes between governments. The basis for the current political enmity between these two nations was set in the early 1960s, when Northern Chadians felt they were politically and economically marginalized in the country in favor of their Southern countrymen.<sup>97</sup> As Libya did, Sudan also allowed a faction of Frolinat rebels to organize, train, and establish bases in western Sudan and to conduct raids into Chad from Sudan's Darfur province. Refugees from both countries fled across their mutual border. As violence in Chad increased between 1979 and 1982, Sudan faced its own internal rebellion, and relations deteriorated after Numayri was ousted in 1985.<sup>98</sup>

In 1988, Habré assailed Sudan for allowing Libyan troops to be stationed along Chad's border and for continuing to allow assaults on Chadian territory from Sudan. In late 1989 Hissein Habre was ousted in a coup organized by his former Chief of Staff, Idriss Deby Itno, with logistical support from Sudan, France and Libya.

However, the complex dynamics of ethnicity, social exclusion, environmental stress and political violence in eastern Chad and Darfur led to the deterioration of relations between the two countries. Thus, in December 2005, Chad declared a 'state of belligerence' with Sudan.<sup>99</sup> Since then, the conflict between the two countries in the border region of Darfur has become increasingly grave as scores of Sudanese flee to

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<sup>97</sup> Taru Bahl, M.H. Syed, *Encyclopaedia of the Muslim World*, New Delhi, Anmol Publications, 2003, 125.

<sup>98</sup> Mario J. Azevedo, *Roots of violence: a history of war in Chad*, Amsterdam, Gordon and Breach, 1998, 156.

<sup>99</sup> Morten Bøås and Kevin C. Dunn, *African guerrillas: raging against the machine*, Boulder, Colo., Lynne Rienner Publishers, 2007, 160.

refugee camps in Chad due to the conflict in Darfur.<sup>100</sup> Chad broke diplomatic relations with Sudan at least twice in 2006.<sup>101</sup>

Qaddafi attempted to put an end to this conflict and managed to broker the Tripoli Agreement of 8 February 2006.<sup>102</sup> A Ministerial Level Committee was established and chaired by Libya, made up of the Foreign Ministers of Chad, Sudan, Central African Republic (CAR), Libya, Congo Brazzaville, Burkina Faso and the Chairman of the Executive Council of CEN-SAD. Endorsed by the AU and the EU, it also called for the establishment of a joint border surveillance force consisting of Libyan, Eritrean, Chadian and Sudanese observers. Unfortunately, however, it failed to achieve its goals. Qaddafi dispatched a delegation to the Chadian capital, N'Djamena, on 11 April 2007 to register his concerns. Presidents Deby and Omar Hassan El Bashir of Sudan then signed an agreement in the Saudi capital, Riyadh, on 3 May 2007, in which they made a commitment to work with the AU and the United Nations to put an end to the conflict in Darfur and in Eastern Chad.<sup>103</sup>

Chad's foreign minister had assured the international community of his country's wish to normalize relations with Sudan.<sup>104</sup> According to him, his government was prepared to implement the 13 August Agreement to strengthen the democratic process in Chad between the president's party and the opposition political parties.<sup>105</sup> This resulted from the negotiations that took place from 14 April to 10 August 2007,

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<sup>100</sup> Peter W. Van Arsdale, *Forced to flee: human rights and human wrongs in refugee homelands*, Lanham, Md.: Lexington Books, 2006, 129.

<sup>101</sup> U.S. Department of State, *Bureau of African Affairs*, Chad, February 2009, at (<http://www.state.gov/r/pa/ei/bgn/37992.htm>)

<sup>102</sup> United Nations Security Council, "Letter dated 14 February 2006 from the Chargé d'affaires of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council", p. 4, at ([http://caringforkaela.org/files/file/06\\_02\\_08%20Tripoli%20Agreement.pdf](http://caringforkaela.org/files/file/06_02_08%20Tripoli%20Agreement.pdf)).

<sup>103</sup> African Union, Report of the chairperson of the Commission on the situation in Chad, p.2; at [www.africaunion.org/root/au/Conferences/2008/february/ps/18FEB/Rapport%20Chad%20](http://www.africaunion.org/root/au/Conferences/2008/february/ps/18FEB/Rapport%20Chad%20)

<sup>104</sup> Press Conference by Chad's foreign Minister, Department of Public Information, News and Media Division, *New York, PRESS*, 26 February 2008, at [http://www.un.org/News/briefings/docs/2008/080226\\_Chad.doc.htm](http://www.un.org/News/briefings/docs/2008/080226_Chad.doc.htm).

<sup>105</sup> Report of the Chairperson of the Commission on the Situation in Chad, *Peace and Security Council, 110th Meeting*, 18 February 2008, Addis Ababa, Ethiopia, p.2 at [www.africa-union.org/root/au/Conferences/2008/february/ps/18FEB/Rapport%20Chad%20\(Eng%20\).doc](http://www.africa-union.org/root/au/Conferences/2008/february/ps/18FEB/Rapport%20Chad%20(Eng%20).doc)

as well as the Sirte Agreement of 25 October 2007, signed by both the government of Chad and the main Chadian opposition groups.<sup>106</sup> President Deby expressed his gratitude to Qaddafi for making such efforts to maintain peace and security in the region.<sup>107</sup> His Foreign Minister, Ahmad Allam-Mi followed suit in appreciating the efforts made by Libya to restore relations between the two countries (Chad and Sudan) and to resolve the problem of Darfur.<sup>108</sup> Despite Qaddafi's efforts, however, Sudan and Chad remain in a quasi-state of belligerence through support of rebel movements against each other's regime.

### **3.2. Libya as a Foe to the West: 1980-1991 – Era of Qaddafi - Second Part until the End of the Cold War**

This period shows Al-Qaddafi as enemy to the west or what he used to say imperialism, he many things happened in this period affected Libya and people of Libya a lot.<sup>109</sup>

#### **3.2.1. Conflict with the USA and Its Allies**

The early and mid-1980s saw economic trouble for Libya; from 1982 to 1986, the country's annual oil revenues dropped from \$21 billion to \$5.4 billion. Focusing on irrigation projects, 1983 saw construction start on "Gaddafi's Pet Project", the Great Man-Made River; although designed to be finished by the end of the decade, it remained incomplete at the start of the 21st century. Military spending increased, while other administrative budgets were cut back.<sup>110</sup> Libya had long supported the FROLINAT militia in neighboring Chad, and in December 1980, re-invaded Chad at

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<sup>106</sup> European Parliament resolution on the situation in Chad, *The European Parliament*, 22 April 2008 at <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B6-2008-0201&language=ET>

<sup>107</sup> Al-Zahf Al-Akhdar, *Libya – my translation from Arabic*, 30 October 2008 at <http://www.azzahfalkhder.com/content/view/935/26/>.

<sup>108</sup> Khaled Mahmoud, *Asharq Al-Awsat (London, Arabic)* 24 October 2008 at <http://www.asharqalawsat.com/details.asp?section=4&issueno=10923&article=492022&search=????&state=true>.

<sup>109</sup> Albert Hourani, *A History of the Arab Peoples*, p. 198.

<sup>110</sup> Ronald Bruce St John, *"Libya and the United States"*, 2012, From: URL <http://www.upenn.edu/pennpress/book/13780.html>, (Accessed date: 05-01-2017).

the request of the Frolinat-controlled GUNT government to aid in the civil war; in January 1981, Gaddafi suggested a political merger. The Organization of African Unity (OAU) rejected this, and called for a Libyan withdrawal, which came about in November 1981. The civil war resumed, and so Libya sent troops back in, clashing with French forces who supported the southern Chadian forces.<sup>111</sup>

Many African nations had tired of Libya's policies of interference in foreign affairs; by 1980, nine African states had cut off diplomatic relations with Libya, while in 1982 the OAU cancelled its scheduled conference in Tripoli in order to prevent Gaddafi gaining chairmanship.<sup>112</sup> Proposing political unity with Morocco, in August 1984, Gaddafi and Moroccan monarch Hassan II signed the Oujda Treaty, forming the Arab-African Union; such a union was considered surprising due to the strong political differences and longstanding enmity that existed between the two governments. Relations remained strained, particularly due to Morocco's friendly relations with the U.S. and Israel; in August 1986, Hassan abolished the union.<sup>113</sup> Domestic threats continued to plague Gaddafi; in May 1984, his Bab al-Azizia home was unsuccessfully attacked by a joint NFSL–Muslim Brotherhood militia, and in the aftermath 5000 dissidents were arrested.<sup>114</sup>

In 1981, the new US President Ronald Reagan pursued a hard line approach to Libya, erroneously considering it a puppet regime of the Soviet Union. In turn, Gaddafi played up his commercial relationship with the Soviets, visiting Moscow again in April 1981 and 1985, and threatening to join the Warsaw Pact. The Soviets were nevertheless

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<sup>111</sup> Gaddafi's full title was, “*Brotherly Leader and Guide to the First of September Great Revolution of the Great Socialist People's Libyan Arab Jamahiriya*”, Retrieved from: URL <https://www.state.gov/r/pa/ei/bgn/5425.htm> (Accessed date: 01-02-2017).

<sup>112</sup> Kawczynski 2011, Retrieved from: URL [https://en.wikipedia.org/wiki/Daniel\\_Kawczynski](https://en.wikipedia.org/wiki/Daniel_Kawczynski) (Accessed date: 03-01-2017).

<sup>113</sup> Claire Russell and W.M.S. Russell, *Populations Crises and Population Cycles*.

<sup>114</sup> Harris 1986, Retrieved from: URL <http://apics-online.info/sources/1331> (Accessed date 05-02-2017), 2011, p. 115 and Bruce St. John 2012, *Libya and the United States*, pp. 210–211.

cautious of Gaddafi, seeing him as an unpredictable extremist.<sup>115</sup> Beginning military exercises in the Gulf of Sirte – an area of sea that Libya claimed as a part of its territorial waters – in August 1981 the U.S. shot down two Libyan Su-22 planes monitoring them. Closing down Libya's embassy in Washington, D.C., Reagan advised U.S. companies operating in the country to reduce the number of American personnel stationed there. In March 1982, the U.S. implemented an embargo of Libyan oil, and in January 1986 ordered all U.S. companies to cease operating in the country, although several hundred workers remained. Diplomatic relations also broke down with the U.K., after Libyan diplomats were accused in the shooting death of Yvonne Fletcher, a British policewoman stationed outside their London embassy, in April 1984. In spring 1986, the U.S. Navy again began performing exercises in the Gulf of Sirte; the Libyan military retaliated, but failed as the U.S. sank several Libyan ships.<sup>116</sup>

### **3.3. Libya between 1991 and 2000: Collapse of Soviet Union**

In 1991, two Libyan intelligence agents were indicted by prosecutors in the United States and United Kingdom for their involvement in the December 1988 bombing of Pan Am Flight 103. Six other Libyans were put on trial in absentia for the 1989 bombing of UTA Flight 772 over Chad and Niger.

