## THE UPHEAVALS IN LIBYA AND SYRIA, AND THEIR IMPACT ON "RESPONSIBILITY TO PROTECT" DOCTRINE

The Arab Spring offers a unique prism to look into the changing status quo in world affairs and the role of UN Security Council. The broad international consensus on the threat of atrocity crimes in Libya allowed, for a short period, to further the "Responsibility to Protect" doctrine in applied international politics. However, the aftermath of the Libyan campaign, as well as the continuing civil war in Syria, have cooled down this optimism. How the situation in Syria will evolve now depends whether Russia and "the West" are able to bridge their positions if not for humanitarian reasons, then against the threat of Syrian WMD's proliferating into the hands of regional terrorist groups.

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he popular opinion holds that the selfless act of Tunisian fruit vendor Mohamed Bouazizi sparked massive wave of uprisings first in Tunisia, and later on "became literally the torch that lit the Arab Spring revolution that spread quickly throughout the Middle East." This article aims to illustrate why international consensus and cooperation enabled the enforcement of peace in Libya relatively quickly through the United Nations Security Council (UNSC); whereas in the wake of the third year of civil war in Syria, similar consensus looks unlikely. Geopolitics may only be part of the answer to the stalemate. This article looks at the international response in the cases of Libya and Syria in order to distill the normative disagreements among P5 nations (U.S., Great Britain, France, Russia, and China) over the novel concept of "Responsibility to Protect" (R2P).

The cheerleaders of Arab Awakening, predominantly the U.S. and partially the EU, reportedly had high hopes to see more security, stability, peace, and democracy as a result of transformations in the MENA region. Some authors, indeed, offered "undue optimism", reading the Arab Awakening as an extended arm of the "third wave" of democratization, with which Samuel Huntington had described Latin America and Eastern Europe in the 1970s and 1980s.<sup>2</sup> Francis Fukuyama argued that the "Arab Spring has shown that Arab publics can be mobilized against dictatorship just as readily as those in Eastern Europe and Latin America were [during the third wave]."<sup>3</sup>

On the other end, Joseph Nye underlined the misleading expectations that were born as a result of the term "Arab Spring". The continuing unrest and violence all across the region could be more accurately be termed as a "revolution", which might bring qualitative transformation to the region but "over decades, not seasons or years."

The removal of Hosni Mubarak of Egypt, Tunisia's Zine el-Abidine Ben Ali, and Libya's Muammar el-Qaddafi from power did not bring either democracy or security. To the contrary, the political revival of Islamist forces through elections just brought more instability and uncertainty. With the help of historical analogy, Sheri Berman explained in *Foreign Affairs* why the Islamists in Egypt and elsewhere

<sup>1</sup> Andrew Lam, "From Arab Spring to Autumn Rage: The Dark Power of Social Media," *The Huffington Post*, 14 September 2012, http://www.huffingtonpost.com/andrew-lam/social-media-middle-east-protests-b 1881827.html

<sup>2</sup> Seth G. Jones, "The Mirage of the Arab Spring: Deal with the Region You Have, not the Region You Want," *Foreign Affairs*, Vol.92, No.1 (January/February 2013),

http://www.foreignaffairs.com/articles/138478/seth-g-jones/the-mirage-of-the-arab-spring

<sup>3</sup> Francis Fukuyama, "The Future of History: Can Liberal Democracy Survive the Decline of the Middle Class?," *Foreign Affairs*, Vol.91, No.1 (January/February 2012),

http://www.foreignaffairs.com/articles/136782/francis-fukuyama/the-future-of-history?page=show

<sup>4</sup> Joseph S. Nye, "The Information Revolution Gets Political," *The Project Syndicate*, 7 February 2013, <a href="http://www.project-syndicate.org/commentary/information-technology-s-political-implications-by-joseph-s--nye">http://www.project-syndicate.org/commentary/information-technology-s-political-implications-by-joseph-s--nye</a>

were the only viable and organized force to climb the political Olympus after the fall of authoritarian regimes.<sup>5</sup>

The common expert opinion suggests that the Arab Spring has contributed to the emergence of an international chaos in which great powers' interests are clashing (on normative, political, and strategic grounds).

