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The Power of the Security Council Under Chapter VII of the UN Charter and its Application in the Arab Spring Conflicts

By

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DEDICATION

To the man and woman, who fights daily to assert their rights to live with dignity, respect, associate freely, self-determine and not to be discriminated against. And to the countless men and women, who in their bid to assert these rights, paid the ultimate price.
ACKNOWLEDGEMENT

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To God almighty for the gift of life and wisdom, I give you all the glory
ABSTRACT

Since 1945 there has been a noticeable broadening of what constitutes a threat to international peace and security. Traditionally, the definition of “threat to international peace” was limited to a conflict among nations, which were conflicts common in the world.

The core threat to international peace used to be organized inter-state conflicts only. Today however, the nature of threats to international peace has changed drastically to include internal conflicts – as there are examples of cases where these have spread across the borders or have led to massive refugee situations.

In this dissertation, I review the mandate of the United Nation’s inter alia the changing definition of ‘threat to international peace’. This work was submitted in partial fulfillment of the requirements for a Masters Degree in International Law (LLM) at the University of Johannesburg, South Africa.

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INTRODUCTION

Since 1945 there has been a noticeable broadening of what constitutes a threat to international peace and security.\(^1\) Traditionally, the definition of “threat to international peace” was limited to a conflict among nations which were conflicts common to the world.\(^2\) The core threat to international peace used to be organized inter-state conflict only. Today however, the nature of threats to international peace has changed drastically to include internal conflicts.\(^3\)

The High Level Panel defined a threat to international peace as;

“Any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system is a threat to international security.”\(^4\)

The panel listed six clusters of threats the world must take note of and among these were internal conflicts including civil war, genocide and other large-scale atrocities. Though the occurrence of internal conflict and its consequences have been a huge concern of the United Nations, it was not until the end of the Cold War that the organization made and effort to address the situation.\(^5\)

This development was facilitated by the fact that the threat to human well-being could not be confined to instances of interstate conflict alone and the realization that sovereignty could not continue to act as a shield for abusive

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\(^1\) Weiss Thomas and Thakur Ramesh, *Global Governance of the United Nation; An Unfinished Journey*, (2010), 75.
The interdependence shared by nations also implies that a conflict that starts as an internal one may constitute a threat to neighbouring states and involve serious violations to fundamental human rights.

Today nations are interconnected as never before, as a result of which these threats are viewed collectively. Hence it is more effective for nations to pool their resources together and collectively address threats to international peace.

The cooperation of nations is essential to effectively tackle the international threats to peace and security and that is why the United Nations Charter in its preamble calls for the cooperation of all member states to unite in the interest of maintaining international peace and security.

The Security Council is one of the organs of the United Nations, and has the responsibility to determine the existence of a threat to international peace and security and to take all necessary steps according to the powers granted it by the United Nations Charter under Chapter VII to prevent and remove all threats to the peace.

The Council has the power under Chapter VII to restore peace both in international and internal conflicts. Hence once there is a threat to the

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peace the Security Council can take binding decisions irrespective of the fact that it is an internal conflict.\textsuperscript{10}

The Council has exercised its powers in Chapter VII to restore international peace and security both in international conflicts and internal conflicts. This dissertation will however focus on the internal conflicts that occurred in Tunisia, Egypt, Libya and Syria. The conflicts started with the revolution in Tunisia. These conflicts dubbed the “Arab Spring, were based on a cry of the people demanding change from their governments. They wanted a change from the oppression, human rights violations, misrule and corruption which had been the order of the day for decades.\textsuperscript{11}

This thesis examines the role of the Council to maintain international peace and security with particular reference to the involvement of the Council in the Arab Spring conflicts. The Council’s actions were inconsistent in each of these revolutions as the revolutions themselves were different in character. In Tunisia and Egypt the conflict was not an armed conflict because the protesters didn’t form an armed rebellion hence the silence of the Council in these revolutions. However in Libya and Syria the Council declared the situation to be a threat to international peace and resolutions were passed to restore the peace.

It is apparent that even though the Council has a power to restore peace and security, it has the discretion to choose when to act. Chapter one of this dissertation will analyse what informs the discretion of the Council by reviewing past resolutions where the Council had intervened in internal conflicts. This will give a well-informed analysis of why the Council didn’t


\textsuperscript{11} Amnesty International, Year of Rebellion the State of Human Rights In the Middle East and North Africa, (2012), 1, \url{http://www.amnesty.org/en/library/info/MDE01/001/2012}, accessed on 18\textsuperscript{th} of April 2012 @ 2:00pm.
act in Egypt and Tunisia. It is important to note that the Council may also be unable to act if its permanent members veto a resolution.
CHAPTER ONE

1.1 SECURITY COUNCIL’S INFLUENCE IN INTERNAL CONFLICT

The primary responsibility of the Council is the maintenance international peace and security.\textsuperscript{12} In achieving its responsibility the Council has the power to determine that a conflict constitutes a threat to international peace and security and to take necessary measures under Chapter VII of the Charter to remove such a threat.\textsuperscript{13}

Reviewing the resolutions of the Council it is obvious that not all internal conflicts constitute a threat to international peace and security. As is the case with the Arab Spring, which is the topic under discussion, the Council acted in Libya and Syria but did not take any action in Egypt and Tunisia. It is therefore apt to consider factors that the Council considers before it determines that an internal conflict actually constitutes a threat to international peace and security.

In analysing the Council’s action, one cannot make reference to judicial review and case law because there is no supreme institution which can make a decision on the Council’s action or inaction. One can only analyse the various resolutions passed by the Council during internal conflicts in order to determine when an internal conflict constitutes a threat to international peace and security and hence warrants the action of the Council. This will give us a better understanding as to why, when and how the Council intervenes in internal conflicts.

It is important to define the concept “internal armed” conflict. The primary responsibility to maintain law and order in a nation is that of the nation’s

\textsuperscript{12} Article 24 of the United Nations Charter. 
\textsuperscript{13} Article 2 (7) of the United Nations Charter.
government hence not all internal conflicts require the intervention from international organization like the Security Council.

Though the Addition Protocol II to the Geneva Convention did not specifically define the concept of internal armed conflict, it mentions instances that do not qualify as an internal armed conflict.

Article 1(2) of the Protocol, states that situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, are not armed conflicts. Therefore the Council will usually not interfere in such situations.