The UN Security Council demanded that Libya surrender the suspects, cooperate with the Pan Am 103 and UTA 772 investigations, pay compensation to the victims' families, and cease all support for terrorism. Libya's refusal to comply led to the approval of Security Council Resolution 748 on 31 March 1992, imposing international sanctions on the state designed to bring about Libyan compliance. Continued Libyan defiance led to further sanctions by the UN against Libya in November 1993.<sup>117</sup>

After the dissolution of the Warsaw Pact and the Soviet Union, Libya concentrated on expanding diplomatic ties with Third World countries and increasing

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<sup>115</sup> Vandewalle 2008, p. 36, Retrieved from: URL <https://stevenvandewalle.wordpress.com/publications/> (Accessed date: 12-2-2017) and Kawczynski 2011, pp. 118–119.

<sup>116</sup> Vandewalle 2008, p. 37; Kawczynski 2011, pp. 117–118 and Bruce St. John 2012, p. 180.

<sup>117</sup> Bruce St. John 2012, p. 189.

its commercial links with Europe and East Asia. Following the imposition of U.N. sanctions in 1992, these ties significantly diminished. Following a 1998 Arab League meeting in which fellow Arab states decided not to challenge U.N. sanctions, Gaddafi announced that he was turning his back on pan-Arab ideas, one of the fundamental tenets of his philosophy.<sup>118</sup>

Instead, Libya pursued closer bilateral ties, particularly with Egypt and Northwest African nations Tunisia and Morocco. It also has sought to develop its relations with Sub-Saharan Africa, leading to Libyan involvement in several internal African disputes in the Democratic Republic of Congo, Sudan, Somalia, Central African Republic, Eritrea, and Ethiopia. Libya also has sought to expand its influence in Africa through financial assistance, ranging from aid donations to impoverished neighbors such as Niger to oil subsidies to Zimbabwe. Gaddafi has proposed a borderless "United States of Africa" to transform the continent into a single nation-state ruled by a single government. This plan has been moderately well received, although more powerful would-be participants such as Nigeria and South Africa are skeptical.

In 1999, less than a decade after the UN sanctions were put in place, Libya began to make dramatic policy changes in regard to the Western world, including turning over the Lockerbie suspects for trial. This diplomatic breakthrough followed years of negotiation, including a visit by UN Secretary General Kofi Annan to Libya in December 1998, and personal appeals by Nelson Mandela. Eventually UK Foreign Secretary Robin Cook persuaded the Americans to accept a trial of the suspects in the Netherlands under Scottish law, with the UN Security Council agreeing to suspend sanctions as soon as the suspects arrived in the Netherlands for trial.<sup>119</sup> Libya also paid compensation in 1999 for the death of British policewoman Yvonne Fletcher, a move that preceded the reopening of the British embassy in Tripoli and the appointment of Ambassador Sir Richard Dalton, after a 17-year break in diplomatic relations.<sup>120</sup>

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<sup>118</sup>-Kawczynski 2011, p. 188 and Bruce St. John 2012, pp. 270–271.

<sup>119</sup> Kawczynski 2011, p. 190 and Bruce St. John 2012, p. 272.

<sup>120</sup> Bruce St. John 2012, p. 276.

### 3.4. Libya between 2000 and 2011: 11 September-2001 / Rapprochement with USA and Arab Spring-Revolution

As the 20th century came to a close, Gaddafi increasingly rejected Arab nationalism, frustrated by the failure of his Pan-Arab ideals; instead he turned to Pan-Africanism, emphasizing Libya's African identity. From 1997 to 2000, Libya initiated cooperative agreements or bilateral aid arrangements with 10 African states, and in 1999 joined the Community of Sahel-Saharan States. In June 1999, Gaddafi visited Mandela in South Africa, and the following month attended the OAU summit in Algiers, calling for greater political and economic integration across the continent and advocating the foundation of a United States of Africa.<sup>121</sup> He became one of the founders of the African Union (AU), initiated in July 2002 to replace the OAU; at the opening ceremonies, he proclaimed that African states should reject conditional aid from the developed world, a direct contrast to the message of South African President Thabo Mbeki.<sup>122</sup>

In spring 2010, Gaddafi proclaimed jihad against Switzerland after Swiss police accused two of his family members of criminal activity in the country, resulting in the breakdown of bilateral relations.<sup>123</sup>

Libya's economy witnessed increasing privatization; although rejecting the socialist policies of nationalized industry advocated in The Green Book, government figures asserted that they were forging "people's socialism" rather than capitalism. Gaddafi welcomed these reforms, calling for wide-scale privatization in a March 2003 speech. In 2003, the oil industry was largely sold to private corporations, and by 2004,

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<sup>121</sup> Ed Pilkington, *UN general assembly: 100 minutes in the life of Muammar Gaddafi*. *The Guardian*. New York, September 23, 2009, retrieved from: URL <https://www.theguardian.com/world/2009/sep/23/Qadhafi-un-speech>, (Accessed date: 03-06-2017).

<sup>122</sup> Neil MacFarquhar, "Libyan Leader Delivers a Scolding in U.N. Debut". *The New York Times*. New York, 23 September, 2009, retrieved from: URL <http://query.nytimes.com/gst/fullpage.html?Res=9906E1DD1331F937A1575AC0A96F9C8B63> (Accessed date: 03-01-2017).

<sup>123</sup> Bruce St. John 2012, p. 250.

there was \$40 billion of direct foreign investment in Libya, a six fold rise over 2003.<sup>124</sup> Sectors of Libya's population reacted against these reforms with public demonstrations, and in March 2006, revolutionary hard-liners took control of the GPC cabinet; although scaling back the pace of the changes, they did not halt them. In 2010, plans were announced that would have seen half the Libyan economy privatized over the following decade. While there was no accompanying political liberalization, with Gaddafi retaining predominant control, in March 2010, the government devolved further powers to the municipal councils.<sup>125</sup> Rising numbers of reformist technocrats attained positions in the country's governance; best known was Gaddafi's son and heir apparent Saif al-Islam Gaddafi, who was openly critical of Libya's human rights record. He led a group who proposed the drafting of the new constitution, although it was never adopted, and in October 2009 was appointed to head the PSLC. Involved in encouraging tourism, Saif founded several privately run media channels in 2008, but after criticizing the government they were nationalized in 2009. In October 2010, Gaddafi apologized to African leaders on behalf of Arab nations for their involvement in the African slave trade.<sup>126</sup>

### **3.4.1. Arab Spring-Revolution**

The Arab uprisings represent a revolutionary wave of demonstrations and protests that swept the Arab world.<sup>127</sup> The Uprisings were sparked by the first protests that occurred in Tunisia on December 18, 2010 following Mohamed Bouazizi's self-immolation in protest of police corruption and ill-treatment. Within a year, this wave left major changes in its wake: revolutions in Tunisia and Egypt that culminated in the downfall of these two regimes; a civil war in Libya resulting in the fall of its regime; civil uprisings in Syria and Yemen; major protests in Bahrain, Jordan, Morocco, Algeria, Oman, Iraq, and minor protests in Kuwait, Saudi Arabia, and Sudan. In all of these Arab countries, the protests have taken the form of sustained campaigns involving

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<sup>124</sup> Ibid, p. 248.

<sup>125</sup> Vandewalle 2011, p. 225 and Bruce St. John 2012, pp. 249–269.

<sup>126</sup> Bruce St. John 2012, p. 278.

<sup>127</sup> [http://en.wikipedia.org/wiki/Arab\\_Spring](http://en.wikipedia.org/wiki/Arab_Spring)

thousands of ordinary citizens using the same techniques of civil resistance: strikes, demonstrations, marches and rallies. Particularly pivotal to the protest process as well has been the use of social media to organize, communicate, raise awareness, and issue danger alerts among the thousands of protestors in the face of state attempts at repression, internet censorship, crowd control, and even physical attack to the point of protestors being beaten or shot point blank.<sup>128</sup> Many of the demonstrations in the Arab Spring have met violent responses from authorities, as well as from pro-government militias and counter-demonstrators.<sup>129</sup>

A major slogan of the demonstrators in these uprisings has been *Ash-sha 'byurid isqat an-nizam*: "The people want to bring down the regime."<sup>130</sup> With the success of protests in Tunisia, a wave of unrest struck Algeria, Jordan, Egypt, Yemen, Libya, and then spread to other countries. The largest, most organized demonstrations occurred on appointed "days of rage," most commonly on Fridays, following afternoon prayers.<sup>131</sup>

Following the start of the Arab Spring in 2011, Gaddafi spoke out in favor of Tunisian President Zine El Abidine Ben Ali, then threatened by the Tunisian Revolution. He suggested that Tunisia's people would be satisfied if Ben Ali introduced a Jamahiriya system there. Fearing domestic protest, Libya's government implemented preventative measures, reducing food prices, purging the army leadership of potential defectors and releasing several Islamist prisoners. They proved ineffective, and on 17 February 2011, major protests broke out against Gaddafi's government. Unlike Tunisia or Egypt, Libya was largely religiously homogenous and had no strong Islamist

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<sup>128</sup> "Many wounded as Moroccan police beat protestors," *Reuters*, May 23, 2011, <http://uk.reuters.com/article/2011/05/22/uk-morocco-protests-iduKTRE74L2YU2011522> (retrieved June 12, 2011).

<sup>129</sup> Syria's crackdown," *The Irish Times*, May 31, 2011, <http://www.irishtimes.com/newspaper/opinion/2011/0531/122429143757.htm> (retrieved June 12, 2011);

<sup>130</sup> Hardy Roger, Egypt protests: An Arab spring as old order crumbles, *BSC News*, February 2, 2011, [http://www.bbc.co.uk/news/world\\_middle\\_east\\_12339521](http://www.bbc.co.uk/news/world_middle_east_12339521) (retrieved March 9, 2011).