The political disagreements of P5 nations, and others aligned with their respective positions, represent diverging normative views on the nature of governance and governments. The idealist camp of political scientists argues that some governments are not legitimate, and their use of coercive measures against "popular protest" cannot be lawful in view of *internationally recognized* human rights. This view reflected in the policies of Washington and EU capitals during the popular uprisings in

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Egypt, Libya, Syria, and elsewhere. In the eyes of the West, the Arab Awakening seemed to be rather "legitimate" violence against the age-old tyrannies that had been holding the people under iron fist of their dictators. However, the majority of states in the world, including Russia and China, argue that the present international order, reinforced by UN Charter Art 2(4), prevents foreign interventions for regime change purposes. The Non-Aligned Movement, too, maintained in the 16th Summit of Heads of States in 2012, (in para. 25.2) that the R2P concept should be developed essentially under Charter Art 2 (4) provisions.<sup>6</sup>

The "Three Pillar" approach to the Responsibility to Protect doctrine has been first articulated in UN Secretary General's speech in Berlin in 2008,<sup>7</sup> and then embraced into "Implementing the Responsibility to Protect" report in 2009,<sup>8</sup> in which he suggested that as a matter of first-hand international obligation, a *sovereign* government holds responsibility to protect their own population from genocide and other mass

<sup>5</sup> Sheri Berman, "The Promise of the Arab Spring: in Political Development, No Gain Without Pain," *Foreign Affairs*, Vol.92, No.1 (January/February 2013),

http://www.foreignaffairs.com/articles/138479/sheri-berman/the-promise-of-the-arab-spring

<sup>6 &</sup>quot;Final Document of the 16th Summit of Heads of State or Government of the Non-Aligned Movement," *NAM 2012/Doc.1/Rev.2*, Tehran, Islamic Republic of Iran, 26-31 August 2012,

http://nam.gov.ir/Portal/File/ShowFile.aspx?ID=212cfdbf-6dbc-4185-a4f5-01fe30a0c772

<sup>7</sup> UN Doc. SG/SM/11701, 15 July 2008.

<sup>8 &</sup>quot;Report of the UN Secretary-General: Implementing the Responsibility to Protect," UN doc. A/63/677, 12 January 2009.

atrocity crimes; second, if it lacks sufficient capacities, it should seek international cooperation in the fulfillment of its R2P obligations as states have due diligence in prevention and punishment of such *erga omnes* crimes. And third, once the local government is recognized as "manifestly failing", the international community as such shall act, preferably through the UNSC, with a view of stopping mass atrocity crimes, and bring the perpetrators to justice.

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The crucial point of normative and political disagreement among the P5 states is illustrated with the human rights vs. state sovereignty debate – the core international dimension of the Arab Spring. The cornerstone of this debate is evolving around the R2P Pillar Three. The UNSC has invoked the R2P language, most precisely the Pillars One and Two, –in most resolutions on the situation in MENA– most famously in Resolution (Res) 1970 and 1973 on Libya. It is noteworthy, that even though the UNSC

member states were all in concurrence on the gravity of the situation in Libya and the role of the incumbent regime in the atrocity crimes, the Res 1973, —which authorized the use of "all necessary means"—refrained from citing R2P Pillar Three motives of the forthcoming operation. Jennifer Welsh observed that, mentioning only "responsibility of the Libyan authorities to protect the Libyan population" (R2P Pillar One) without also underlining the relevant responsibilities of the international community following the "manifest failure" of incumbent regime "suggest[ed] that the latter notion was still contested by some members of the Security Council as an appropriate rationale for military action." The vote explanations and Sino-Russian abstention on Res 1973 are self-explanatory to this end.