1.2 INTERNAL CONFLICTS DETERMINED AS AN INTERNATIONAL THREATS TO PEACE

Aspects of an internal conflict that constitutes a threat to peace can be deduced from the carefully worded preambles of each resolution where the conflicts are described.\textsuperscript{14} Council has determined the existence of threat to peace in the internal conflicts in the following situations:

- The denial of self-determination by a racist minority regime
- General civil war
- Apartheid
- Seizure of power from a democratically elected government
- Serious humanitarian crises\textsuperscript{15}
- Genocide


1.2.1 The denial of self-determination by a racist minority regime

In Southern Rhodesia, the Council condemned the forceful rule of a white minority over the black majority. 16 The Rhodesian Government, led by Prime Minister Ian Smith, announce a Unilateral Declaration of Independence (UDI), which was aimed at oppressing the black people (who constitute the majority of the population) by the white minority. 17 The Council recognized the inalienable right of the people of South Rhodesia to self-determination and independence.

The Council determined that the situation in Southern Rhodesia constituted a threat to international peace18 and in order to restore the peace, it imposed sanctions on the illegal regime which included arms embargo, an embargo on oil and petroleum products and asked member states to break off all economic relations with Southern Rhodesia.19 When the situation did not improve, the Council further imposed a trade embargo20 and authorized member states to use armed force to restore peace in the country.21

1.2.2 General Civil War

The Council had determined that civil war in some instances constituted not only a threat to the country where the war is raging but also a threat to the region and a threat to international peace and security.

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Yugoslavia was a federation made up of six republics- Serbia, Croatia, Slovenia, Montenegro, Macedonia, and Bosnia-Herzegovina. The civil war broke out when Croatia and Slovenia decided to break loose from the federation. The war, which lasted from 1991 to 1995, was a complex one assuming different forms and involving different republics in the federation.

Deeply concerned by the fighting in Yugoslavia, which was causing a heavy loss of human life and material damage, and concerned that the continuation of this situation could constitute a threat to international peace and security the Council imposed sanctions on Yugoslavia.\(^{22}\)

The Council in a bid to maintain international peace and security established a United Nations Protection Force with the aim to create the conditions of peace and security required for negotiations of an overall settlement of the crisis in Yugoslavia.\(^{23}\) It also placed an embargo on all deliveries of weapons and military equipment to Yugoslavia \(^{24}\), imposed trade embargos and froze all assets belonging to the Yugoslavian government within member state’s territory.\(^{25}\)

After Somalia’s long-standing military government, headed by Muhammed Siad Barre, was ousted in 1991, fighting and anarchy ensued. Inter clan and interfactional fighting flared up in Somalia leading to serious cases of murder, kidnapping, killing, internal displacement, starvation of thousands of Somalis and destabilization of the region.\(^{26}\)


\(^{26}\) [http://www.globalsecurity.org/military/world/war/somalia.htm](http://www.globalsecurity.org/military/world/war/somalia.htm), accessed on the 22\(^{nd}\) January 2013 @ 10:58pm.
The civil war in Somalia and its consequences were determined by the Council as constituting a threat to international peace and security. The council stated that it was “gravely alarmed at the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country and aware of its consequences on the stability and peace in the region”.\footnote{Security Council Resolution 733, (1992).}

To restore peace to the region the Council called for a UN humanitarian assistance\footnote{Paragraph 2, Security Council Resolution 733, (1992).} and a cease-fire\footnote{Paragraph 4, Security Council Resolution 733, (1992).} and also placed an arms embargo on Somalia.\footnote{Paragraph 5, Security Council Resolution 733, (1992).}

The violence in Rwanda was also strongly condemned by the Council. War broke out in Rwanda among the Tutsis and the Hutus leading to the death of a large number of innocent civilians including children and women, displacement of a significant number of the Rwandese population and a significant increase in refugees to neighbouring countries.\footnote{Security Council Resolution 912, (1994).} The Council described the situation as a humanitarian crisis of enormous proportions.\footnote{Security Council Resolution 918, (1994).}

In response to this conflict the Council demanded an immediate end of all forms of violence, expanded the mandate of the United Nations Assistance Mission for Rwanda (UNAMIR), a peace-keeping operation established by the Council in 1993, to include protection of displaced refugees; distribution of relief supplies and authority to use armed force when faced with violence.\footnote{Paragraph 3-4, Security Council Resolution 918, (1994).} The Council acting under Chapter VII of the Charter also imposed an arms embargo on Rwanda.\footnote{Paragraph 13, Security Council Resolution 918, (1994).}
1.2.3 Apartheid

The apartheid regime in South Africa was considered as a crime against the conscience and dignity of mankind which seriously disturbs international peace and security.\(^{35}\) The apartheid regime was a system of racial segregation where the rights of the majority black citizens were curtailed and the right of the minority white citizens protected. The regime empowered the government to declare harsh states of emergency and punish protesters.\(^{36}\)

The Council condemned the abhorrent policies of apartheid and measures taken by the government to enforce and extend those polices beyond its borders. It was also convinced that the situation resulting from the continued application of the apartheid policies and the constant buildup of the South African military and police force constituted a potential threat to international peace and security\(^{37}\).

The protest against the regime sparked violence in the country leading to large-scale killings, banishment, imprisonment and torture. The Council in an effort to end this abhorrent regime placed an arms embargo on South Africa by calling upon member states to cease the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition to South Africa.\(^{38}\)

\(^{36}\) \url{http://www-cs-students.stanford.edu/~cale/cs201/apartheid.hist.html}, accessed on the 22\(^{nd}\) January 2013 @ 11:45pm.
1.2.4 Seizure of power from a democratically elected government

The military coup in Haiti ousted the freely elected Jean-Bertrand Aristide on the 30th September 1991.

The situation in Haiti was described as a humanitarian crises including mass displacement of population, extra-judicial killings, arbitrary arrests, illegal detentions, abductions, rape and enforced disappearances. The situation was determined to constitute a threat to international peace and security.\(^{39}\) The Council placed a trade embargo on Haiti which was to last until the legitimate government of President Jean-Bertrand Aristide was re-instated\(^ {40}\)

Sanctions were imposed on Haiti ranging from a no-fly zone, lack of entry into member states of major participants of the coup and those acting on behalf of the military, freezing of assets belonging to the Haiti government, trade and an arms embargo.\(^ {41}\)

In Sierra-Leone, the elected President Ahmed Tejan Kabbah was overthrown by a group of soldiers known as the Armed Forces Revolutionary Council on the 25th May 1997.

The Council condemned the continued violence and loss of life in Sierra Leone following the military coup, the deteriorating humanitarian conditions in that country, and the consequences to neighbouring countries\(^ {42}\)

The Council determined that the situation in Sierra Leon constituted a threat to international peace and security after taking into consideration

the fact that the military junta had not taken steps to allow the restoration of the democratically-elected Government and a return to constitutional order.