<sup>131</sup> Gregory White, "Bahrain now bracing for its own day of rage after giving every family \$2,660 fails," *Business Insider*, February 13, 2011, <http://www.businessinsider.com/baharin-day-of-rage-2011-2> (retrieved February 13, 2011).

movement, but there was widespread dissatisfaction with the corruption and entrenched systems of patronage, while unemployment had reached around 30%.<sup>132</sup>

Accusing the rebels of being "drugged" and linked to al-Qaeda, Gaddafi proclaimed that he would die a martyr rather than leaving Libya.<sup>133</sup> As he announced that the rebels would be "hunted down street by street, house by house and wardrobe by wardrobe",<sup>134</sup> the army opened fire on protests in Benghazi, killing hundreds.<sup>135</sup> Shocked at the government's response, a number of senior politicians resigned or defected to the protesters' side.<sup>136</sup> The uprising spread quickly through Libya's less economically developed eastern half.<sup>137</sup> By February's end, eastern cities like Benghazi, Misrata, al-Bayda and Tobruk were controlled by rebels,<sup>138</sup> and the Benghazi-based National Transitional Council (NTC) had been founded to represent them.<sup>139</sup>

In the conflict's early months it appeared that Gaddafi's government – with its greater firepower – would be victorious. Both sides disregarded the laws of war, committing human rights abuses, including arbitrary arrests, torture, extrajudicial executions and revenge attacks. On 26 February the United Nations Security Council passed Resolution 1970, suspending Libya from the UN Human Rights Council, implementing sanctions and calling for an International Criminal Court (ICC) investigation into the killing of unarmed civilians. In March, the Security Council declared a no fly zone to protect the civilian population from aerial bombardment, calling on foreign nations to enforce it; it also specifically prohibited foreign

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<sup>132</sup> Kawczynski 2011, p. 242.

<sup>133</sup> Daniel Kawczynski, *Seeking Gaddafi: Libya, the West and the Arab Spring*, Biteback, ISBN 978-1-84954-148-0, 2011, p. 242.

<sup>134</sup> *Ibid* at p 242-243.

<sup>135</sup> *Ibid* at p 242-243.

<sup>136</sup> *Ibid* at p.284.

<sup>137</sup> Dirk Vandewalle, *From International Reconciliation to Civil War: 2003–2011, Libya Since 1969: Qaddafi's Revolution Revisited* (revised edition), Palgrave Macmillan, pp. 215–239, ISBN 0-230-33750-3, 2011, p. 236.

<sup>138</sup> Ronald Bruce St. John, *Libya: From Colony to Revolution* (revised edition), *Oxford: Oneworld*, ISBN 978-1-85168-919-4, 2012, p. 284.

<sup>139</sup> *Ibid* at p.286.

occupation. Ignoring this, Qatar sent hundreds of troops to support the dissidents, and along with France and the United Arab Emirates provided the NTC with weaponry and training.<sup>140</sup>

By October 2011, the Arab uprisings which had begun eleven months earlier in Tunisia had resulted in the dramatic overthrow of three heads of state. After 24 years in power, Tunisian President Zine El Abidine Ben Ali fled to Saudi Arabia on January 14 following revolutionary protests.<sup>141</sup> In Egypt, President Hosni Mubarak resigned<sup>142</sup> on February 11, 2011 after 18 days of massive protests, ending his 30-year presidency. Long-standing Libyan leader Muammar al-Gaddafi was killed on October 20, 2011 after his last stronghold, Serrt was stormed by the National Transitional Council's army.<sup>143</sup>

### **3.4.2. NATO Intervention: March–August 2011**

A week after the implementation of the no-fly zone, NATO announced that it would be enforced.<sup>144</sup> On 30 April a NATO airstrike killed Gaddafi's sixth son and three of his grandsons in Tripoli, though Gaddafi and his wife were unharmed. Western officials remained divided over whether Gaddafi was a legitimate military target under the U.N. Security Council resolution. U.S. Secretary of Defense Robert Gates said that NATO was "not targeting Gaddafi specifically" but that his command-and-control facilities were legitimate targets—including a facility inside his sprawling Tripoli compound that was hit with airstrikes on 25 April.<sup>145</sup>

On 27 June, the ICC issued arrest warrants for Gaddafi, his son Saif al-Islam, and his brother-in-law Abdullah Senussi, head of state security, for charges concerning

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<sup>140</sup> Vandewalle 2011, p. 236 and Bruce St. John 2012, p. 284.

<sup>141</sup> "Tunisia protests against Ben Ali left 300 dead, says UN," *BBC News*, February 1, 2011, <http://www.bbc.co.uk/news/world-arfrica-12335692>

<sup>142</sup> "Arab Spring, Who lost Egypt?" *The Economist*, March 1, 2011, <http://www.economist.com/blogs/democracyinamerica/2011/03/arab-spring> (retrieved March 9, 2011).

<sup>143</sup> "Libya declares nation liberated after Gaddafi death," *The Jerusalem Post*, October 23, 2011, <http://www.jpost.com/Headlines/Article.aspx?id=242854> (retrieved October 23, 2011).

<sup>144</sup> Bertarelli (1929), p. 278.

<sup>145</sup> Kawczynski 2011, p. 257 and Bruce St. John 2012, p. 286.

crimes against humanity. Libyan officials rejected the ICC, claiming that it had "no legitimacy whatsoever" and highlighting that "all of its activities are directed at African leaders".<sup>146</sup> That month, Amnesty International published their findings, in which they asserted that many of the accusations of mass human rights abuses made against Gaddafi's forces lacked credible evidence, and were instead fabrications of the rebel forces which had been readily adopted by the western media. Amnesty International did however still accuse Gaddafi forces of numerous war crimes. On 15 July 2011, at a meeting in Istanbul, over 30 governments recognized the NTC as the legitimate government of Libya. Gaddafi responded to the announcement with a speech on Libyan national television, in which he called on supporters to "Trample on those recognitions, trample on them under your feet ... They are worthless".<sup>147</sup>

Now with NATO support in the form of air cover, the rebel militia pushed westward, defeating loyalist armies and securing control of the center of the country. Gaining the support of Amazigh (Berber) communities of the Nafusa Mountains, who had long been persecuted as non-Arabic speakers under Gaddafi, the NTC armies surrounded Gaddafi loyalists in several key areas of western Libya. In August, the rebels seized Zliten and Tripoli, ending the last vestiges of Gaddafi's power. On 25 August, the Arab League recognized the NTC to be "the legitimate representative of the Libyan state", on which basis Libya would resume its membership in the League.<sup>148</sup>

### 3.4.3. Capture and Death: September–October 2011

Only a few towns in western Libya—such as Bani Walid, Sebha and Sirte—remained Qaddafi strongholds. Retreating to Sirte after Tripoli's fall, Gaddafi announced his willingness to negotiate for a handover to a transitional government, a suggestion rejected by the NTC. Surrounding himself with bodyguards, he continually

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<sup>146</sup> Patrick Cockburn, "Amnesty questions claim that Gaddafi ordered rape as weapon of war". *The Independent*. London, June 24, 2011, retrieved from: URL <http://www.independent.co.uk/news/world/africa/amnesty-questions-claim-that-gaddafi-ordered-rape-as-weapon-of-war-2302037.html> (Accessed date: 3-6-2017).

<sup>147</sup> Bruce St. John, *Libya and the United States*, p. 286.

<sup>148</sup> Human Rights Watch, *World Report 2012: Libya, Events of 2011*, Retrieved from: URL <https://www.hrw.org/world-report/2012/country-chapters/libya> (Accessed 13-02-2017), p. 23.

moved residences to escape NTC shelling, devoting his days to prayer and reading the Qur'an.<sup>149</sup> On 20 October, Gaddafi broke out of Sirte's District 2 in a joint civilian-military convoy, hoping to take refuge in the Jarref Valley. At around 8.30am, NATO bombers attacked, destroying at least 14 vehicles and killing at least 53. The convoy scattered, and Gaddafi and those closest to him fled to a nearby villa, which was shelled by rebel militia from Misrata. Fleeing to a construction site, Gaddafi and his inner cohort hid inside drainage pipes while his bodyguards battled the rebels; in the conflict, Gaddafi suffered head injuries from a grenade blast while defense minister Abu-Bakr Yunis Jabr was killed.<sup>150</sup>

A Misratan militia took Gaddafi prisoner, beating him, causing serious injuries; the events were filmed on a mobile phone. A video appears to picture Gaddafi being poked or stabbed in the rear end "with some kind of stick or knife" or possibly a bayonet.<sup>151</sup> Pulled onto the front of a pick-up truck, he fell off as it drove away. His semi-naked, lifeless body was then placed into an ambulance and taken to Misrata; upon arrival, he was found to be dead. Official NTC accounts claimed that Gaddafi was caught in a cross-fire and died from his bullet wounds. Other eye-witness accounts claimed that rebels had fatally shot Gaddafi in the stomach;<sup>152</sup> a rebel identifying himself as Senad el-Sadik el-Ureybi later claimed responsibility. Gaddafi's son Mutassim, who had also been among the convoy, was also captured, and found dead several hours later, most probably from an extrajudicial execution.<sup>153</sup> Around 140 Gaddafi loyalists were rounded up from the convoy; tied up and abused, the corpses of 66 were found at the nearby Mahari Hotel, victims of extrajudicial execution. Libya's chief forensic pathologist, Othman al-Zintani, carried out the autopsies of Gaddafi, his son and Jabr in the days following their deaths; although the pathologist initially told

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<sup>149</sup> The Taipei Times, *Arab League gives its full backing to Libya's rebel council*, August 26, 2011, retrieved from: URL <http://www.taipetimes.com/News/front/archives/2011/08/26/2003511688>

<sup>150</sup> *Gaddafi's Last Stand in Sirte*, Retrieved from: URL [http://allafrica.com/search/?search\\_string=Gaddafi%20s+Last+Stand+in+Sirte](http://allafrica.com/search/?search_string=Gaddafi%20s+Last+Stand+in+Sirte) (Accessed date: 16-3-2017).

<sup>151</sup> Martin Chulov, "Gadafy's killers will be tried", claims NTC, *The Irish Times*, October 28, 2011.

<sup>152</sup> Human Rights Watch, "World Report 2012: Libya, Events of 2011", Retrieved from: URL <https://www.hrw.org/world-report/2012/country-chapters/libya> (Accessed 13-02-2017), pp. 28–29.

<sup>153</sup> *Ibid*, pp. 32–33.

the press that Gaddafi had died from a gunshot wound to the head, the autopsy report was not made public.<sup>154</sup>

On the afternoon of Gaddafi's death, NTC Prime Minister Mahmoud Jibril publicly revealed the news. Gaddafi's corpse was placed in the freezer of a local market alongside the corpses of Yunis Jabr and Mutassim; the bodies were publicly displayed for four days, with Libyans from all over the country coming to view them. In response to international calls, on 24 October Jibril announced that a commission would investigate Gaddafi's death.<sup>155</sup> On 25 October, the NTC announced that Gaddafi had been buried at an unidentified location in the desert; Al Aan TV showed amateur video footage of the funeral. Seeking vengeance for the killing, Qaddafi sympathizers fatally wounded one of those who had captured Gaddafi, Omran Shaaban, near Bani Walid in September 2012.<sup>156</sup>

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<sup>154</sup> Ibid, p. 43.

<sup>155</sup> Ibid, p. 44.

