ARTICLES

South Africa, The African Union and International Intervention in Libya: A Critical Appraisal[4]

Theo Neethling
University of the Free State (South Africa)

Abstract
For many human rights activists, the implementation of the United Nations Security Council Resolution 1973—in favour of a no-fly zone in Libya—was an indication that *The Responsibility to Protect* as a project, endorsed by the international community in 2005, was coming closer to being solidified as an 'actionable norm.' However, soon after the initial stage of implementing UNSC Resolution 1973 in March 2011, the South African government appealed to international actors to respect the unity and territorial integrity of Libya. They also rejected any foreign military intervention in Libya. Likewise, the African Union (AU) stated that they also strongly opposed any foreign military intervention in Libya, and that the country's sovereignty should be respected by the international community, especially Western countries. This article aims to critically examine and explore the official South African stance and the AU's role on the African continent shortly after the first aerial attacks were launched on targets in Libya, until the killing of Muammar Gaddafi by Libyan rebels in October 2011.

Introduction
Political protests in Libya, demanding an end to the four-decade long rule of then Libyan leader Colonel Muammar Gaddafi, began to gain momentum on 15 February 2011 and culminated in a civil war. The Libyan government's first response was to deploy its armed forces against the protesters with a view to crushing the unrest. The uprising turned into one of the bloodiest against a long-term ruler in North Africa

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[4] The original version of this article was presented at the 2011 AFSAAP conference in Adelaide, 30 November to 2 December, and appears on the conference proceedings see http://www.afsaap.org.au/Conferences/2011/Papers.htm. It expands on an article published in the *South African Journal of International Affairs*, 19:1 (2012), specifically by deepening the focus on the roles of South Africa and the AU in the Libyan crisis. It should also be noted that the article is based upon research supported by the National Research Foundation in Pretoria, South Africa. Any opinion, findings and conclusions or recommendations expressed in this material are those of the author and therefore the National Research Foundation does not accept any liability in this regard thereto.

and resulted in "human atrocities" and "crimes against humanity"[5] when Gaddafi marshalled his armed forces, and even contingencies of mercenaries, behind him in his efforts to retain power. Given the Libyan leader's single-minded brutality, much of the international community's sympathy rested with the opposing rebel forces[6] and a multinational diplomatic movement to prevent the Libyan armed forces from continuing their brutality started to gain momentum.[7] Insisting on an immediate ceasefire in Libya, including end to attacks on civilians which could constitute crimes against humanity, the United Nations Security Council (UNSC) adopted Resolution 1973 on 17 March 2011, thereby imposing a ban on all flights in Libyan airspace—a no-fly zone—and tightened sanctions against the Gaddafi regime. Importantly, the resolution committed member states to "take all necessary measures, to protect civilians and civilian populated areas under threat of attack."[8] This paved the way for the commencement of multinational military attacks on Libyan armed forces and installations, which continued on an almost daily basis.

Soon after the North Atlantic Treaty Organisation (NATO) started its military campaign in Libya, it became more and more evident that a serious rift had developed between the United Nations (UN) on the one hand and the African Union (AU) on the other. Former South African president Thabo Mbeki even accused the UN of destabilising the political process in Libya. He called on African leaders to resist interference in African affairs by the West in Libya and stated that Africans had lost confidence in the world governing body.[9] Similarly, South African president, Jacob Zuma, lashed out at the NATO-led military intervention in Libya, asserting that it undermined the AU and its role to find a political solution to the Libyan crisis.[10]

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[5] International Coalition for the Responsibility to Protect, "The Crisis in Libya," 2011, http://www.responsibilitytoprotect.org/index.php/crisis/crisis-in-libya (accessed 24 October 2011).

[6] International Coalition for the Responsibility to Protect, "The Crisis in Libya."

[7] Mohammed Abbas, "'Already too Late' for a No-Fly Zone in Libya," *Business Day* on the Web, 17 March 2011, http://www.businessday.co.za/Articles/Content.aspx?id=137461 (accessed 27 March 2011).

[8] UN Security Council, *Security Council Approves 'No-fly Zone' over Libya, Authorising 'All Necessary Measures' to Protect Civilians, by Vote of 10 in Favour with 5 Abstentions*, SC10200, 17 March 2011, http://www.un.org/News/Press/docs/2011/sc10200.doc.htm (accessed 25 October 2011).

[9] Sunday Times Staff Reporter, "AU is Not Being Taken Seriously," *Sunday Times*, 10 July 2011, 4.

[10] Sunday Times Staff Reporter, "AU is Not Being Taken Seriously," 4.