The Council demanded that the military junta take immediate steps to relinquish power in Sierra Leone and make way for the restoration of the democratically elected Government and a return to constitutional order and also placed an arms embargo on Sierra Leone\(^{43}\)

1.2.4 Serious humanitarian crises

Most situations leading to a threat to international peace and security are associated with serious humanitarian crises which are usually associated with gross violations of humanitarian law.

The situation in Haiti was described as constituting a humanitarian crisis including mass displacement of the population thereby posing a threat to international peace and security.\(^{44}\)

In Haiti’s case two major factors influenced the Council’s determination of the situation as a threat to international peace and security. The first factor was the seizure of the power from the democratically elected government of President Aristide while the second was the serious humanitarian crises in the country.\(^{45}\)

In Rwanda, the Council was concerned at the magnitude of human suffering caused by the conflict and stated that the continued situation constitute a threat to international peace and security.\(^{46}\)


Acting under Chapter VII of the Charter the Council placed an arms embargo on Rwanda. In resolution 925, the Council stated that internal displacement of some 1.5 million Rwandans facing starvation and disease and the massive exodus of refugees to neighbouring countries constituted a humanitarian crisis of enormous proportions. To address this serious violation of humanitarian law the Council established the International Tribunal for Rwanda to prosecute violators.\textsuperscript{47}

1.2.5 Genocide

Genocide is the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group.\textsuperscript{48} It is a violation of humanitarian law.

The genocide by the Hutus of the Tutsis broke at the beginning of April 1994. The Council stated in resolution 918, that the killing of members of an ethnic group with the intention of destroying such a group, in whole or in part, constituted a crime punishable under international law.

Convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law would contribute to the process of national reconciliation and to the restoration and maintenance of peace

Persuaded that the establishment of an international tribunal for the prosecution of persons responsible for genocide and the other above-mentioned violations of international humanitarian law will ensure that


\textsuperscript{48} Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide
such violations are halted and effectively redressed the Council established an International Tribunal for Rwanda.49

In the Republic of Bosnia-Herzegovina, conflict between the three main ethnic groups, the Serbs, Croats, and Muslims, resulted in genocide committed by the Serbs against the Muslims in Bosnia.

Bosnia and Herzegovina, one of several small countries that emerged from the break-up of Yugoslavia, was mostly a Muslim country with minority of its population being Serbs. The Serbs started killing the Muslims with the intention of erasing them completely. This was labelled as ‘ethnic cleansing’ and included mass shootings, forced repopulation of entire towns, and confinement in make-shift concentration camps for men and boys. The Serbs also terrorized Muslim families into fleeing their villages by using rape as a weapon against women and girls.

The U.N. responded by imposing economic sanctions on Bosnia and also deployed its troops to protect the distribution of food and medicine to dispossessed Muslims.50

The Council determined that the situation in Bosnia and Herzegovina constituted a threat to international peace and security.51 Acting under Chapter VII of the Charter the Council placed a trade embargo on Bosnia and Herzegovina.52 It also gave a directive that member state should not make financial aid available to the State.53

50 http://www.historyplace.com/worldhistory/genocide/bosnia.htm, accessed on the 24th of January 2013 @ 3pm.
It can be deduced from the instances above that the Council usually determine cases that involve serious human suffering as internal armed conflict.
CHAPTER TWO

2.1 THE ARAB SPRING CONFLICTS

2.1.1 INTRODUCTION

2011 was a year of protest, crises and conflicts in the Middle East and North Africa. This was a huge change because the citizens of these region have been known to conform to order without challenging or questioning their leaders. After so many years of oppression the people took to the streets to demand a long overdue change and nothing could stop them not even the violence meted out to them by the security forces.54

The media played a huge role in the freedom fight by revealing the gross cases of crime against humanity to the whole world. These acts made their struggle known to all thereby gaining the attention of the international community.55

2.2 THE TUNISIAN REVOLUTION (JASMINE REVOLUTION)

2.2.1 BACKGROUND

Tunisia gained its independence in 1956 and Habib Bourguiba was its first prime minister.56 In 1987, Zine Al Abidine Ben Ali took over the

54Amnesty International, Year of Rebellion the State of Human Rights In the Middle East and North Africa, (2012), 1, http://www.amnesty.org/en/library/info/MDE01/001/2012 accessed on the 18th of April 2012 @ 2:00pm.
government in a bloodless coup and became the president of Tunisia\(^{57}\) and his regime lasted for 24 years.\(^{58}\)

During Ben Ali’s initial years as a dictator, he provided free education to its citizens, protected the rights of women and eradicated Islamic extremism.\(^{59}\) He also promoted tourism thereby growing Tunisia’s economy.\(^{60}\) All these were done to relieve just enough social pressure to avoid discontent from building up to a point that would destabilize the country.\(^{61}\)

But when Tunisia’s economy slowed in 2008, the silent agreement between the government and the people began to fall apart. The free education policies also turned out to create more problems than solutions as most citizens who benefited from this policy could not gain employment.\(^{62}\)

The grim situation in Tunisia was further complicated with the high level of corruption in the government and the difficulties of migration to neighbouring countries.\(^{63}\)


\(^{60}\) Ibid.

\(^{61}\) Ibid.

\(^{62}\) Ibid.

\(^{63}\) Ibid.
2.2.2 THE CAUSE OF THE REVOLUTION

The conflicts that swept throughout Tunisia, leading to the deposing of President Zine El Abidine Ben Ali, were instigated by the suicide of Mohammed Al Bouazizi in December.64

Mohammed Al Bouazizi was a poor 26-year old Tunisian who could not secure employment after his college education. To support himself and his family, he became a street vendor selling vegetables. However his small business was halted by a police officer because he did not have the necessary legal permit to sell and his wares were seized. 65

On December 17 2010, during a protest against the harsh conditions in Tunisia, Al Bouazizi set himself on fire in front of a government building. Though he battled for his life he eventually died after 18 days in the hospital.66

Mohammed through his death became a martyr which the Tunisian’s youth could relate with. The lack of employment, the high cost of living and the corruption in Tunisia had its youth filled with frustration and they desperately wanted a change.67

64 Eric Andrew-Gee, “Making Sense of Tunisia -What were the three main catalysts of the recent protests?”, The New Republic, January 17, 2011.
66 Ibid.
Though the cause of Tunisia’s revolution can be directly linked to the death of Mohammed Al Bouazizi, there were other causes of the revolution. These causes were corruption, unemployment and lack of press freedom;

- **Corruption.** The President and his family enriched themselves despite the high rate of poverty and inflation in the country. The level of corruption became intolerable to the people and they decided to demand a change.\(^6^8\)

- **Unemployment.** Many of the youths who benefited from the free education could not find jobs after graduating from college. Basic amenities like food and shelter had become difficult to obtain due to the economy stagnation. \(^6^9\)

- **Lack of Press Freedom.** Tunisia’s press was not an independent institution. Every story was censored by the government. \(^7^0\)

When the protests started in central Tunisia, the people’s demands were largely focused on socio-economic necessities. However as the protest spread throughout the country so did the demands, from socio-economic needs to demands of freedom from corrupt leaders. \(^7^1\)

### 2.2.3 THE UPRISING

The protest started out peacefully and the security forces responded with no force. However on the 24\(^{th}\) of December 2010, the security forces fired live ammunitions at protesters, killing and injuring many.\(^7^2\)

\(^{6^8}\) Eric Andrew-Gee, “Making Sense of Tunisia -What were the three main catalysts of the recent protests?”, The New Republic, January 17, 2011.