<sup>156</sup> Al Jazeera, "Libyan behind Gaddafi capture dies in France", September 26, 2012. Retrieved from: URL <http://www.aljazeera.com/news/africa/2012/09/201292652225974150.html> (Accessed date: 08-03-2017).



#### **4. THE STUDYING OF THE HUMANITARIAN INTERVENTION CASE IN THE STATE OF LIBYA**

Libya, as other Arab states, has endured the change tsunami resulting in a profound alteration in the Libyan political history. Libya has been for a long time, roughly 41 years, under the absolute ruling of Qaddafi and his family members and it has witnessed the tribal dominance over all state parts. This dreadful situation has deprived most of Libyans from positively participating in the decision-making process, in addition to many other accumulations and social and economic motives inside the Libyan society. Consequently, this has forced people to announce rebellion and upright, driven by political suppression and political differentiation based on region or tribe, let alone the terrible condition of economic unfairness, which have added to the intensity of conflict between the western and eastern parts of Libya.

The aforementioned short review might be able to present an explanation or justification for the reason behind the events that took place in the eastern part of Libya. Furthermore, throughout examining events that Libya has witnessed since the presence of Qaddafi in power, it is obvious that Libyans have failed to lead the change process by themselves. This might indicate the supremacy of the Qaddafi regime, which created its own intellectual principles and found the required tools and mechanisms to guarantee its continuity and permanency in power. Moreover, amongst such tools is the formation of the revolutionary committees in addition to relying on monitoring tribal policy as a key element in his theory of ruling the state of Libya.

Consequently, the protest movement, which took place in Libya, has extended and developed into an armed conflict between the regime and opponent movement. Moreover, the conflict has developed beyond any one's capacity to control or govern, to the extent that it has forced the international society to intervene throughout the NATO forces. The Western countries have their own agenda; however, it has not preceded the Libyan revolution. It is an agenda that they have started designing for the sake of dealing with the expected consequences, and even more, how to direct any

effects of the Libyan revolution and to take off towards the planned destination<sup>157</sup>. We shall study the international humanitarian intervention in Libya by taking a good look at the reasons behind the outbreak of the crisis, its path, incentives behind it, reasons that affected the national and international behavior towards the humanitarian intervention and its legal basis. Then we should deal with the assessment of the future of the humanitarian intervention in Libya.

#### **4.1. The Background and the Course of the Libyan Crisis**

The beginning of the Libyan crisis has emerged as clashes between the demonstrators and the forces of opponents as one side, and the Qaddafi brigades and armed forces on the other side. Furthermore, the clashes have developed into an armed conflict led by political movements and armed militias demanding the fall of the Libyan regime, which was governed by Qaddafi. In the context of the bloody events, which went out of control and reached the point of no return, the whole matter has been internationalized by taking it further to the Security Council and by the intervention of the regional organizations and by focusing the media awareness on the Libyan crisis and its consequences, in particular, the humanitarian dimension. Therefore, what are the reasons that have led to the fueling up of the Libyan people movement and then its expansion into an armed conflict, we will try to answer this argumentative question by discussing the roots of the crisis and the feeding factors also the historical, political, economic factors, decline of the general status of human right, demographic change and the development of technology which were the main factors that led to the Libyan crisis.

##### **4.1.1. The Roots of the Crisis in Libya and the Feeding Factors**

It is an established fact that the political situation is affected by prevailing historical circumstances and forged by regional environments to a certain extent. Moreover, the mounting up hatred, hardships, loss of trust and the existence of the Qaddafi regime have all turned into an adequate reason to explode the crisis.

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<sup>157</sup> Ahmed El-Feky et al, *Ela Aena Yadhab Alarab*, Beirut, Moasaset Alfeker Alarabe, 2012, p 210.

Furthermore, political and economic circumstances are considered amongst the strongest motives affecting the intensity of the crisis. In addition, the political dimension is greatly connected to many instances of injustice, which are considered action cases against Qaddafi regime, so as the act of bequeathing as a legitimate means for Qaddafi sons to be in power and thereby, holding in their hands all political, economic and social issues related to ruling Libya and Libyans.

The geographic location of Libya has great strategic importance as it occupies an important part of the Maghreb and North Africa. It's politically and geographically important as a Mediterranean country. It covers an area of 1759540 square meters, with a population of six million most of them follow the doctrine of Imam Malik (I<sup>158</sup>smail, 1121, p. 2) We will try to monitor and analyze the most important internal factors, direct and non-direct which lead to the Libyan crisis.

#### **4.1.1.1. Historical and Political Factors**

From historical point of view, there has been some kind of hidden competitiveness between the provinces of western Libya and the eastern part of it regarding prominence and sovereignty. Moreover, limiting the exploration to the Qaddafi era, it can be said that even though the eastern provinces in Libya, particularly, Benghazi, have been the most of the Libyan areas that have supported the coup by Qaddafi in 1969 during its earliest years, however, the deviation of these areas towards supporting Islamic and non-Islamic opposition has made them a source of instability and uninterrupted attempts to overthrow Qaddafi regime since the seventies of the previous century and afterwards. This devise has led into armed confrontations between two parties and resulted in a wave of hegira by the highly educated people and professionals abroad. Some reports are talking about 30, 000 Libyan immigrants, which have found their way to Europe. This devise consolidated the state of break-off between Qaddafi regime and its opponents and created trust crisis, which has resulted in forming a hollow circle its elements are marginalizing and crushing which in turn lead to

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<sup>158</sup> Ismail Mekled, *Alalakat Alsiasie Aldawlia*, Asyut, University of Asyut , 2001, p 1.

uprising and disturbance, which again lead to more isolation and marginalizing of opponents. On the political level, it can be said that throughout the ruling era of Qaddafi, the foundations of the Libyan regime have blemished away, which have been represented by four main fundamentals; the first is the national revolutionary, the second is the equality and social justice, and the third fundamental is the legitimacy of dignity and national identity, and finally, the symbolic value of Qaddafi as a freedom fighter against imperialism.<sup>159</sup>

Qaddafi has done harsh repression against all images and symbols of opposition inside and outside the country, which reached In the 1990s, through corporal punishment, imprisonment and forced exile against thousands of dissidents in order to maintain its power, leading to political blockage in the structure of the state. On the other hand, the system adapted to the post-Cold War changes and Post-September 11, 2001 changes which led to Libya's abandonment of its own or WMD projects and its acceptance of heavy compensation for the victims of the Lockerbie and French airliners.

#### **4.1.1.2. Economical Factors**

The state of Libya is considered one of the most important Arab states for exporting oil and gas. The Libyan assets and oil reserve has become a fundamental target for the European and American oil companies. Moreover, Libyans have not benefited from this vast amount of wealth and capital, which has been evaluated to be 30 billion barrels of oil, meaning more than the oil reserve of the North Sea. As stated earlier, the Libyans do not feel that they have benefited in any way from this vast wealth in building an intact infrastructure or an active regional regime due to the fact that Qaddafi regime has monopolized all this amount of wealth and assets, particularly, the oil. Furthermore, the retributions of the oil and gas selling is have remained a secret that was kept by the regime and it has proven impossible for anybody to uncover the truth behind it or in which way this assets have been invested. It has been thought that

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<sup>159</sup> Mahdi Ashour, "Kerah fe Asbab Alsera Almosalh feLibya wa Asbaboh", Published M.A thesis, Cairo University, 2011, p.34.

such wealth should have participated in the prosperity of Libyans, which they have not, many sectors of the Libyan society have been marginalized and downgraded .<sup>160</sup>

In spite of the relative prosperity of the Libyans compared to other Arab nations, as the reserve assets are estimated to be in billions, there have been great distinctions in the distribution of wealth. Consequently, instead of the just distribution of the wealth amongst Libyans, which is estimated to be billions of dollars, a small circle surrounding Qaddafi and his family members has dominated such wealth. Moreover, it seems that the accurate description of the four decades of the Qaddafi era is the dissipation of the reserve assets and supremacy of the Libyan people owing to the deeply rooted corruption, which has strengthened the role of the revolution committee, many of the army officers and brigades, the external contact offices and other bodies that have supported Qaddafi regime. It is worth mentioning that in the report of “Corruption of Indicators Perceptions” for the year 2010, Libya has come in the (146) place amongst (178) other countries.<sup>161</sup>

#### **4.1.1.3. The Decline of the General Status of Human Rights and General Freedoms**

One of the incidents that clarify the nature of Qaddafi regime is the massacre of Abu-Saleem Prison, which took place in the month of June 1966, during which the security forces have opened fire at the defenseless prisoners resulting in the killing of around 1200 of them. Unfortunately, this incident was not undergone any active independent cross-examination.<sup>162</sup>

The Human Rights Committee (HRC) at the United Nations and the Amnesty International have directed their bitter criticism to the Libyan regime policies and

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<sup>160</sup> Ali Hanafi, “Libya wa Amrika.. Altakyf Altadreeje”, *Alsiase Aldwalia* , April 08 , 2003. Retrieved From: URL <http://digital.ahram.org.eg/articles.aspx?Serial=220770&eid=4846> (Accessed date:01-02-2017).

<sup>161</sup> Monazmet Alshafafia Alalamia, *Modrakat alfasad*, 2010, Retrived From: URL <http://shop.amnesty.org/collections/amnesty-international-report-arabic> (Accessed date: 05-02-2017)

<sup>162</sup> Elmarkez Alfelsteene Lehukuk Alinsan, *Takreer Beathet Almojtame Almadnee Letakse Alhakaek fe Libya, Majmoet Elmosadh Elkanonia Eldawlia* (Elak), 2012, p 42.

practices as the HRC has declared its concern of the huge numbers of alleged enforced disappearance cases and cases of extra -legal executions.<sup>163</sup>

#### **4.1.1.4. The Demographic Change**

Another reason that have added to the stimulating the demonstrations against the Libyan regime is the demographic change and expansion of the youth age group and openness of the Libyan youths to the outer world. The youths, under the age of 25, form the overwhelming majority of the Libyan population and around 80% of Libyans live in the civil areas. i.e., cities and towns. Young people were not ready to accept the inconsistencies between slogans and policies upon which they have raised up, educated, that emphasize the values of socialism, social justice and the ownership of people, and between the realities, that totally contradicts all of that. Moreover, in the context of openness polices and privatization which have endangered the interests of the regime supporters and loyalists resulting in a mass feeling of frustration towards the regime policies and practices. Consequently, this state of affairs has made Libyans live in a social and economic crisis contributed to the suffocating of innovation and decline of the uniqueness, thereby, their loyalty to their country has deteriorated.<sup>164</sup>

Youth sector has represented the basic fuel for the bursting out of the rebellions and revolution in Libya, also, the leaders of the upright were solicitors, judges, educated people and from the elite. Furthermore, the success of the Tunisian model as well as the Egyptian one, has contributed to the quick transfer of that model to the Libyans, where the Arab region witnessing borders-crossing reactions and mutual political effects in the context of the political openness in some countries encountered by a reaction in some other country .<sup>165</sup>

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<sup>163</sup> Ashour , *Almosalh feLibya wa Asbaboh*, p.37.