The question is: where do the above-mentioned developments leave the AU as a continental body and important political and security actor on the African continent? More specifically, what was the AU's position following the adoption of UNSC Resolution 1973; and what was the AU stance on the Libyan crisis until the killing of Gaddafi by Libyan rebels in October 2011? Furthermore, what role did the South African government play as a chief AU facilitator in finding a solution to the Libyan conflict? This article aims to critically explore these issues.

In order to contextualise the above-mentioned concerns, especially with regard to the official South African view, the views and perspectives of some of the most prominent South African commentators on both the Libyan issue and the AU's role in it will be examined. Theoretically, the concept of norm subsidiarity, based on the work of Amitav Acharya,[11] is helpful in explaining South Africa's foreign policy position and will thus be explored in this article. This article also seeks to shed light on what Laurie Nathan has described as the "anti-imperialist paradigm"[12] through which the South African government views the global order.

Background
On 24 March 2001, the United Nations Human Rights Council reported that security forces loyal to Gaddafi had captured hundreds of Libyans and taken them to undisclosed locations, where they were allegedly submitted to torture or other cruel, inhuman or degrading treatment, or even executed. Later it was reported that over 650,000 people had fled to neighbouring countries and that close to 250,000 people had been internally displaced.[13] The Libyan crisis and UNSC Resolution 1973 once again placed the focus on the critical and complex issue of what has become known as *The Responsibility to Protect*. In Libya, the international community—and the AU—was (again) faced with the hotly debated question of when, where and how nations should respond to populations threatened with the gravest international crises, including genocide, war crimes, crimes against humanity and ethnic cleansing.[14] It

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[11] See Amitav Acharya, "Norm Subsidiarity and Regional Orders: Sovereignty, Regionalism, and Rule-Making in the Third World," *International Studies Quarterly*, 55:1 (March 2011): 95-123.
[12] See Laurie Nathan, "Interests, Ideas and Ideology: South Africa's Policy on Darfur," *African Affairs*, 110:438 (January 2011): 55-74.
[13] International Coalition for the Responsibility to Protect, "The Crisis in Libya."
[14] Brookings Institute, "Libya and the Responsibility to Protect," 24 October 2011, http://www.brookings.edu/events/2011/0616_libya_responsibility.aspx (accessed 24 October 2011).

is commonly known that the understanding of sovereignty worldwide has been qualified by the ever-increasing impact of human rights concerns. While there has been no abandonment of the norm of non-intervention, and furthermore no transfer or dilution of sovereignty per se, there has been a revisiting of sovereignty in the context of international norm dynamics. The International Coalition for the Responsibility to Protect (ICRtoP) describes this as a move from sovereignty as control, to sovereignty as responsibility, in both internal functions and external duties. Therefore, current-day international organisations, such as the UN, as well as NGOs and human rights activists, use international human rights norms as points of reference against which to judge state conduct.[15]

What is also of interest is that the norms underpinning the AU's peace and security architecture resonate closely with elements found in *The Responsibility to Protect*. The AU's *Constitutive Act* and the *Protocol Relating to the Establishment of the Peace and Security Council*, assign high priority to the sovereignty and territorial integrity of AU member states. At the same time, in accordance with *The Responsibility to Protect*, the AU *Constitutive Act* places important limitations on state sovereignty, based on the premise that sovereignty is conditional. Here, sovereignty is defined in terms of a state's capacity and willingness to provide protection to its citizens. If a state fails to honour or exercise these commitments, the AU has the right to intervene through multilateral military force for human protection purposes. In February 2003, the AU Heads of State and Government added an amendment to Article 4(h) of the *Constitutive Act* that affords the organisation the right to intervene in situations that pose "a serious threat to legitimate order to restore peace and stability"[16] in a member state, upon recommendation of the AU Peace and Security Council. Clearly, the AU's peace and security commitments were intended as a move away from the former Organisation of African Unity's (OAU) tradition of non-intervention or non-interference in the affairs of member states, towards a new institutional culture of non-

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[15] International Coalition for the Responsibility to Protect, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001), 14.
[16] Kristiana Powell, "The African Union and The Responsibility to Protect", in *The African Union's Emerging Peace and Security Regime: Opportunities and Challenges for Delivering on the Responsibility to Protect*, *ISS Monograph No. 119* (May 2005), Ottawa: The North-South Institute, 2; See also: Organisation of African Unity, *Constitutive Act of the African Union*, Addis Ababa, 28 February 2001.

indifference and better accomplishments in the field of peace and security on the African continent.[17]

Informed by the International Commission on Intervention and State Sovereignty (ICSS) guidelines and the protection framework found in *The Responsibility to Protect*, and following advances by the Libyan armed forces against rebel-held positions in the eastern parts of the country, the UNSC approved the adoption of Resolution 1973 on 17 March 2011. In this context, six years since the UN endorsement of *The Responsibility to Protect* as an actionable norm, the UNSC decided to use it to act against Gaddafi. Demanding an immediate ceasefire in Libya, including a cessation of attacks on civilians which, according to the resolution, might constitute "crimes against humanity,"[18] the UNSC not only established a no-fly zone in the country's airspace, but also tightened sanctions against the Gaddafi regime. It further demanded that the Libyan authorities comply with obligations under international law and take all measures to protect civilians and meet their basic needs.