\(^{6^9}\) Ibid

\(^{7^0}\) Ibid.


\(^{7^2}\) Ibid, 8.
The security force used force indiscriminately against protesters and bystanders that posed no threat to public safety. The protesters’ right to life was disregarded and abused by the security force.

Though the Tunisian security force has a responsibility to maintain law and order and can employ the use of force to achieve this, it is apparent that they exceeded their responsibilities by employing force when there was no reason to and violated human rights law and standards.

The instances where state security forces can resort to force are limited to circumstances where activities genuinely threaten lives and public safety and the force must be proportionate to the threat.

The security officials prevented the injured from receiving medical attention and continued to fire shots at the injured thereby making it impossible for them to get required assistance.

Deposing President Ben Ali was accomplished at a heavy price. Many lives were lost and many more were injured in the uprising. According to the Amnesty International, the Office of the UN High Commissioner for Human Rights (OHCHR) has put the number of causalities at 147 in addition to 72 people who died in prison in incidents linked to the unrest.

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75 Ibid.

76 Ibid, 2.

77 Ibid.

78 Ibid, 1.

The situation in Tunisia was a mere civil resistance which lasted from the 18th of December to Ben Ali’s flight from the country on January 11th. The conflict did not qualify as an internal armed conflict as there was only one organized armed group which was the security forces of Tunisia.

The crisis was timely ended because Ben Ali finally acceded to the demands of its people when he left the country. Though the security force used excessive force the crises did not degenerate to serious humanitarian crises.

From the analysis of the various cases where the Council had interfered in internal conflict, it does so in cases of civil war, serious violation to humanitarian law and internal armed conflict. The situation in Tunisia did not fall into any of these categories hence did not warrant the input of the Council.

It is also important to take into consideration that the primary responsibility to maintain law and order in a country is solely that of the country. In this case Tunisia was able to restore this order by the President’s timeously stepping down from power.

2.3. EGYPT REVOLUTION

2.3.1 BACKGROUND

を行イ Mubarak became the president of Egypt in 1981 following the assassination of Anwar Sadat who was assassinated by Islamic extremists

who were not happy with his peace deal with Israel.\textsuperscript{81} When Mubarak became the president he imposed a state of emergency on the country.\textsuperscript{82}

He also established a security force that had the power to arrest and detain citizens without charge and for unlimited period of time. By virtue of the state of emergency demonstrations were banned and the press was placed on a tight leash.\textsuperscript{83}

\textbf{2.3.2 THE CAUSE OF THE REVOLUTION}

The Egyptian revolution was inspired by the successful revolution in Tunisia.\textsuperscript{84} The revolution gave Egyptians the courage to demonstrate till Mubarak’s regime falls. Their complaints amongst others were the levels of government repression, poverty and inequality, unemployment, endemic corruption, police brutality and a lack of civil and political rights. Constitutional rights were placed on hold when Mubarak imposed a state of emergency in Egypt. In its place, military and special courts were established, oppositions were repressed, demonstrations restricted and censorship were legalized. The emergency laws empowered the security force to commit serious human right violations such as torture and arbitrary detentions of government oppositions.\textsuperscript{85}

\begin{itemize}
\item \textsuperscript{81} Kelsey Weyhing, “The Egyptian Revolution : 25 January Youth Coalition” Michigan State University Model United Nations, http://msumun.org/?page_id=1149, accessed on the 24\textsuperscript{th} of April 2012 @1:05pm.
\item \textsuperscript{83} Human Right Watch, Demonstrators Defy Riot Police And Censorship-Internet Blackout Threatens Rights, January 28, 2011, http://www.hrw.org/news/2011/01/28/egypt-demonstrators-defy-riot-police-censorship, accessed on the 24\textsuperscript{th} of April @ 1:07pm..
\item \textsuperscript{84} Yolande Knell, \textit{Egypt’s revolution: 18 days in Tahrir Square}, BBC News, Cairo, (2012), http://www.bbc.co.uk/news/world-middle-east-16716089, accessed on the 24\textsuperscript{th} of April @ 1:08pm..
\end{itemize}
One of the main causes of the revolution was the growth of Egypt’s economy. Only the ruling elite benefited from this growth and the masses were left to suffer.\textsuperscript{86}

Other causes of the revolution were the level of poverty, unemployment, rampant corruption, police brutality and violation of civil and political rights. Inflation made it impossible for the masses to get basic needs like food. In the face of this poverty, the ruling elite displayed the wealth they benefited from the economy flamboyantly.\textsuperscript{87}

During Mubarak’s regime there was a wide range of serious human rights violations, routine torture, random detention and mistreatment of detainees.\textsuperscript{88}

The final trigger for Egypt’s “25 January Revolution” was the Tunisian uprising. This gave political activists, the vast army of young unemployed and underemployed men and women, the workers, the victims of state repression and many others the confidence and courage to act. The fall of President Ben Ali and his regime within weeks, by peaceful demonstrations, made the Egyptians resolve to remove Mubarak from power.\textsuperscript{89}

\textbf{2.3.3 THE UPRISING}

The Egyptian revolution, did not just happen, it was a result of series of protest that had been brewing over the years. For years, unrest had been bubbling under the surface, occasionally flaring into wide and large protest.


\textsuperscript{88}ibid 15.

Though these uprisings were quelled, the country continued to witness almost on a daily basis strikes and sit-ins by workers, and smaller demonstrations by activists.  

Each public display of opposition punctured the heavy lid of repression, however harsh the state’s response.

The revolution Tunisia went through led to the overthrow of a tyrant and because it was televised worldwide as well as in Egypt, it propelled the Egyptians into demanding a change in their own country too.

The Egyptian Revolution began on 25th of January 2011. It was commenced with a series of street demonstrations, marches, and rallies, acts of civil disobedience, riots, labour strikes, and violent clashes throughout the country.