The behavior of incumbent governments and respective statements about popular protests was crucial to qualify the trans-boundary threats emerging from the

<sup>9</sup> As a chief precautionary principle in the R2P Doctrine –the allegation of "manifest failure" of incumbent regimes through "unable or unwilling" test– has been endorsed by the ICISS report and later reformulated by the UN Secretary General in Three Pillar approach, recognized equally by the applicable UNSC practice and the International Criminal Court (hereinafter - ICC) on various occasions. The UNSC Presidential Statement on Syrian situation reiterated this to ensure that it remains a "reading-rule" for the international community to prevent and/or stop mass-atrocity crimes wherever they happen. "UN Security Council 6917th Meeting, Press Release," *UN Doc. SC/10913*, 12 February 2013; "Statement by the President of the Security Council," *UN Doc. S/PRST/2013/2*, 12 February 2013.

<sup>10</sup> Jennifer Welsh, "Civilian Protection in Libya: Putting Coercion and Controversy Back into RtoP," *Ethics & International Affairs*, Vol.25, No.3 (2011), pp. 255-62.

<sup>11 &</sup>quot;UN Security Council 6498th Meeting," UN Doc. S/PV.6498, 17 March 2011.

intrastate conflicts of Syria and Libya. As such, the statement of Libyan leader Muammar el-Qaddafi where he notes intention to "cleanse Libya house by house" until the "cockroaches" (i.e. the protesters)<sup>12</sup> surrender, suggested an obvious plan of masterminding atrocity crimes, making it easier for the proponents of R2P to argue that "just cause threshold had been reached".<sup>13</sup> To that end, the UNSC adopted Res 1970 to remind the Libyan authorities of their R2P obligations, and referring the situation to the International Criminal Court (ICC). It was due to the unwillingness of the Qaddafi regime to abide by international rules and norms of civilian protection, that a month later the UNSC testified the Libyan government's "manifest failure" and ruled on enforcement action under Chapter VII (Res 1973).

In contrast to the Libyan scenario, the gravity of the humanitarian situation in Syria, on which all UNSC states also testified, was not enough for all P5 states to execute a similar resolution. Some member states (like Russia, South Africa, China, and Pakistan) suggested the Syrian government was "able and willing" to ensure its responsibilities before its own population, and diplomatic mediation shall be the path leading to peace and national reconciliation in Syria, not external military involvement.<sup>14</sup> In general, the Sino-Russian resistance to the demands of Assad's departure has been based on the "Westphalia sovereignty" –most often quoted through UN Charter Art 2(4)<sup>15</sup>– and "no more Libya" objections.<sup>16</sup>

In both the Syrian and Libyan situations the UN Human Rights Council (HRC) was prompt in establishing *ad hoc* inquiry commissions to investigate violations of "internationally recognized human rights". In both of them the conclusion was that crimes against humanity were taking place.<sup>17</sup>

In the Libya case, this served as an ultimate warrant to secure the support of regional organizations for ICC referral in Res 1970.<sup>18</sup> The UN HRC also urged the UNSC to

<sup>12 &</sup>quot;Libya Protests: Defiant Gaddafi Refuses to Quit," BBC News, 22 February 2011, http://www.bbc.co.uk/news/world-middle-east-12544624

<sup>13</sup> Nicholas J. Wheeler and Tim Dunne, "Operationalizing Protective Interventions: Alternative Models of Authorization," in Andy W. Knight and Frazer Egerton (eds.), *The Routledge Handbook of the Responsibility to Protect* (New York: Routledge, 2012), pp. 87-103.

<sup>14 &</sup>quot;UN Security Council 6810th Meeting," UN Doc. S/PV.6810, 19 July 2012.

<sup>15 &</sup>quot;West Condemns Russia and China Veto on Syria," Al Jazeera, 20 July 2012,

http://www.aljazeera.com/news/middleeast/2012/07/2012719144626794335.html

<sup>16 &</sup>quot;Syria is not Libya' - Lavrov," Russia Today, 5 December 2012,

http://rt.com/politics/syria-russia-chemical-weapons-nato-lavrov-314/

<sup>17 &</sup>quot;Report of the International Commission of Inquiry on Libya," UN Human Rights Commission Doc. A/HRC/19/68, 8 March 2012.