Ten of the 15 member states of the UNSC voted in favour of Resolution 1973, namely the US, Britain, France (permanent members) and Bosnia and Herzegovina, Colombia, Gabon, Lebanon, Nigeria, Portugal and South Africa (non-permanent members). Five others abstained, namely China, Russia (permanent members) and Germany, Brazil and India (non-permanent members).[19] Speaking after the vote, representatives who supported the resolution agreed that strong action was imperative as the Gaddafi regime had not heeded earlier calls to end attacks on civilians and was on the verge of even greater violence against civilians as it closed in on areas previously dominated by opposition rebels in the eastern parts of the country. It was stressed that the objective was solely to protect civilians from further harm.[20] After the US, France and the UK launched attacks on Libya's air defences and other targets, African voices became more vocal on the Libyan issue. This will be explored in the section below.

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[17] Powell, "The African Union," 2.

[18] UN Security Council, *Security Council Approves 'No-fly Zone' over Libya, Authorising 'All Necessary Measures' to Protect Civilians, by Vote of 10 in Favour with 5 Abstentions*, SC10200, 17 March 2011, http://www.un.org/News/Press/docs/2011/sc10200.doc.htm (accessed 25 October 2011). .

[19] Institute for Security Studies (ISS) Africa Conflict Prevention Programme (ACPP), "North Africa: Libya: UN Passes No Fly Zone Resolution as South Africa Fails to Align with the BRIC Group," *ACPP Daily Briefings*, 18 March 2011, p.2.

[20] UN Security Council, "*Security Council Approves*".

South African voices and the position of the AU

Although the AU denounced the violence in Libya on 10 March 2011, stating that it posed "a serious threat to peace and security in the country and the region as a whole, as well as to the safety and dignity of Libyans and African migrant workers living in Libya,"[21] the AU was conspicuously reticent to take a firm stand on the issue when UNSC Resolution 1973 was tabled. This sparked Lihle Z. Mtshali, a South African journalist currently based in Washington, to argue that that "Africans have taken quiet diplomacy too far."[22] Although critical and sceptical of the true motivations behind, especially US, involvement in Libya (namely, concerns over oil supplies), Mtshali lambasted the AU for not taking action on the crisis. In Mtshali's own words:

> I can't imagine, for the life of me, why the AU does not do anything about all the tyrants running around our continent. Oh wait, I forgot, most of them are dictators as well. As long as that is the lay of our land, we do not have any right to criticise NATO for taking matters into their own hands when it sees a deranged dictator killing his people... I would like to see more action by the AU on African dictators, and less yadda yadda.[23]

A respected South African commentator, former *Sunday Times* editor Mondli Makhanya, likewise criticised African actors for not acting swiftly enough on the Libyan crisis. Makhanya holds that powerful nations will always be guided by national interest when they intervene in conflicts abroad, and that Africans should be asking themselves how the instruments and tools available to the AU can be used effectively and quickly to prevent states from killing their own people. As far as Western-led interventions are concerned, the question is: "should others (Western nations) sit idly by and watch Africans get slaughtered while our leaders deliberate on an African solution?"[24] Only when this question has been answered, and relevant role-players have acted on the answer, will Africans "earn the right to tell others to butt out of our affairs."[25]

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[21] International Coalition for the Responsibility to Protect, "The Crisis in Libya."
[22] Lihle Mtshali, "Africans are Taking Quiet Diplomacy Too Far," *Sunday Times (Review)*, 27 March 2011, 5.
[23] Mtshali, "Africans are Taking," 5.
[24] Mondli Makhanya, "We Don't Take Charge in Africa, but Get Very Prickly about Those Who Do," *Sunday Times (Review)*, 10 April 2011a, 4.
[25] Makhanya, "We Don't Take Charge," 4.

Likewise, another authoritative South African political commentator, Prof. Adam Habib, Deputy Vice-Chancellor of the University of Johannesburg, stated that he too would have preferred intervention by the AU. However, all that the AU was capable of doing was sending a high-level, fact-finding mission to Libya (the AU High-Level Ad Hoc Committee on Libya) as Gaddafi's forces closed in on Benghazi and Misrata and fears of a massacre became imminent. Habib premised his view on the argument that the dilemma posed by the crisis in Libya was, in essence, no different to those that the international community has been confronted with elsewhere. For Habib, the question relating to norm dynamics was how and under what conditions should intervention occur to protect citizens from their own governments?