Protesters wanted a change from Mubarak’s regime which was polluted with corruption and police oppression. In its place they requested for democratic reforms of the political system, the end of Emergency Law, freedom, justice, a responsive non-military government, and proper management of Egypt’s resources.

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Egyptians took to the streets peacefully protesting against Mubarak’s 30-year regime. They were however met with police brutality who responded with tear gas, water cannons, rubber bullets, and live ammunition in an effort to prevent protesters from advancing towards the central squares where the protest were to take place.

During the uprising, protesters and journalist were arbitrarily arrested and detained. The journalists were released within few days of their arrests, but military courts sentenced many protesters to imprisonment.

In order to curb the uprising, the government shut down access to the internet and mobile phone networks and placed curfews in major cities.

The fundamental human rights of the people were grossly violated. The government violated the people’s right to freedom of assembly and this was not in accordance with the International Covenant on Civil and Political Rights. According to the convention, any restrictions on these rights must be in accordance with the law and strictly necessary to preserve national security or public safety, public order, public health or morals, or protect the rights and freedoms of others. The people’s right to life protected by the International Covenant on Civil and Political Rights was also violated.

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101 Article 21 of the International Covenant on Civil and Political Rights.
102 Article 4 of the International Covenant on Civil and Political Rights.
All governments are responsible for ensuring public safety and maintaining public order, including using force when necessary and justified. When the security force resorts to use force to maintain public safety this must be governed by the principles of necessity and proportionality. The security forces in Egypt used excessive force while responding to the unrest. This is in contravention of international law and standards.103

On Friday 11th of February 2011, Mubarak resigned due to a lot of pressure from the people's protest and the army. This was highly celebrated by the people but this victory was tainted with the lives lost. The Ministry of Health and Population sources stated that about 846 persons died and 6,467 others were injured in the uprising.104

2.3.4 THE ROLE OF THE SECURITY COUNCIL

The situation in Egypt is similar to that of Tunisia, as it does not qualify as an internal armed conflict warranting the intervention by the Council. The conflict was between the armed security forces and peaceful protesters.

The duration of the conflict was 18days and the situation did not develop to a situation of a severe humanitarian crisis for the Council to intervene. The conflict abated when Mubarak resigned as the president of Egypt.

From the analysis of the various cases where the Council had interfered in internal conflict, it does so in cases of civil war, serious violation to humanitarian law and internal armed conflict. The situation in Egypt did not fall into any of these categories hence did not warrant the input of the Council.

CHAPTER THREE

3.1. LIBYA REVOLUTION/CIVIL WAR

3.1.1 THE BACKGROUND

Colonel Muammar Gaddafi, after overthrowing King Idris I, became the ruler of Libya for 42 years. He set up a political system which was defined as democracy but did not offer its citizen the freedom that came with a democratic system of government.\(^{105}\)

Though it seems the Libyans should have a better quality of life than the Egyptians or Tunisians, because their country has large deposit of crude oil, the high rates of corruption, repression and suppression by their government did not allow this.\(^{106}\)

Draconian legislation outlawed dissent and the establishment of independent organizations. Hundreds of political prisoners were detained arbitrarily.\(^{107}\) An estimated number of 213 prisoners who have already served their sentences or been acquitted by Libyan courts remain imprisoned under Internal Security Agency orders.\(^{108}\)

\(^{105}\) Disarmament and International Security Committee, Vancouver Model United Nations (2012), https://docs.google.com/viewer?a=v&q=cache:H0yMjOmTUp0J:vmun.com/documents/backgroundguides/76271821-Response-to-the-Arab-Spring-Disarmament-and-International-Security-Committee.pdf+Disarmament+and+International+Security+Committee,+Vancouver+Model+United+Nations+%282012&hl=en&gl=za&pid=bl&srcid=ADGEESjW8EbGFpKyMY0McP-_S9m1qJZ90xsprPkFlQEnBl5qvGW0gUPiQw18y7eB5201vg_j4LVM47IvOeOL_L90KGFPuJn4OrmVlExKIAivosuAGkJPDmo5un5Y2xi0eH0YRITk4Cp&sig=AHIEtbStiSgpiSU_gWMY7hcKgdzFGLK-g&pli=1, accessed on the 24\(^{th}\) of April 2012 @ 1:45pm.


\(^{107}\) Ibid.

The Libyan citizenry were denied the fundamental freedom of expression, association and assembly. Demonstrations were considered illegal and organisers were often harassed, intimidated, arrested and tortured. Foreigners were often unjustly treated and the rights of women were not recognised and the minority tribes were marginalised.109

3.1.2 THE UPRISING

Following popular uprisings in neighboring Tunisia and Egypt, protests against the government erupted in Libya on 15th February 2011.110 This was triggered by the arrest of Fathi Terbii, a human rights attorney who represented the relatives of more than 1,000 prisoners allegedly massacred by security forces in Tripoli.111

When about 500 people stood outside the police headquarters to protest the police quickly resorted to violence, injuring dozens of the protesters and passers-by and arresting many others. The authorities blocked social media and restricted access to the internet and arrested activists suspected of planning the demonstration in an attempt to stifle the protest. Despite the government’s effort the protests spread like a wildfire.112

In an effort to maintain their grip on power, the Libyan authorities arrested a number of activists and writers in the lead-up to the “Day of Rage.” Protests were met with tear gas, batons and live ammunitions. In the face of government brutality, the protesters’ determination to topple Colonel

Gaddafi grew. Anti-government protests escalated into armed clashes between the security forces and the protesters.\textsuperscript{113}

During the uprising, government forces repeatedly launched indiscriminate attacks with rockets into civilian-inhabited areas. The government laid thousands of antipersonnel and anti-vehicle landmines in various parts of Libya which will likely endanger civilians for many more years to come.

In some areas, opponents of Colonel Gaddafi’s rule quickly overpowered the security forces and seized abandoned weapons. By mid-February, the unrest had rapidly evolved into an armed conflict. The civilian population increasingly suffered as the battle for Libya raged on. Soon, opposition forces seized control of many towns and even the capital, Tripoli.\textsuperscript{114}

In Benghazi, the opposition established a coalition authority, the Interim Transitional National Council, which was soon after recognised by the international community under the leadership of the former Justice Minister, Mustafa Mohamed Abdeljalil.\textsuperscript{115}

After about eight months of conflict rife with war crimes and gross human rights violations, including indiscriminate attacks, extrajudicial executions, enforced disappearances, arbitrary detentions and torture, forces opposing Colonel Gaddafi was captured and killed him and the opposition

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\textsuperscript{115}Ibid.
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established territorial control over the whole of the country. The number of missing and dead remains unclear.