<sup>&</sup>quot;Report of the Independent International Commission of Inquiry on the Syrian Arab Republic," *UN Human Rights Council, UN Doc A/HRC/S-17/2/Add.1*, [para. 101-109], 23 November 2011.

<sup>18 &</sup>quot;African Union Opposes Warrant for Qaddafi," Associated Press, 2 July 2011,

http://www.nytimes.com/2011/07/03/world/africa/03african.html? r=3&emc=tnt&tntemail1=y&

"In general, the Sino-Russian resistance to the demands of Assad's departure has been based on the 'Westphalia sovereignty' – and 'no more Libya' objections."

refer the situation in Syria to the ICC,<sup>19</sup> but those calls yet remain unheard.

The UNSC had been trying to exercise its primary responsibility of the maintenance of international peace and security with regards to both situations, albeit with different scores of success. The *verbatim* records of discussions in the UNSC on the Libyan and Syrian situations suggest that, political and norma-

tive disagreements among P5 nations are paramount regarding the role of respective governments and their responsibility for intrastate violence.

In an affirmative vote explanation before the Council on Resolution 1970, Russia held the view that "(...)a settlement of the situation in Libya is possible *only through political means*," (emphasis added).<sup>20</sup> In contrast, the representative of France advocated for the R2P to be exercised in the Libyan situation, by arguing that Resolution 1970, adopted unanimously, "(...)recalls the responsibility of each state to protect its own population and *of the international community to intervene when states fail in their duty*," (emphasis added).<sup>21</sup> While the UK, France, and U.S. advocated for strong measures to stop apparent atrocity crimes, falling short of foreign occupation of Libya, the non-formal group of BRICS countries (South Africa voted in favor of resolution) united in a view that the situation in Libya may and shall be resolved through "diplomacy and dialogue", as expressed in Brazil's position.<sup>22</sup>

Interestingly, this group abstained on a more robust Resolution 1973 (2011). India, China, and Russia openly expressed reservations on how the non-fly zone should be enforced, given the unspoken details in the resolution, "…including who will participate and with what assets, and how these measures will exactly be carried out," mentioned the Indian Ambassador, underlining the need of "full respect for the sovereignty, unity and territorial integrity of Libya."<sup>23</sup> The Chinese Ambassador highlighted that "China is always against the use of force in international relations."<sup>24</sup>

<sup>19</sup> Christof Heyns, "Statement delivered on behalf of all Special Procedures mandate-holders of the United Nations Human Rights Council at the Nineteenth Special Session of the Human Rights Council on the situation of human rights in the Syrian Arab Republic Geneva," *Office of the High Commissioner for Human Rights*, 1 June 2012, <a href="http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12211&LangID=E">http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12211&LangID=E</a>

<sup>20 &</sup>quot;UN Security Council 6491st Meeting," UN Doc S/PV.6491, 26 February 2011.

<sup>21</sup> UN Doc S/PV.6491 (2011).

<sup>22</sup> UN Doc S/PV.6498 (2011).

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

Russia (and China – more mildly) blamed the NATO forces for abusing the UNSC Res 1973 in Libya and in fact engaging into "regime change" operation through direct support of the rebel forces. The Sino-Russian "axis of convenience" (in the words of Bobo Lo)<sup>25</sup> adopted a policy of blank rejection to any similar scenario in Syria.

These considerations pushed the group of BRICS countries to reconsider their flexible cooperation with the Euro-Atlantic group on the crisis in Syria. The Res 2042 in April 2012 had been the latest instance of cooperation regarding Syrian situation in the UNSC. The adoption of this resolution became possible only because it contained deployment of a UN monitoring mission to Syria with a quite traditional mandate in such situations – observation and reporting. After another veto of a more robust draft resolution in July 2012, the Russian Ambassador Vitaliy Churkin hinted that it was the Libyan "lesson" that prevented affirmative stance on collective measures with regards to Syria. China aligned to this view of Russia, as Chinese Ambassador condemned the drafters of the resolution for "put[ting] pressure on only one party".