<sup>164</sup> Ibid, p.34.

<sup>165</sup> Ali Ahmida, *Alasoat Almohashama*, Beirut, Markez Derast Alwahda Alarabia., 2009, p.17.

#### **4.1.1.5. The Sector of Media, Information and Communications**

Modern technology and communications have played a fundamental role in the process of mobilization and preparation for the uprising and demonstrations in Libya. In addition, this derive has enabled Libyan youths and the forces of opposition from contacting and communicating the outer world very easily and away from the state observation. Consequently, this has allowed the international support to follow and attracted the international attention to the amount of human rights violations that the Libyan regime might be involved in. The modern communicating means and tools such as Facebook, Twitter and so on, are accessed by almost everybody in an easy manner just like accessing cell phones and the use of emails, which are mastered by most youths

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Through these technologies, values, ideas, practices and democratic demands which transfer from one country to another and help spread what is called cross-border democracy. Also, during the revolution in Libya Mosques and places of worship played a similar role as community platforms and community gatherings that are difficult for the government to close and prevent people from going to them especially after breaking the barrier of fear.

#### **4.1.2. The Pattern of the Crisis**

At the very beginning, the demonstrations were very peaceful, especially in the city of Benghazi and the eastern cities in general, where demonstrators have announced their demands for reformation and declared some public demands related to political, social and economic issues and human rights violations. However, the Libyan regime has responded very aggressively to the demonstrators in both Benghazi and Beda in the 15<sup>th</sup> of February 2011, which contributed to the escalating of the protests and eventually

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<sup>166</sup> Ahmed El-Feky et al, *Ela Aena Yadhab Alarab*, Beirut, Moasaset Alfeker Alarabe, 2012, p.75.

evolved into a rebellion against the regime polices and the clear demanding of overthrowing the whole regime.<sup>167</sup>

Moreover, what really added to the intensity of the armed uprising is the ability of demonstrators to free some areas from the authority of the regime. In addition, they have been able to control most of the security centers and intelligence service buildings particularly in the eastern part of the country. Consequently, as the situation was mounting up between the revolutionaries and the government, the regime began to use air fighters and canons in bombing the rebellious areas, resulting in the withdrawal of numerous army officers from the Libyan army in the eastern part of the country. The process of withdrawal of officers and soldiers in the military bassets has contributed to the isolation of the regime and strengthening the position of the revolutionaries who started overtaking areas in the eastern part of the country one after another and extended to the other parts of the country. Then a temporary military assembly has been established and straight away started to build an army of liberation aiming at defending all regions that have become under the authority of the revolutionaries.<sup>168</sup>

Many Libyan political personalities have condemned the repressing behavior of the Libyan regime. Therefore, they have withdrawn from working politically with the regime, and so did the formal external affairs minister and the Libyan representative in the United Nations, Mr. Abdu Al-Rahman Chelgim, followed by general Abdu Al-Fatah Yuns, the security minister ,and Mr. Musa Kosha, the external affairs' ministry at that time. In fact, this devise has caused the movement of condemning and refusal to widen and expand. Despite the countless efforts, nationally and internationally, to resolve the issue and find a proper solution for the escalating armed conflict, the main challenge that faced this situation is that, there never has been a solution that suits all parties and meets the minimum demands and requirements of the parties involved. The

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<sup>167</sup> Ahmida , “*Alasoat Almohashama* ”, p.18.

<sup>168</sup> Mustafa Al Madani, “Rabii Althaorath Alarabia”, *Almostakbal Alarbe* , Vol. 33, No: 386, 2011, p.129.

revolutionaries have not been able to comprehend any role of Qaddafi or his family members to decide the future of the country after the revolution.<sup>169</sup>

Moreover, the Arab League has asked for the involvement of the NATO air force based on many justifications. One of the most important of such justifications is to protect civilians from the merciless crushing of Qaddafi regime. This has been accomplished throughout the Security Council as it has issued two resolutions no. 1907 and 1973 to approve the military intervention in the state of Libya.<sup>170</sup>

#### **4.2. The Legal Basis for the International Humanitarian Intervention in Libya**

After the revolution turned from peaceful demonstrations demanding reforms to an armed conflict and that armed conflict led to many civilians death. In addition, the military operations have contributed to the emergence of a humanitarian catastrophe and serious violations of human rights in Libya. Moreover, many Libyans had to flee the country fearing for their lives and went to Tunis or Egypt as asylum seekers and the situation had been going into more and more aggravation. The international society has found itself, throughout the United Nations and Security Council, in a difficult position and had no choice but to protect Libyan civilians and safe the an armed demonstrators from Qaddafi unforgiving machines and the evil consequences of the armed conflict in the state of Libya. Consequently, the resolutions 1970 and 1973 have been issued to form the international legitimacy of the humanitarian intervention in the Libya.

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<sup>169</sup> Hamdi Abd Al-Rahman, "Altanafos Al-dawle wa Athraho fe Althorah Alibia", *Elektedadia*, June 13, 2011, Retrived from: URL [http://www.aleqt.com/2011/04/22/article\\_529746.htm](http://www.aleqt.com/2011/04/22/article_529746.htm). (Accessed Date:02-4-2017 ).

<sup>170</sup> Khair alddin Hassib, " Libya Ela Aien...? Sokot Nezam Al Qaddafi ..... walaken ?", *Almostakabal Alarabe* , *Merkaz derasat Alwahda Alarabia*, Vol.23, No.391, September , 2011, p. 7.

#### **4.2.1. Performing the Responsibility of Protecting Civilians in the Light of the two Resolutions of the Security Council**

The concept of protection responsibility is nothing but an attempt to produce an improved concept of the bad reputation humanitarian intervention that it was based on. The Libyan case is a unique case in the sense that it is based verbally and legally on the obligation to protect. Some trends have come to existence by the international community that the Libyan case is not the right to intervene by any other state and in fact, it is the obligation to protect that lies on the shoulders of any state when the matter is related to the suffering of inhabitants from a crisis that it can be avoided such as mass killing, ethnic cleansing and crimes against humanity. Therefore, the United Nations- throughout the Security Council- have realized the significance of taking the necessary measures towards the Libyan case and applying the principle of protection in Libya to pave the way for the humanitarian intervention in the framework of the international legitimacy, besides avoiding recapping the Kosovo Scenario, i.e., the military intervention by the NATO, which has encouraged a storm of argument concerning its legitimacy, given the fact that it took place in sovereign country and without the approval of the Security Council contributing ultimately to the emergence of the concept “The Responsibility to Protect”.

Furthermore, the intervention of the Security Council has come as a positive response to applying the seventh chapter of the United Nations Charter, allowing the Security Council to take measures to maintain international peace and security which based, particularly, on the clause 42 of the charter, allowing the Security Council to take whatever peaceful measures deemed necessary - and not based on military- such as discontinuing economic relations and different types of transportations and the possibility of disconnecting diplomatic relations and ties.

It is of great significance to contemplate on the manner by which the two resolutions have been came into existence. The justification for issuing the resolution (1970) unanimously is the catastrophic situation that Libya has witnessed, which was characterized by crushing demonstrators and the use of emissive and unjustified force

against them. Many parties condemned this matter and amongst them are the related regional organizations such as the Arab League, African Union, Organization for the Islamic Conference, and the Council for the Human Rights. Consequently, all countries close to the Libyan regime have voted for the sake of the resolution such as China and Russia.

Moreover, this incident is regarded the second incident in which the Security Council has used this kind of authority after the resolution 1593 regarding the situation in Dar fore. However, amongst the comments that might be proclaimed that three countries of endless membership which have voted for this resolution are not party in the Roma Statute as for instance the United States, Russia and China. This in fact brought again the fears, which were proclaimed by many countries that the Security Council might turn into a tool to be utilized by some powerful countries to apply an international criminal justice selectively. This devise has raised again the subject of involving a political body in plain legal issues, which was refused by many countries in the Roma Conference.<sup>171</sup>

#### **4.3. The Driving Motives of Regional and International Behavior towards Humanitarian Intervention in Libya**

Most of the political changes in the Arab region, especially at the beginning of the twenty-first century, were not solely motivated by the internal environment, but regional and external environment (External Factor) had a significant impact on those changes, with not neglecting the internal environment or detracting the inability of people to change, but it (internal environment) has not been able to effectively create or achieve the required capacity to make any change. The reason is the unwillingness of external forces to mature the conditions for change only in accordance with their strategy. We will try to examine the drivers of international humanitarian intervention factors at the regional and international levels by studying the motives and interests of the intervening forces which moves them towards the target region. We will highlight

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171 The Statute of International Criminal Court, 1998, Retrived from: URL [http://legal.un.org/icc/statute/99\\_corr/cstatute.htm](http://legal.un.org/icc/statute/99_corr/cstatute.htm) (Accessed date: 13-02-2017).

the regional motivations at the regional level of Arab League, the Gulf Cooperation Council, and the African Union and at international level of United States of America, European Union, France and NATO.

#### **4.3.1. Motives behind the Regional Behavior**

The regional environment surrounding Libya has played a major role in the development of the Libyan crisis. Moreover, the Arab League as well as the Cooperation Gulf Council has supported the humanitarian intervention in Libya. Whereas, the African Union stand has been very conservative concerning that. We will address the positions and motives of these regional parties regarding the humanitarian intervention in Libya.

##### **4.3.1.1. The Arab League**

The unprecedented stand of the Arab League towards the crisis in Libya has represented the beginning of the unexpected deviation from its conventional methodology. This stand was an exceptional stance concerning situations like the Libyan situation, if associated to its stands from the Tunisian and the Egyptian revolution. The Arab League stand regarding the Libyan case marks a turning point in the history of the league, as it has dealt clearly and positively with this case and made a very evident and official response when it has sided with the revolutionaries against Qaddafi regime. Shortly after that, the league has decided to approve the no-flight zone resolution, in the 12<sup>th</sup> of March 2012, to protect civilians.<sup>172</sup>

The League's position paved the way for the issuance of UN Security Council Resolution 2793 which authorized NATO forces to enforce and monitor the air

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<sup>172</sup> The Arab League, the attachment of resolution 7360, Retrived from: URL <https://theglobalobservatory.org/2011/11/arab-spring-revives-role-of-the-arab-league/> (Accessed date: 14-01-2017)

embargoes. The League's position towards the crisis in Libya may be interpreted in several ways<sup>173</sup>:

- The League was keen to take a positive attitude by the early biasing towards Libyan rebels in order to correct their negative attitude towards what happened in Tunisia and Egypt. The popular momentum created by the Arab revolution, which gave the League even a little bit of political courage and the ability to act and made it look no longer helpless and debilitating, as has been common over the past decades
- Recognizing that the international events indicate an international consensus on an international intervention in Libya and that an international resolution is in the process of declaring the intervention to overthrow the existing regime.
- Libya's relations with a number of Arab countries, especially the Gulf states, particularly Saudi Arabia. Moreover, Qatar has succeeded during managing the session in obtaining approval for these resolutions, despite the rejection of some countries and other reservations.