### 3.1.3 THE ROLE OF THE SECURITY COUNCIL

The situation in Libya was very different from that of Tunisia and Egypt. Firstly the situation became an internal armed conflict by mid-February blowing up into a civil war.

The war also lasted for a period of eight months as opposed to days in the case of Tunisia and Egypt. The situation developed into serious humanitarian crises hence the need for the Council to intervene.

When a peaceful protest in Benghazi against the 42-year rule of Colonel Muammar Gaddafi developed into internal armed conflict, the Council on the 26th February 2011 unanimously adopted Resolution 1970 (2011).

The Resolution regretted the situation of gross and systematic violation of human rights, including the repression of peaceful demonstrators taking place in Libya. It also expressed deep concerns at the deaths of civilians, and rejects hostility and violence to the civilian population by the Libyan government. This situation was determined to be a crime against humanity.

The Council based the legitimacy of the resolution on the powers vested in it by virtue of Chapter VII, specifically under Article 41. It thus demanded a

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117 Human Right Watch, World Report 2012: Libya, [http://www.unhcr.org/refworld/publisher,HRW,LBY,4f2007cfc,0.html](http://www.unhcr.org/refworld/publisher,HRW,LBY,4f2007cfc,0.html), accessed on the 24th of April 2012 @ 2:35pm.

118 [http://www.nato.int/cps/en/SID-7B39E1CA-78777BC4/natolive/topics_71652.htm](http://www.nato.int/cps/en/SID-7B39E1CA-78777BC4/natolive/topics_71652.htm), accessed on the 27th of February 2012 @ 1:01pm


cease fire in the country.\textsuperscript{121} It also referred the situation in Libya to the Prosecutor of the International Criminal Court.\textsuperscript{122} The resolution gave the ICC jurisdiction over war crimes and crimes against humanity committed in Libya from 15\textsuperscript{th} of February 2011.\textsuperscript{123}

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations, the Council imposed sanctions on Libya in order to restore peace and security in the country. The first of these was the arms embargo which ordered all states to prevent the direct or indirect supply, sale or transfer of arms and other related weapons to Libya.\textsuperscript{124}

A travel ban was placed on Gaddafi and some of his followers perceived to be the perpetrators of crimes against humanity.\textsuperscript{125} All funds belonging to the Libyan government within the territory of member states were frozen\textsuperscript{126} with the exception of those determined to be necessary for basic expenses.\textsuperscript{127} The resolution established a new sanctions committee whose sole purpose was to monitor the implementation of the sanctions imposed on Libya.\textsuperscript{128}

On 17\textsuperscript{th} March 2011, as the fighting intensified in Libya and given the failure of its authorities to comply with the cease fire in Resolution 1970 (2011), the Council adopted Resolution 1973 (2011) which imposed measures stated under Chapter VII of the Charter.

\textsuperscript{123} Human Right Watch, World Report 2012: Libya, \url{http://www.unhcr.org/refworld/publisher,HRW,,LBY,4f2007cfc,0.html}, accessed on the 24\textsuperscript{th} of April 2012 @ 2:35pm.
The Resolution reiterated that the situation in Libya continued to constitute a threat to international peace and security and acting under its powers under Chapter VII of the United Nations Charter, the Council established a no-fly zone over Libya\textsuperscript{129} and the implementation of all necessary measures, short of foreign occupation to protect civilians.\textsuperscript{130}

The Resolution banned all flights except those for humanitarian and aid purposes in Libyan airspace in order to ensure that civilians and civilian-populated areas could not be subjected to air attack.\textsuperscript{131} The Council authorised member states acting nationally or through a regional organization to enforce the no-fly zone.\textsuperscript{132}

On 24\textsuperscript{th} of March 2011, NATO decided to enforce the Council mandated no-fly zone over Libya and on the 31\textsuperscript{st} of March 2011, NATO took sole command of the international effort over Libya and NATO’s air and sea assets began taking military actions to protect civilians and civilian-populated areas in Libya\textsuperscript{133}.

The strict enforcement of the arms embargo already imposed in resolution 1970 (2011) was ensured by NATO.

A ban was also placed on all aircraft registered in Libya or owned by Libyan nationals and companies unless the particular flight has been approved in advance by the Committee, or in the case of an emergency landing.\textsuperscript{134}

The Council, still actively seized of the matter in Libya, passed yet another resolution on the 16\textsuperscript{th} of September 2011. Acting under Chapter VII of the

\textsuperscript{133} http://www.nato.int/cps/en/SID-995FCC7F-6AA0AC51/natolive/topics_71652.htm, accessed on the 27th of February 2012 @ 4:05pm
Charter and taking measures under Article 41, it established a United Nations Support Mission in Libya (UNSMIL)\(^{135}\). The mandate of UNSMIL is to assist and support the Libyan national efforts to restore public security and order, promote the rule of law, promote reconciliation and promote human rights.

The Council, taking note of the improved situation in Libya, limited the scope of the arms embargo placed on Libya in resolution 1970 (2011). Paragraph 13 of Resolution 2009 (2011) states that the embargo shall not apply to the transfer of arms into Libya which is intended solely for the security or disarmament assistance to the Libyan authorities. Embargo was also lifted on small weapons exported to Libya for the sole use of United Nations personnel.

Based on the Council’s decision to keep under continuous review and to lift as appropriate and when circumstances permit, those measures and sanctions placed on Libya, on the 27\(^{th}\) of October 2011 it passed resolution 2016 which terminated the no-fly zone over Libya.

### 3.2 SYRIA

#### 3.2.1 BACKGROUND

President Bashar al-Assad assumed office on the 20\(^{th}\) of June 2000 after the death of his father Hafez al-Assad who had taken over the presidency of Syria in the 1970 Corrective Revolution. The al-Assad family had ruled for 40 years with an iron-fist under a state of emergency that severely

restricted and punished any dissent.\textsuperscript{136} The state of emergency gave the security police wide powers of arrest and detention, they were also free from prosecution regarding acts committed while carrying out their duties. During the regime the freedom of expression and assembly was largely repressed.\textsuperscript{137}

The uprising in Syria is part of a broader popular protest movement that has engulfed Middle East and North Africa, the Arab Spring, and led to the toppling of long-term regimes in Egypt, Libya and Tunisia.\textsuperscript{138} The Syrians, who also faced hostility from their government and the violation of their human rights, like in Egypt, Libya and Tunisia, could no longer keep silent and decided to demand a change.\textsuperscript{139}

3.2.1 CAUSE OF THE REVOLUTION

A state of emergency had been enforced in Syria since 8 March 1963. This was declared through a military order on the basis of Legislative Decree No. 51 of 1962, which set out the framework for a state of emergency. The emergency rule established special courts, censored communications and the media. Laws passed imposed extensive restrictions on the right to freedom of expression and criminalized public expression of opposition

\textsuperscript{136} Amnesty International, Year of Rebellion- The State of Human Rights in the Middle East and North Africa, (2012), 26, \url{http://www.amnesty.org/en/library/info/MDE01/001/2012} accessed on the 18th of April 2012 @ 2:00pm.