The Russian and Chinese common position on Syria reflects their stance towards the R2P concept *per se*, even though Russia also claimed R2P reasons, like stopping ongoing genocide among other justifications, for its intervention in Georgia that resulted in August War in 2008.<sup>29</sup> Overall, the rejection of the use of force in international relations, "unconditional" respect for state sovereignty, and primary and unchallenged role of incumbent governments in restoring domestic peace and order are the norms and values that India, Brazil, South Africa, Russia, and China associate themselves with.

To counter Russian position and overrun blocked UNSC, in March 2013 the EU and U.S. started advocating for arms transfer to Syrian opposition groups to enhance their fight against current regime of Bashar al-Assad. Important to recall, that in a similar situation, the International Court of Justice ruled in "Nicaragua v. United States" in 1984, that the U.S. acted against the international customary law by aiding, sponsoring, and arming the rebel forces in Nicaragua, and obliged the U.S. to pay reparations. To oppose, Vladimir Putin blamed the U.S. and EU for orchestrating

<sup>25</sup> Bobo Lo, Axis of Convenience: Moscow, Beijing, and the New Geopolitics (London: Royal Institute of International Affairs/Brookings Institution Press, 2008).

<sup>26</sup> For more see: "Verbatim Record of UN Security Council 6751st session," UN Doc. S/PV.6751, 14 April 2012.

<sup>27 &</sup>quot;Russia, China Veto U.N. Security Council Resolution on Syria," *Reuters*, 19 July 2012. http://www.reuters.com/article/2012/07/19/us-syria-crisis-un-idUSBRE86I0UD20120719

<sup>28</sup> Zhang Yuwei and Li Lianxing, "Beijing Against Sanctions on Syria," *China Daily*, 2 February 2012, http://www.chinadaily.com.cn/china/2012-02/02/content 14521923.htm

<sup>29 &</sup>quot;Russia Launches Genocide Probe Over S.Ossetia events", RIA Novosti, 14 October 2008, http://en.rian.ru/russia/20080814/116026568.html

chaos and regime change in the MENA with the Arab Awakening.<sup>30</sup> "We are not in a regime-change game," elaborated Russian Foreign Minister Sergey Lavrov in March 2013.<sup>31</sup> A prominent Russia-observer Fiona Hill recently argued in *Foreign Affairs*, that nothing will convince Russian President Vladimir Putin "to change his mind on Syria," including the growing scale of humanitarian tragedy, since the unfolding conflict in Syria reminded Putin of the unease he had in Chechnya in the early years of his presidency.<sup>32</sup>

Any foreign intervention into Syria, without proper UNSC mandate, will result in much worse than the U.S.-Russian standoff in Pristina airport in 1999. Obviously, to avoid such a nightmare scenario of big power direct clash, a proxy war strategy is being employed in Syria. Citing the unconfirmed use of chemical weapons in Syria in mid-April (2013), as if a fact, British Foreign Secretary tried to justify the breach to EU arms embargo and equipping the Syrian rebels with "defensive" arms.<sup>33</sup> The UK and France apparently justify their policies citing alleged arms supply to Assad regime by Russia and Iran.<sup>34</sup> Should this proxy war continue, the November 2012 projection of the International Crisis Group on the regional "spillover" of the Syrian civil war will become real, both into Lebanon and the border areas of NATO member Turkey.<sup>35</sup>

In fact of the Arab Awakening and the associated threats to international peace and security, the P5 states got locked in political, strategic, and normative disagreements, leaving the incompetency of the UNSC on display. The failed responsibility of the UNSC was not even picked up by the UN General Assembly's "Uniting for Peace" procedure, because the heavyweights in the Non-Aligned Movement, African Union, and Arab League had internal struggles.