#### **4.3.1.2. Gulf Cooperation Council**

The Gulf countries have showed tremendous compassion towards the Libyans and stood beside them against the Libyan regime to liberate them. This kind of compassion has not stopped at asking to hold Qaddafi responsible for his crimes and bring him to a fair trial. In fact, such compassion has extended to include supporting any international efforts to end Libyans sufferance, whether humanitarian or medical efforts. The humanitarian role in Libya has attracted the Gulf countries attention and received a great consideration by them. Furthermore, the humanitarian role was reflected in the efforts of the state of Qatar as it has run a craven of aid relief to the city of Benghazi. In addition, Qatar has supplied Benghazi with a huge amount of petroleum

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<sup>173</sup> Aied Badree, Eladwa Eltadkolia Lel Jamia Elaabia, *Elsiasa Eldawlia Journal*, No.13, March, 2012,P.3.

products estimated to be 35 million dollars approximately, let alone its efforts inside the corridors of the United Nations and the Security Council to prevent Qaddafi from committing his crimes against Libyans. This stand by Qatar indicates that it is willing to be a vital partner in the arrangements of after- Qaddafi period to guarantee the establishment of a Libyan Arab regime that can accomplish the Libyan ambitions after the Libyans have made great sacrifices.<sup>174</sup>

#### **4.3.1.3. The African Union**

Many expected that Africans and their African Union would play a major role to bring back stability to the state of Libya and to reach at some amenable solutions to end the state of war, which made the Libyan regime lose his legitimacy. Moreover, the African stand from the very beginning was conservative and in a state of refusal to any external military intervention, to the extent that the Africans have refrained from directing or announcing any blame or condemning of Qaddafi regime. In addition, the African Union has not suspended the membership of Libya in the Union. The escalating of NATO operations against the Libyan regime has made the African Union adopt a very conservative stand concerning such operations as some of such operations have targeted civilians. Furthermore, the African Union has stressed on the significance of imposing no-flight zone over Libya through international laws and regulations and according to the clauses of the United Nations Charter. The African Union believes that the United Nations resolution no. 1973, concerning humanitarian issue, which is clearly pronouncing the protection of civilians, has been practically violated, even in its wordings and soul by the NATO forces, let alone the fact that the NATO operations have disturbed peace efforts carried out by the African Union and the rest of the countries involved in the process of resolving the Libyan crisis through peaceful means.

Despite the efforts to solve the crisis peacefully and end the state of war, the African Union had not been able to convince the opponent parties with the proposed African road map causing the initiative to fail. As we are trying to understand the

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<sup>174</sup> Rami Gharib, "Asrar Arabia Alarbe", *Almasria Aleyom*, April 18, 2014, Retrieved from: URL <http://www.almasyalyoum.com/news/details/835553> (Accessed date: 20-02-2017).

silence of African Union, there are some important factors that we need to take into account as follows: <sup>175</sup>

1-The impact of the African Union remains very insignificant due to the financial effect of the Northern African States on its budget. The annual budget of the African Union is about 129 million dollar and Libya is amongst the biggest five contributors to the budget. In addition, Qaddafi owns a series of hotels and other investments in Burkina Faso, Zambia, Uganda, Togo, and Gabon and so on.

2-The nature of the relationship that gathers between Qaddafi and the Africans as an organization and leaders, that relationship which was very exceptional to the extent that the African Union has felt the possibility of losing Libya throughout the detachment of Libya from the Continental African framework and the increasing involvement in the Arab framework after the death of Qaddafi. In addition, there is the issue of identity as most of the North African inhabitants refuse to be associated with the region of Africa, the south of the desert, and prefer to be part of the Arab identity, or the Mediterranean Islamic identity<sup>176</sup>.

3- There is a feeling that the African Union has not played an essential role in such countries to enrich democracy and in the centennial in general due to the complicated relations between the countries of the Union.

#### **4.3.2. Motives behind the International Behavior**

The United States of America, European Union and the NATO have played an essential major role in the international intervention in the state of Libya. The intervention was motivated by many administrative factors that push such countries

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<sup>175</sup> David Zunminu, “ Aletehad alafrike wa Alsamet almotbek Eza alazma Alibia”, *Aljezera Channel*, trans. Munir Al-Baghdadi, October 18, 2016, Retrived from: URL <http://studies.aljazeera.net/reports/2011/2011721132755687829.htm> (Accessed Date 15-02-2017).

<sup>176</sup> Ziad Akl, *Elethihad Alafrike wa althawra Alrbia: Albrotokolat wa Almasaleh*, Published M.A thesis, Cairo, Merkaz Alahram Lederasat, 2011.p 134

towards Libya, which is targeted by the intervention. In addition to other economic and political factors. We shall display and analyze the motives and stands of such parties.

#### **4.3.2.1. Motives of the European Union**

The Libyan crisis has emphasized the fact that the European Union are not talking as one and they are very different politically despite their economic unification. The first outcome of the Libyan crisis is the breaking down of the Paris-Berlin axis (opposite to what happened during the American invasion of Iraq). Moreover, Germany has refused to vote in the Security Council and remained outside of the whole operation. Even though Libya used to supply Germany with around 90% of its oil requirements, Germany has refused to get involved in the military campaign and regarded it unworkable. Furthermore, Germany thinks that the objectives of the intervention are vague and the Libyan crisis poses no threat to the European countries. The overwhelming majority of the population supported Germany in its political stand towards the Libyan crisis. However, the people's opinion does not have the ability to resolve this issue, given the circumstance that the conservative German stand regarding the intervention in Libya is free from economical motives. In addition, Germany is leading an abstinence campaign in Europe and does not consider the timing suitable for spending European money on the military operation in Libya for this is the last thing that Europe requires in the time of austerity. Eventually, the Libyan crisis has deeply affected the political attitude in Europe.

As for Italy, we found that its last Prime Minister Berlusconi, according to the human behavior, was the first to support the humanitarian intervention in Libya, when he saw the ground under Qaddafi's feet shaking and he was one of those making the Earth's shaking even worse.<sup>177</sup>

Furthermore, let us focus particularly on France, by virtue of its coalition with Britain, which is an attention stimulating coalition, and by virtue of its Mediterranean affiliation and African influence. France has led the instigation campaign and then the

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<sup>177</sup> Ahmed El-Feky et al, *Ela Aena Yadhab Alarab*, Beirut, Moasaset Alfeker Alarabe, 2012, p.211.

tactical campaign for international congregation for the intervention in Libya relying on the stand of the Arab League, which was heard for the first time in its history similar to the United States.

Sarkozy has declared on the 25<sup>th</sup> of February 2011 that “Qaddafi has to leave” and added, “Regarding the military operation, France shall consider an initiation of this kind” which reflects the unspoken intention of France and its alliance in forming broad front for the sake of military intervention later on and that is exactly what happened in realism.<sup>178</sup>

France is going through ruthless crisis, economically and politically, which has resulted in the worsening of Sarkozy’s popularity and the Libyan crisis has come to represent the ridden mount for the internal political polices throughout the external polices, in other words, utilizing the outer world to save the inside crisis.<sup>179</sup>

The French stand conniving with both Ben-Ali and Mubarak regimes till the last moments of their ruling era, made it pour its firing moral anger on Qaddafi regime, especially after Qaddafi resorted to the use of force against civilians.

Sarkozy was in disparate need for a theme or a project to market and use as a justification for his failing policies. Moreover, the project of the “Union for the Mediterranean” has failed very badly and his international activity within the framework of the G-20 was aborted due to his internal failure to improve the condition of the French economy. Therefore, the Libyan case was the golden chance to activate the French diplomacy and made her voice audible to the world.

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<sup>178</sup> Sami Khalil, “Moakeef Aletihad alorobe Men Alathorath elhewar Almothamden”, *Ahewar Journal*, , August 23, 2015, Retrived from: URL <http://www.ahewar.org> (Accessed date: 14-12-2016).

<sup>179</sup> Abed Alnour Benantar, “ Moakeef Aldawlia Men Althora Alebia”, *Merkez Aljazera Lederasat*, March 08, 2016 Retrived from: <http://studies.aljazeera.net/reports/2011/20117223266875954.htm> (Accessed date: 06-01-2017).

France has historical accounts with Qaddafi that it wants to settle, in particular, the issue of terrorism and the war with Chad about the stripe of Ouzo, at that time France involved in the conflict to support its alliance Chad.

Qaddafi did not fulfill his promises concerning some agreed dealings with France during some of his visits. He delayed satisfying such dealings and eventually he cancelled all of them during the first days of the Libyan revelation.

The fierce refusal of Qaddafi to the project the “Union for the Mediterranean” and the attempt of Qaddafi to gather all Arab world behind him and against Sarkozy’s project with the justification that this project separates the African Arabs from the rest of the continent which has agitated the French against him.

#### **4.3.2.2. The Motives of the NATO**

One of the most important milestones of the updated strategy of the NATO after the cold war is the mission of crisis management without limiting it to a certain geographical area. This concept has come as a response to “the significance of the NATO’s high state of alertness in order to contribute in any case individually and collectively to efficiently prevent from conflicts and take part in crisis management including responding to such crisis according to the international decisions. Furthermore, according to this concept the fields of military intervention have broadened to include humanitarian reasons, peacekeeping operations and the prohibition of Nuclear Dispersion, whether inside Europe or the outside of it, which means the adjustment of the fifth clause of its decree that did not permit such intervention before.<sup>180</sup>

Moreover, the main threats that the NATO has faced in Libya are as follows:

#### **A-The Failed State and its Endangerments:**

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<sup>180</sup> Mustafa Seif,, “ Estratijet helf Shamal Atlase Etejah Mantekat Alkhaleej Alarbee”, *Selselt Derasat Estratejia studies, Merkaz Elemarat Lederasat wa Albohout Elestratjia*, Vol. 13, No. 129, 2008, p 121.