\textsuperscript{138} United Nations, “United Nation Welcomes Move Enabling Arab League Monitors to Visit Syria, United Nations News Centre, (2011), \url{http://www.unhcr.org/refworld/country,,UNPRES,,SYR,,4f0adf992,0.html} accessed on the 24th of April 2012 @ 7:20pm.

and dissent. The state security apparatus was empowered to arrest arbitrarily.\textsuperscript{140}

The special court created was known as the Supreme State Security Court. It had jurisdiction to try those who dissent or are accused of offences against the state. The court was not impartial and was under the control of the executive branch of the government.\textsuperscript{141}

Unfair trials were very common before the Supreme State Security Court. Defendants had restricted access to their lawyers, did not have the right to appeal the decision of the court, and the courts accepted as evidence “confessions” allegedly extracted under torture.\textsuperscript{142}

The government passed laws which discriminated against women and a minority group called the Kurds. Freedom of expression and association were strictly controlled. Genuine opposition political parties were not authorized and human rights NGOs could not obtain a licence to operate\textsuperscript{143}.

The legislation passed by the regime led to gross human rights violation and suffering of the Syrian people. The frustration of the people reached a tipping point with the events of 6\textsuperscript{th} of March 2010 and this lead to a revolution in the country.


\textsuperscript{143}Ibid 4-5.
3.2.2 THE UPRISING

Like the revolutions in the Arab states, the Syrian revolution started in a way that surprised even the Syrians themselves.¹⁴⁴ None of these great changes in these Arab countries began with a call for a regime change. They all started by the masses demanding recognition of their basic human rights and an end to corruption¹⁴⁵.

The uprising in Syria started on 6ᵗʰ of March 2010, with the simple act of school children who sprayed slogans from the revolutions in Egypt that they had seen on television on walls. The local secret police soon arrested, detained and tortured the boys.¹⁴⁶.

The next day, security forces gunned down about 100 protesters mostly families of the missing, who had marched peacefully to the governor's house to demand the release of the children.¹⁴⁷.

The numbers of people killed by security forces fuelled the growing protest movement and their demands intensified from simple requests for reform to the all-out ousting of President Assad.

Protesters set fire to the offices of the Baath Party and tore down the statue of Hafez al-Assad the former president, calling for freedom and an end to emergency rule.¹⁴⁸

¹⁴⁷ Ibid.
¹⁴⁸ Ibid.
The uprising that started as a movement of angry, frustrated and oppressed protesters in Daraa spread in matters of weeks engulfed the country. Demonstrators were not limited to unemployed youth or farmers and small shopkeepers, but they included people from all works of society.\textsuperscript{149}

In some cases, the security forces merely used teargas or fired in the air to disperse the crowds. According to the Human Rights Watch there were several incidents when security forces opened fire directly at the protesters without giving advance warning or making any effort to disperse the protesters by non-lethal means. In other instances the security forces chased and continued to shoot at protesters as they fled.\textsuperscript{150} Injured protesters were prevented from receiving medical assistance.

The security forces arbitrarily arrested thousands of people and many of them were tortured in detention, some were subjected to enforced disappearances and a number of them died in custody.\textsuperscript{151}

Syrian security forces moved into civilian populated areas in military vehicles, including tanks and armorer personnel carriers, under the cover of heavy gunfire. Checkpoints were imposed and snipers were positioned on rooftops restricting the movement of residents. In some places, the security forces imposed a full-out siege that lasted for several weeks, cutting off all means of communication and subjecting civilians to acute shortages of food, water, medicine, and other essential supplies.\textsuperscript{152}

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\textsuperscript{149} Mousa Ladqani, “Seven Months into the Syrian Revolution Masses Still Striving For a Breakthrough”,\textit{ In the Defence of the Marxism}, (2011), \url{http://www.marxist.com/seven-months-into-syrian-revolution.htm}, accessed on the 24\textsuperscript{th} of April 2012 @ 7:41pm.

\textsuperscript{150} Human Right Watch, “ We Live As In War”,\textit{ Human Right Publications}, (2011), 5, \url{www.hrw.org/sites/default/files/reports/syria1111webwcover.pdf}, accessed on the 24\textsuperscript{th} of April 2012 @ 8:32pm.

\textsuperscript{151} Ibid, 7.

\textsuperscript{152}Ibid,12.
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Initially, in the face of the growing protests and international condemnation, President Assad announced a number of reforms. These reforms however had no impact on the brutal crackdown, and were merely cosmetic. As a result, the legislative changes, from a government were distrusted and many of Syria’s people and fell far short of the protesters’ demands and so protests continued.153

Many soldiers and officers that supported the fight for human rights defected from the army and security forces. The defecting soldiers have re-organized themselves into revolutionary militias, calling themselves the Free Syrian Army and declared their decision to protect the Syrian people.154

The level and gravity of the human rights violations committed in Syria amounted to crimes against humanity. The abuses were part of a widespread and systematic attack against civilians, carried out deliberately.155

The use of force by state security forces acting in a law-enforcement capacity must comply with standards set out in international law however this was not the case in Syria. A party to the International Covenant on Civil and Political Rights Syria has specific treaty obligations to respect the rights to life and security and to peaceful assembly. In most cases documented by Human Rights Watch, the use of force by security and law-

enforcement officials were excessive and in clear violation of Syria’s international obligations.\textsuperscript{156}

Months of peaceful protest had failed to bring a change of government yet many lives had been lost or blighted by injury or abuse, leading some within the opposition to turn to violence, including the use of firearms to try to enforce change.\textsuperscript{157} Since March 2011, more than 4,000 people have been reportedly killed, tens of thousands arrested and more than 14,000 reported to be in detention as a result of the uprising.\textsuperscript{158}

\textbf{3.2.3 THE ROLE OF THE SECURITY COUNCIL}

The conflict in Syria as that of the one in Libya was an armed conflict between the governmental armed forces and non-governmental armed forces. Though the conflict did not start out as an armed conflict it progressed into one.