On top of the parallels drawn above, there are three major reasons why consensus has not been reached over Syria in the UNSC. Firstly, all states are reminded

<sup>30</sup> For more information, see: "Putin blames West for Global Chaos," *Russia Today*, 27 September 2012, <a href="http://rt.com/politics/putin-west-syria-russia-chaos-128/">http://rt.com/politics/putin-west-syria-russia-chaos-128/</a>

<sup>31 &</sup>quot;Syria Crisis: Russia Won't Pressure Assad, Says Minister," *BBC News*, 8 March 2013, <a href="http://www.bbc.co.uk/news/world-middle-east-21711573">http://www.bbc.co.uk/news/world-middle-east-21711573</a>

<sup>32</sup> Fiona Hill, "The Real Reason Putin Supports Assad," Foreign Affairs, 25 March 2013,

 $<sup>\</sup>underline{\text{http://www.foreignaffairs.com/articles/139079/fiona-hill/the-real-reason-putin-supports-assad?page=showness.pdf.}\\$ 

<sup>33</sup> Tim Shipman, "UK Sends Military Aid to Syria Rebels," *Daily Mail*, 15 April 2013,

 $<sup>\</sup>underline{http://www.dailymail.co.uk/news/article-2309691/UK-sends-military-aid-Syria-rebels-Hague-aims-tear-arms-embargo-claims-chemical-weapons-used-country.html?ito=feeds-newsxml$ 

<sup>34</sup> According to the U.S. Treasury Department, some 117 Iranian aircraft flights carried weapons to the Syrian government since the beginning of Syrian uprising. "Syria Conflict: Damascus Suburb Sees Heavy Fighting," *BBC News*, 19 September 2012, <a href="http://www.bbc.co.uk/news/world-middle-east-19645269">http://www.bbc.co.uk/news/world-middle-east-19645269</a>

<sup>35 &</sup>quot;A Precarious Balancing Act: Lebanon and the Syrian Conflict, Middle East Report No.132," *Report by International Crisis Group*, 22 November 2012, <a href="http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/lebanon/132-a-precarious-balancing-act-lebanon-and-the-syrian-conflict.aspx">http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/lebanon/132-a-precarious-balancing-act-lebanon-and-the-syrian-conflict.aspx</a>

of regional terrorist groups siding with armed opposition fractions in Syria, and since no state can afford granting them space and freedom for WMD proliferation, unilateral endeavors of any *ad hoc* coalition remains impossible. The second major difference (which also encapsulates the normative conflict in the UNSC) is due to the belief among some states, including Russia and China, that the incumbent regime has not lost the legitimacy to engage the political oppo-

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sition and negotiate peace.<sup>36</sup> In contrast, the Arab League supported the opposition in the Syrian crisis, and after some hesitation in 2012,<sup>37</sup> invited the president of the Syrian National Coalition to take Syria's seat during the summit in Doha in March 2013.<sup>38</sup> Worth mentioning, that by December 2012 the U.S., France, UK and Turkey, too, recognized the Syrian coalition bloc as the "legitimate representative of the Syrian people in opposition to the Assad regime."<sup>39</sup> The third and final reason is that unlike the Qaddafi regime, the Syrian regime did not commit crimes of *erga omnes* nature. Of course, Russia and China are also alarmed by what they call "abuse" of UNSC Res 1973 in Libya, and that makes their position harder to be reconciled.<sup>40</sup> It is quite noteworthy, that BRICS countries mostly hold somewhat united position: India, China, Russia, and South Africa did not support UNSC draft resolutions of February and July 2012, which might have led to armed intervention into Syria for regime change reasons.<sup>41</sup>

## Conclusion

Overall, the international efforts concerning the situation in Syria evolve around two predispositions towards the "resolution" as such. For some, including the radical segments in Syria, partially united into Syrian National Council, "regime change" is of primary concern and importance. They maintain it would result in qualitative