The failed state represents a huge challenge for the NATO, which was the prognostication, supported by some academic studies issued by the defense college directed by the NATO, which states that the failure of the state is the period that precedes its collapse. According to this prognostication, the involvement of the NATO in this kind of states has to happen during the preceding stage, after the failure and collapse. The NATO has to intervene, if necessary, via plans for such intervention, which is clearly embodied in the Libyan case because the intervention is not going to be limited to the announced reasons, protecting civilians, however, the NATO has to have a future role in building the institutes of the Libyan state.<sup>181</sup>

Furthermore, according to one of the papers issued by the NATO Defense College which concludes that” even after overthrowing the current regime and ruling of the revolutionaries, Libya will still be in a great need for the international efforts to build the country which suffered for long decades from the absence of the appropriate political institutes and organizations. Therefore, abandoning such state and the moving back from providing it with the required support to build up its fundamental elements will lead to a state of chaos and political instability. In addition, this was announced by the American leadership in Africa that it would establish a state of partnership with the Libyan army and that the building up of the security of the Libyan borders, police force and army would require an external support and provision.<sup>182</sup>

### **B-The Unlawful Immigration to the European Countries:**

This topic is not a new topic. However, the political changes witnessed by the North African countries participated in the growing of its threats and dangers as thousands of immigrants have arrived to Italy, which has granted them visa for entering other European countries resulting in France threatening to terminate the use of the Schengen visa. Moreover, close neighbors as well as the remote ones have their own

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<sup>181</sup> Ashraf Kushk, “Helf Alnato men Alsharaka Aljadeeda Ela Altadakhul fe Alazamat”, *Alsiasa Aldawlia*, Vol.6 No. 185, July, 2011, p.23.

<sup>182</sup> Were Frederick, “Entekhab Libya Jadeeda”, Moasst Karneege Lesalam eldawle, *Merkaz Karneege Leshark Elwassat*, June 22, 2015 Retrived from: URL <http://www.carnegie-mec.org/> (Accessed date: 18-03-2017).

legitimate fears regarding the issue of terrorism, drug smuggling and the illegal immigration, which starts at the coast region, then transfers to the other North African countries, and ends up eventually in Europe.<sup>183</sup>

The fears of these countries concerning the immigrants lie in the gradual transfer of their thoughts and beliefs from the Southern countries to the northern ones within the context of the values clash between the two sides, given the decline of the educational level of these immigrants make them accept any kind of employment mounting the pressure on host countries. Moreover, most of such immigrants suffer from difficulty in assimilation with the host societies even though most of them have been able to attain the European nationalities, which mean they enjoy the full rights of the citizenship, consequently these immigrants remain in a state of societal and communal downgrading.

#### **C-The Expansion of Al-Qaeda Activities in the Arab Western Countries:**

There are two indicators for that; the first is the testimony by the Admiral James George Stavridis the command of the NATO forces in front of the American Congress on March 2011, during which he emphasized the presence of intelligence indicators for the possibility of the influence of Qaeda and Hezbollah on the Libyan opponents. As for the second indicator, it is what was pointed out by the Chadian president, Idris Debi that the Qaeda Organization in the Western Arab countries is participating greatly I what is happening in Libya.<sup>184</sup>

#### **D-The Threats of the Energy Security:**

The direct attention of NATO concerning this subject has started in the summit meetings of Raja and Bucharest, when the final statement of the summit enclosed that, the security interests of the NATO might be affected by the disconnection of the vitality

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<sup>183</sup> Boul Salem and Amanda Kadelak, "Tahadiat Alamalia Alentkalia fe Libya", Moasaset Karneege Lesalam Aldawle., *Markaz Karneege Leshark Elawsat*, April 07, 2012 , Retrived from: URL <http://www.carnegie-mec.org/> , (Accessed date: 24-01-2017).

<sup>184</sup> Kushk, *Ela Altadakhul fe Alazamat*, p.24.

supplies, which requires the cooperation between the NATO and the related organizations to protect and maintain that vitality resource. Moreover, the General Secretary of the NATO has stated in front of the European parliament in May 2006, “NATO will consider the use of force if the energy supplies were threatened. The state of Libya possesses the highest confirmed oil reserves in Africa, reaching up to 46.6 billion of barrels, which means that the Libyan crisis and its consequences such as the oil supplies interruption to the members of the alliance, have represented an imminent challenge for the interests of the NATO members, given the importance of the Libyan oil for these countries, whether on the reservation level or the production level.”<sup>185</sup>

#### **4.3.3. The Path of the International Intervention**

The alliance has got involved in Libya since the first hours the Security Council has adopted its resolution 1973, and as quick as possible the alliance has deployed its battle ships to land very close to the Libyan coasts and to begin on the 23th of March 2011 imposing sanctions on the weapons to Libya. The following day the alliance has imposed a no-fly zone over the Libyan air applying the universal decision. Furthermore, in a subsequent incident France, Britain and the United States have entered the scene to support the revolutionaries to overthrow the Libyan regime, which was regarded as an important development in the route of the crisis. In addition, France was the first European country that recognized the National Transitional Council and Sarkozy has prepared a plan of four points to end the Qaddafi ruling including the following:

1. Confusing the brigades that follow the Libyan regime by using electronic disturbance.
2. Bombarding the Azizia campground where Qaddafi was living in.
3. Recognizing the National Transitional Council.
4. Announcing that the Libyan air is a no-fly zone.

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<sup>185</sup> Boul Salem and Amanda Kadelak, “Tahadiat Alamalia Alentkalia fe Libya”.

Harmonizing with these procedures, France has announced to be part of the alliance to air bomb the Libyan regime and forces and France has exchanged ambassadors with Libya inviting other countries to start a dialogue with the Libyan Transitional Council.

The United States of America, Britain and Italy have wasted no time to lead a campaign of condemning against Qaddafi and pushing the Security Council to issue its resolution no. 1973 in order to continue the air ride of the NATO under the American commandment over the Libyan air, and to protect civilians from Qaddafi and his air force.

The international pressure has been building up tremendously to force Qaddafi to leave power and that was clearly represented in the measures taken by the international community, which eventually contributed to the imposing of a no-fly zone over the Libyan air and then to the military intervention.

NATO at that time has emphasized on the importance of complying with the UN resolution, air-based operations and not on shore operations. Moreover, prior to NATO taking lead of the operations, its secretary general has taken a very clear stand from put forward issue, which is arming the revolutionaries. Mr. Rasmussen has announced his rejection to this idea saying:” the NATO is intervening in order to protect the Libyans and not to arm them!” .Moreover, by virtue of his position, he realizes exactly the issue of arming Libyans, especially, the issue of managing weapons, monitoring them and collecting them after the end of the conflict. Therefore, NATO would not like to involve in another Afghanistan as its financial crisis is very severe, and its members are not committed to their obligations towards the operations. Furthermore, the stand of the NATO is opposing France stand, which has not ruled out the possibility of considering this issue, arming insurgents with its alliance. However, the final decision on this issue has to come from the Security Council, which makes this issue very distant. <sup>186</sup>

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<sup>186</sup> Almarkaz Alobnane Lelabhat wa Alestisharat, “Marrek Lesetara ala Alberiga wa Elatlasee Yatawla Allamliat”, March 31, 2011, Retrived from: URL <http://www.centerlcrc.com/index.php?s=news&id=3927> , p 177 (Accessed date: 09-03-2017).

The disagreement inside the alliance is between two poles; the first is a Turkish and German divergence regarding the role of the alliance whilst the operations are still going on. As for the second disagreement, it is led by France, which demands that the alliance must lead the military operations whilst the big powers must manage the political leadership through the group of communications. The announced objective is to get some countries, which are not members in the NATO, involved in managing the political campaign.

#### **4.4. The Future of the International Intervention in Libya**

There is a polemical relationship between the development of the internal conflict and the growing of the state deficiency, which contributes to a real problem for the involved bodies. It is obvious that as the deficiency of the state becomes greater, the intensity of violence intensifies as well. Moreover, as for the Libyan case, after the collapse of the previous political system, Libya faces a great degree of complexity owing to the existence many challenges that obstruct the political, economical and social stability. Libya has paid very heavy human and materialistic prices to reach the stage of starting the reconstruction. Thousands of lives have been wasted away and the wounded are so much as well, in addition to a total collapse of the state organizations and institutes, which were never similar to those of the civilized states. This feeling of paying a very heavy price is followed by another feeling, which is even worse, that is the sacrifices made by Libyans, do not come any closer to the high hopes. Moreover, the attacks carried out by the rebels on the inside government centers is a confirmed evidence for the amount of hopelessness and dissatisfaction, rather it reflects condemning and displeasure.<sup>187</sup>

The size and the length of military operations carried out by NATO in Libya have resulted in massive casualties among the military and civilians in several locations

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<sup>187</sup> Ahmed El-Feky et al, *Ela Aena Yadhhab Alarab*, Beirut, Moasaset Alfeker Alarabe, 2012, p.21.

targeted by NATO and extensive destruction of entire cities of Libya such as Sirte and Misrata.<sup>188</sup>

Furthermore, a very wide social slice have been dedicated, which was later known as the revolutionaries environment and the absence of political institutes which are supposed to participate in guided political activities which are aware of the necessities of the social, political and economical realities of the Libyans. In fact, the two resolutions, 1970 and 1973, even though they are based on the protection responsibility, which is in turn based on the responsibility to build and the total international commitment to maintain the Libyan unity against any attempts of division or separation and to build an everlasting peace, establish a rightly-guided ruling and sustaining development and to provide all the necessary conditions and circumstances for establishing security and stability and ensuring the re-integration of the clashing bodies or the weapon carriers in the society. All of this requires securing enough supplies to rebuild everything that has been destroyed; therefore, Libya faces many challenges as follows:

#### **4.4.1. The Building of the State**

During the Qaddafi era, Libya has been characterized, out of all other Arab states, with not fulfilling the procedural state definition represented in the political contract, which are the constitution and institutional bureaucrat structure such as the army, parliament, security and police. In addition to the absence of the social and political basis outside of the regime's frame like parties, unions and so on. This issue represents a great challenge for the National Transitional Council during transitional period as to construct sovereign institutes such as army, security and the other essential ministries. Moreover, setting up a political environment allowing for the illustration of ideas and thoughts regardless of their origins or basis, and participating in creating a healthy atmosphere to forma organized parties and bodies during the after-Qaddafi period, are

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<sup>188</sup> Palestinian Center for Human Rights 2012, p.42, Retrived from: URL <http://pchrgaza.org/en/> (Accessed date: 07-01-2017).

all challenges facing the way to stability and state building. The future of the Libyan state is represented in the light of a dismissible reality, which is “the NATO was a fundamental partner of the Transitional National Council in the process of breakdown of the previous Libyan regime”.<sup>189</sup>

There is a proportional relationship between the international humanitarian interventions in their different forms and the growing up of the societies inclination towards independence and coming out from the imprisonment of the central state. This relationship has many evidences in the occurrences of the international interventions in Somalia, Yugoslavia, Kurdistan and Iraq. This relationship has two faces; the first is that societies willing to attain independence find that there is no point in remaining with central state, which has been exposed to an international intervention and lost its sovereignty. As for the second face, a connection of interests might exist with the international intervention that finds its interests in the breaking down.<sup>190</sup>

#### **4.4.2. The Weakness of the Conventional Structures of the Libyan State**

The Libyan state and people have inherited a comprehensive inheritance and classical submissive political culture, therefore, Libya has not witnessed the moment of democracy because of the political system in Qaddafi’s era. One of the most serious problems that face the Libyan state is the weakness in the political structure that will be established, such as parties, unions, and so forth. These political parties and bodies will carry out their activities in the presence of classical social structures, because of the expansion in power and the absence of state and the execution of the political life in Libya for more than forty years, in addition to the appearances of disputes between the authority of the newly born state and the national classical authority and the difficulty of founding a mechanism to distribute national symbols (materialistic and moral) to the society categories. Therefore, it is very important to absorb the tribal

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<sup>189</sup> Abd alelah Balqiziz, “Moshkelat Mabad Sokout Nezam Alkadafe”, *Al mostakbal Alarabe Journal, Merkaz Derasat Alwehda Alarabia*, Vol. 12, No. 393, November, 2011, p.121.