On the 3\textsuperscript{rd} of August 2011, the Council adopted a non-binding statement condemning the human rights violations by the Syrian government.\textsuperscript{159}

In October, the Council debated on a draft resolution which condemned the continued widespread and gross violations of human rights and fundamental freedom by the Syrian authorities.\textsuperscript{160} The resolution demanded that the Syrian government end all human right violations and

\textsuperscript{156}Human Right Watch, “ We Live As In War”, \textit{Human Right Publications}, (2011), 16, \url{www.hrw.org/sites/default/files/reports/syria1111webcover.pdf}, accessed on the 24\textsuperscript{th} of April 2012 @ 8:32pm.

\textsuperscript{157}Amnesty International, Year of Rebellion- The State of Human Rights In the Middle East and North Africa, (2012), 30, \url{http://www.amnesty.org/en/library/info/MDE01/001/2012} accessed on the 18th of April 2012 @ 2:00pm.


\textsuperscript{159}Amnesty International, Year of Rebellion- The State of Human Rights In the Middle East and North Africa, (2012), 48, \url{http://www.amnesty.org/en/library/info/MDE01/001/2012} accessed on the 18th of April 2012 @ 2:00pm.

\textsuperscript{160}Paragraph 1, Security Council Draft Resolution, S/2012/77.
attacks against peaceful protesters and protect its population. It condemned all forms of violations by both the Syrian authorities and the opposition groups.

The Council was to adopt all these measures under Article 42 of the United Nations Charter in order to restore peace to the region. Although 13 members of the 15 members voted in favour of the draft resolution Russia and China vetoed it. This meant the resolution could not be adopted.\textsuperscript{161}

Russia had expressed concerns about the draft text, saying it feared the resolution would lead to the kind of military intervention and regime change seen in Libya where they perceived NATO exceeded its mandate to protect civilians by bringing about a regime change.\textsuperscript{162} Russia also wanted the draft to adequately reflect the real state of affairs in Syria by condemning the actions of both parties to the conflict.\textsuperscript{163}

China’s Ambassador Li Baodong voiced disappointment that the draft resolution did not incorporate amendments proposed by Russia, which China supported. He said the sovereignty, independence and territorial integrity of Syria must be fully respected.\textsuperscript{164}

More than a year after the Syria uprising started, the Security Council on 14\textsuperscript{th} of April 2012 unanimously adopted Resolution 2042 (2012).\textsuperscript{165} The resolution was devoid of all sanctions in reflecting Russia’s position that


\textsuperscript{163} Ibid.

\textsuperscript{164} Ibid.

\textsuperscript{165} \url{http://www.independent.ie/world-news/un-security-council-votes-to-send-300-unarmed-observers-to-syria-3088389.html}, accessed on the 24\textsuperscript{th} of April 2012 @ 10:22pm.
stopping the violence in Syria was the primary goal, alongside avoiding external intervention.\textsuperscript{166}

The resolution condemned the widespread violations of human rights by the Syrian government and the armed groups. It also emphasised that all will be held accountable.\textsuperscript{167}

The Syrian government was encouraged to implement its commitment to cease troop movements towards population centres, cease all use of heavy weapons in such centres, and begin a pullback of military concentrations in and around population centres.\textsuperscript{168} The resolution called on the Syrian government and the armed opposition to cease all armed violence.\textsuperscript{169}

The Council authorized “30 unarmed military observers to liaise with the parties and to begin to report on the implementation of a full cessation of armed violence in all its forms by all parties”.\textsuperscript{170}

On the 21\textsuperscript{st} of April 2012 the Council adopted Resolution 2043 (2012). The resolution established a United Nations Supervision Mission in Syria (UNSMIS) comprising of 300 unarmed military observers.\textsuperscript{171} The mission’s mandate is to monitor cessation of armed violence in all its forms by all parties.\textsuperscript{172}

The Council intends to end violence in Syria without interfering with its sovereignty. The resolution according to the Russian representative was very reflective of the true situation of things in Syria.

\textsuperscript{166} United Nations Security Council 6751\textsuperscript{st} Meeting, \url{http://www.un.org/News/Press/docs/2012/sc10609.doc.htm}, accessed on the 24\textsuperscript{th} of April 2012 @ 10:41pm.

\textsuperscript{167} Preamble, Security Council Resolution 2042 (2012).

\textsuperscript{168} Paragraph 2, Security Council Resolution 2042 (2012).


\textsuperscript{170} Paragraph 7, Security Council Resolution 2042 (2012).

\textsuperscript{171} Paragraph 5, Security Council Resolution 2043 (2012).

\textsuperscript{172} Paragraph 6, Security Council Resolution 2043 (2012).
CHAPTER FOUR

CONCLUSION

As thousands of people in Tunisia, Egypt, Libya and Syria showed their hunger for the freedoms and rights enjoyed in other parts of the world, the Security Council response to this crises has been varied\textsuperscript{173} because the conflicts were different in nature.

In Tunisia and Egypt, the Council did not interfere in the conflict because the situation did not constitute a threat to international peace. In contrast the Council took action in Libya because it was a threat to international peace. In Syria though, the Council did not act timely and its effort was truncated by the veto power exercised by Russia and China.

Where the Council cannot or does not act swiftly enough, there is a tendency that parties to the crises will turn to unilateral decision to use force which will negate the whole purpose of the United Nations Charter.\textsuperscript{174}

In order to effectively perform its responsibilities the Council needs to concentrate more on prevention of conflicts. Though the responsibility to prevent conflicts lies primarily with states, the Council can support this by developing assistance and other efforts to help address the root cause of potential conflict, providing support for local initiatives to advance good governance, human rights and the rule of law, enhancing mediation efforts and other efforts to promote dialogue.\textsuperscript{175}


\textsuperscript{175}Ibid, 19.
The impulsive use of the veto power by permanent members of the Council is the principal obstacle to the effective performance of its responsibility to restore peace in cases where quick and decisive action is needed to stop or avert a significant humanitarian crisis. It is unacceptable that one veto can override the rest of humanity on matters of grave humanitarian concern as is the case in Syria. There is a possibility that needed action will be held hostage as a result of the personal interest of one or more of the permanent members.\textsuperscript{176}

To prevent this it is recommended that there is an agreed code of conduct for the use of the veto with respect to actions that are needed to stop or avert a significant humanitarian crisis. This means permanent members, in matters where its national interests are not involved, would not use its veto to obstruct the passage of what would otherwise be a majority resolution.\textsuperscript{177}

It is also recommended that the Council adopt the provision of Article 43 of the United Nations Charter to enable it to form its own military force which will enhance swift and immediate enforcement of its resolutions. This will also ensure that the military force acts within the mandate bestowed on it and not follow its own agenda.

In situations where significant loss of human life occurs or is occurring it is important that the Council acts timely and swiftly to restore peace in such areas and its reactions should be consistent in all cases where circumstances are similar.

\textsuperscript{176} Ibid, 51.
\textsuperscript{177} Ibid.
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