<sup>36</sup> Peter Bergen and Jennifer Rowland, "Syria Rebel Group's Dangerous Tie to Al Qaeda," *CNN*, 10 April 2013, http://edition.cnn.com/2013/04/10/opinion/bergen-al-qaeda-syria/?hpt=hp\_c1

<sup>37 &</sup>quot;Syria Crisis: Arab League Welcomes New Opposition Bloc," *BBC News*, 13 November 2012, http://www.bbc.co.uk/news/world-middle-east-20307668

<sup>38 &</sup>quot;Arab League Welcomes Syrian Opposition," Al Jazeera, 27 March 2013,

http://www.aljazeera.com/news/middleeast/2013/03/20133262278258896.html

<sup>39 &</sup>quot;Obama Recognizes Syrian Opposition Coalition," CNN, 12 December 2012, http://www.cnn.com/2012/12/11/world/us-syria-opposition

<sup>40 &</sup>quot;UN Security Council 6627th Meeting," UN Doc. S/PV.6627, 4 October 2011.

<sup>41 &</sup>quot;Security Council Fails to Adopt Draft Resolution on Syria as Russian Federation and China Veto Text Supporting Arab League's Proposed Peace Plan," *UN Security Council, Doc. SC/10536*, 4 February 2012, http://www.un.org/News/Press/docs/2012/sc10536.doc.htm

changes to the domestic situation and national reconciliation. The cases of Libya and Egypt suggest these qualitative changes will likely not be prompt in the absence of robust international participation in state-building efforts.

Regarding the likely decision of the U.S. and the EU to arm the rebels in Syria, it shall be noted that in northern Mali, where France has been fighting since January 2013, violence was greatly nurtured by the inflow of weapons from Libya, as well as by Europeans and Americans. The proximity of Iraq, Lebanon, Palestine, and Turkey (Kurdish factor) should have kept the West alarmed for WMD and other weapons proliferation after Assad regime falls, but seems to have not.

The other approach regarding the Syrian crisis, supported by Russia and others in BRICS, is the "political dialogue first". 42 If any consensus is to be reached regarding the situation in Syria, it will hardly emerge out of the "Geneva Communiqué" of June 2012, which no longer enjoys international support the way it is. Given that other enforcement measures are likely to be vetoed in the UNSC, a certain modification of the "political dialogue first" approach may prove workable. What Russia -an important ally to the incumbent regime in Syria- could negotiate in upcoming multilateral conference on Syria (announced during U.S. State Secretary John Kerry's visit to Moscow on 7 May 2013),<sup>43</sup> is an arms embargo regime both to the ruling regime and the opposition, as well as referral to the ICC for the erga omnes crimes in Syria since the uprising (March 2011). These measures applied together may become mutually reinforcing and lead to Syrian-led transition period. Having the threat of criminal prosecution hanging as the sword of Damocles over those involved in violence can be a deterrence towards new atrocities. Eventually, this may raise Russia's profile in the Arab street, where it long has seen more competition (in hydrocarbon exports) and not cooperation. Thus, Russia has a unique chance to step in as a global player and work out a resolution with President Assad personally.

In the face of massive flow of arms to all sides in Syrian crisis, this can be the only reasonable and legitimate precautionary measure against *erga omnes* crimes and Syrian-led transition period to peace and stability. In contrast to the Libyan case, the trans-boundary threats to international peace and security in the Syrian situation can materialize in a much more devastating way if the stockpiles of chemical weapons (for which no reliable estimates of locations or quantities exist) are seized by a terrorist organization such as Al Qaeda.

<sup>42 &</sup>quot;Statement of Russian Foreign Minister in London Press Conference," (in Russian), 14 March 2013, http://mid.ru/brp 4.nsf/0/F288A0C47C61A48E44257B2E001F2F07

<sup>43 &</sup>quot;U.S. and Russia Plan Conference Aimed at Ending Syrian War," *New York Times*, 7 May 2013, http://www.nytimes.com/2013/05/08/world/middleeast/syria-golan-heights-united-nations.html? r=0



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