<sup>190</sup> Khaled Ali, “Libya wa America Altakuof Altadreeje”, *Alsiase Aldawlia*, April 12, 2003, Retrived from: URL <http://digital.ahram.org.eg/articles.aspx?Serial=220770&eid=4846> (Accessed date: 1-05-2017).

diversity inside the frame of the newly born system in Libya throughout the principle of offering equal political opportunities via harmonic democracy.

It is possible to overcome the crisis via building national unity that does not disregard the tribal diversity as a fundamental variable in forming the political and social life in Libya, provided that this process happens in a gradual manner via social and cultural engineering.<sup>191</sup>

#### 4.4.3. The Security Challenge

In the light of the absence of any regular army in Libya, as the brigades commanded by Qaddafi himself are the most important foundations of the unofficial security structure in Libya, hence “the militias which have played an important role in the downfall of the Libyan regime, currently denote a serious problem after the collapse of the regime. Ambiguity covers both the entity and the numbers of these militias. Some say there are around hundred militias, whereas others say they are about three times of the previous estimate. It is worth mentioning that over 125,000 Libyans are amongst weapons holders and these groups have repeatedly clashed with each other and the way to build Libya has to go through the issue of determining the fate of these militias.”<sup>192</sup>

Amongst the essentials for re-building the country, is the availability of a minimal level of security in a country consumed by instability and chaos, and preparing for the endless stability and disarming militias from their weapons and supporting the efforts to build up the Libyan security forces and encouraging initiations for fresh political starts to establish the foundations for the rightly-guided ruling and disposing of the current dominant costumes. Moreover, all Libyans have to be given the right of political participation in the new system without any political isolation or political and

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<sup>191</sup> Balqiziz, *Moshkelat Mabad Sokout Nezam Alkadafe*, p 120.

<sup>192</sup> William Lawrence, “Tahdiat Libya alammnia Baed Al Qaddafi”, *Majmoet Alazamat aldawlia*, December 25, 2011, Retrived from: URL <http://www.crisisgroup.org/ar/Regions%20Countries/Middle%20East%20-asp.aspx>, (Accessed date: 18-02-2017).

social discrimination and it should be based on complete citizenship rights for the positive effects and impacts of such procedures on the security situation.<sup>193</sup>

Furthermore, if this type of intervention is advantageous on the national level for Libya, however, some critics might adopt the opinion that there are some negative effects of such intervention and the intervention might even represent a threat for all countries. This threat is that Libya's sovereignty might be taken away from it, with the justification of humanitarian objectives. Moreover, the most significant issue in this intervention is that it has decided to put an end to Qaddafi's regime, which made the United Nations involved with the highest level of involvement that it has practiced in its entire history. Consequently, this intervention has been considered a revolution in the concepts of the international relations or at least, a review to one of its important concepts, i.e., the concept of sovereignty. Libya, today, might seem in an urgent need more than any other time to a clear road map which bring back this state to the international and Arab political map.

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<sup>193</sup> Ashour , *Kerah fe Asbab Alsera Almosalh feLibya wa Asbaboh*, p.37.

## CONCLUSIONS AND RECOMMENDATIONS

### *Conclusions*

Despite the failures of the past, Libya revealed that the international community can act in a timely fashion to halt mass atrocity crimes when sufficient political will and operational capacity exists. The swift and unanimous adoption of Resolution 1970 contrasts sharply with the paralysis that overtook the UN during the Rwandan genocide and the painful dithering during the Balkans wars of the 1990s. On a military level, it took two days between the adoption of Resolution 1973 and the imposition of the no-fly zone. By comparison, it had taken NATO twelve days to initiate operations over Bosnia two decades earlier. In this sense, Libya represents an important demonstration of what can happen when political will and operational capacity align.

When a regime is already committing atrocities against its own people the options for policymakers are narrow, but that does not mean that they do not exist. We need timely and proportional reactions to all intervention situations. We need to learn not only from Libya and Côte d'Ivoire, but also from Guinea, Kenya and other places where the intervention has been invoked, but military force was unnecessary. While we must strive for consistency with regard to the future application of intervention, we also have to judge each crisis on its own merits. Exactly what measures should be utilized depends upon the need to develop varying responses to diverse situations.

The phenomenon of humanitarian intervention has become a prominent and distinctive with the emergence of a new international system, the world in which we live since the early nineties of the last century in particular, has different shape and characteristics, the most prominent of these features is the expansion of international community's intervention in the internal affairs of States and the global predominance of the international character of many issues and problems, particularly relating to human rights and democracy as these issues and problems are no longer confined to the rules of procedure of the state, but its globalization was emphasized and connect them to the peace and global security.

The state as long as cannot or do not want to protect the human rights of its citizens, then it is the right of the international community to activate the responsibility to protection and humanitarian intervention which creates an excuse for the intervention under justifications for the protection of human rights, and began to take a group form of intervention through the UN Security Council. By analyzing the chapters of the study, the study concluded the following results:

- 1- The change in the structure of the international system activates the principle of humanitarian intervention in international relations. Also, the principle of international intervention has got much more support and attention under the new international system in the post-Cold War. In contrast, the principle of non-interference witnessed organized undermining and the human dimension regarding the policy of intervention has largely developed in terms of both range and content.
- 2- The set of changes which have emerged in the post-Cold War, especially on human rights, resulted in linking between human rights and world peace, and legitimize many humanitarian interventions by reference to the issue of threat to international peace and security, and therefore the authorization to use force to protect human rights.
- 3- It turned out that human rights issues, despite their importance in the map of contemporary international relations had been unfairly employed so many times in a manner pulled away by all noble objectives, and became a political tool used by the major countries according to their interests, the problem is not to accept or reject the principle of humanitarian intervention, but in how to conduct it in a disciplined manner, in accordance with the standards and regulations obtained by international consensus.
- 4- The international intervention in the internal affairs of States for humanitarian purposes is a challenge to the sovereignty of States, and pursuant contrary to the principle of non-intervention and encroachment on the State's right of

independence and freedom because it is against the will of the intervener state affairs. The violation of the principle of state sovereignty, as the image and reality and responsibilities of this state promote the change with time or redistributed them, the developments which are occurring nowadays do not mean the end of the sovereignty concept but it means that sovereignty concept might has been changed, re-altered and expand its scope to there is no private state any longer, but the international community participate in the state sovereignty.

- 5- The requires of the contemporary humanitarian international intervention which happened in the context of the development of role of the United Nations and the Security Council, the UN Security Council included in its basic duties in keeping the international peace and security a new international mission in the implementation of human rights protection in non-international armed conflicts, It has based on the powers conferred upon him under the Charter of the United Nations and international humanitarian principles.
- 6- - Observers to contemporary international practices for humanitarian intervention finds that many countries stuck to the theory of humanitarian intervention to legitimize its intervention in other countries, and through our analysis of the process of international humanitarian intervention in Libya we disagreed with the idea of humanitarian objectives of the intervention as NATO exceed NATO's humanitarian goals to achieve its strategic and political objectives that were more present as a motivation for the behavior of the international intervention by ending the governmental system and access to a geo-strategic area, which proves that the Western system does not exclude the possibility of resorting to military mechanism of intervention in solving the problems in the Arab region, and the intervention against any state remains a possibility once that western interests at risk .

- 7- - The United Nations and Security Council resolutions played a large and influential role in the process of international humanitarian intervention in Libya in particular, and the behavior of the Council is characterized by selectivity and double standards in the application of interventions, sometimes we find it is unable to make fair decisions regarding the massive violations of human rights in other areas and especially Israeli violations against the Palestinian people.
- 8- Humanitarian international intervention in Libya has been associated with disintegrated tendencies and separatist movements in eastern Libya (region of Cyrenaica) and the south, which could lead to the dismantling of Libya into mini-states.
- 9- International intervention in Libya was not associated with efforts to build up the Libyan state, any successful intervention must pass through

Building a unified state which is able of maintaining the security and societal stability, the Libyan state is not able to collect arms, control of the security situation, and the Libyans still bound themselves by restrictions of rivalry and lack of vision and goals.

### ***Recommendations***

- 1- The need to establish a set of convictions to communicate and interact positively with global theses in the field of human rights, as the rejection of theses on the pretext of cultural privacy cannot help countries to avoid the exploitation of the principle of humanitarian intervention against them in the future as it was in Libya.
- 2- Necessity to redefine and adjust the concept of humanitarian intervention, so it doesn't turn into an acquired right which is used by the major powers whenever you wish, taking into account what revealed by the application of the results of the various political, security and humanitarian levels, there

mustn't be intervention except in accordance with standards and specific mandate from the Security Council and with international consensus. This humanitarian intervention shouldn't be a cover of objectives and political considerations by the major powers

- 3- The only way to respond to humanitarian intervention is to spread the culture of human rights and respect for basic human freedoms, and establishing the rules of international law.
- 4- The international humanitarian intervention shouldn't use the military force as a fundamental alternative to the policies that may be more decisive and effective to stop gross violations of human rights and resolve internal conflicts in countries as a means of pressure and coercion.
- 5- The calls by the International institutions that organize the implementation of humanitarian intervention operations not to touch the territorial integrity and political independence of the target state, by working to reconcile the national sovereignty of the countries on the one hand and humanitarian challenges within the target countries the process of intervention on the other hand
- 6- Necessity of completing the democratic institutions of the modern Libyan state, and the completion of the task of national unity and security and social stability, disarming militias and build a strong national army capable of keeping the unity and security of Libya .

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# Tez

Yazar İbtesam Naser

Tez

ORJINALLIK RAPORU

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BENZERLIK ENDEKSİ

% **7**

İNTERNET  
KAYNAKLARI

% **2**

YAYINLAR

% **5**

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