> If we dither and delay, and wring our hands when action should be taken, we have Rwanda. If we become sanguine about intervention, are driven by avarice and greed, and allow regime change because of what political ideologies elsewhere in the world want, we get Iraq. The no-fly zone in Libya must avoid both outcomes if it is to have legitimacy and if we are to learn the lessons of our recent past.[26]

However, in South Africa normative orientations towards the no-fly zone and NATO's military campaign indicated fundamental differences of opinion. Most observers and commentators were sceptical of the UNSC decision. For authoritative political commentator Xolela Mangcu, the link between intervention in Iraq and enforcing a no-fly zone in Libya was simply too evident and problematic:

> But the language of the coalition leaders increasingly smacks of regime change... It seems to me that, short of a new UN resolution specifically aimed at Gaddafi's removal, regime change would be no different from the US invasion of Iraq under George Bush... Gaddafi would probably meet the fate of Saddam Hussein and face the hangman.[27]

According to Mangcu, intervention in Libya meant that the international community was placed in the unenviable position of having to choose between two types of international illegality: the coalition of intervening

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[26] Adam Habib, "Fly or No-Fly is the Question; For: Adam Habib," *Sunday Times (Review)*, 27 March 2011, 5.
[27] Xolela Mangcu, "Fly or No-Fly is the Question; Against: Xolela Mangcu," *Sunday Times (Review)*, 27 March 2011, 5.

forces going beyond the UN mandate in initiating regime change on the one hand, and Gaddafi's atrocities against his own people on the other. Although he admitted the humanitarian dilemma of Gaddafi's brutal actions against Libyan citizens, he could not support "[c]owboy justice that goes beyond the UN mandate,"[28] as this would not be the desirable way of achieving a stable transition. He also specifically raised concerns regarding arguments made by those supporting air strikes—that the protection of civilians would not be possible without toppling Gaddafi— as something that would overstep the bounds of legality of the UN mandate.[29]

In defence of his views, Habib turned to arguments that military intervention by non-African forces would derail the desire to have African solutions for African problems. In Habib's opinion, the important question was whether the AU could have intervened given its current poor state of military preparedness. According to him, the AU was only capable of sending a high-level fact-finding and mediation mission to Libya when bloodshed was feared by the international community. In view of the above, Habib concluded as follows:

> ... my support for the slogan and strategic orientation of "African solutions for African problems" is not absolute. If my government and the inter-governmental structures on my continent do not come to the defence of civilians, then I am prepared to appeal for the humanitarian intervention of those in other parts of the world... [Given the deficiencies of the Arab League and the AU] I therefore looked to the "imperial world" with some trepidation in the hope that it would intervene within limits.[30]

In the final analysis, many South African (and African) critics were wary—even distrustful— of any possibility or approach towards regime change. Especially alarming to some African observers were statements made by US decision-makers that rebels in Libya could be supported or armed by Western military forces. In this context, Greg Mills and Terence McNanee, two authoritative foreign policy commentators attached to the Johannesburg-based Brenthurst Foundation, like other African commentators and observers, drew a connection between Western interventions in Iraq and Afghanistan and that of Libya, "where the West

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[28] Mangcu, "Fly or No-Fly," 5.
[29] Mangcu, "Fly or No-Fly," 5.
[30] Habib, "Fly or No-Fly," 5.

is again leading from the front in a contentious military intervention."[31] Although not nearly as critical as some other South African observers, they nevertheless asserted that the Afghan campaign had been handicapped by the West's inability to grasp regional realities. Their argument held that lessons from Iraq and Afghanistan had shown that there should never be an expectation that, once you boot out a tyrant, good leaders would fill the void to build a better society. Practically, where leaders like Muammar Gaddafi do get the boot, a highly uncertain process of political dynamics usually follows.[32] For these reasons, regime change has been raised as a major concern by African observers and critics. This will be further explored in the section below.

The AU and South Africa getting more vocal and criticised
The launching of air attacks by the US, France and the UK on targets in Libya immediately sparked reaction from the AU, which had been silent on the issue until 20 March 2011, a day after international military action began. In a better-late-than-never response, the AU High-Level Ad Hoc Committee on Libya stated that it opposed any foreign military intervention in Libya and that Libya's sovereignty should be respected. The Committee had been formed at the previous meeting of the AU's Peace and Security Council on 10 March 2011 in Addis Ababa. The countries involved were Mauritania, Mali, Congo, Uganda and, importantly, South Africa.[33]

The thrust of the AU position on the Libyan issue soon became clear: Africa does not need any external influence or intervention on matters pertaining to the African continent. In a media briefing to a mainly Western audience in Geneva, the AU Chair and President of Equatorial Guinea, Teodoro Obiang Nguema, stated that Africa must manage its own affairs and that UN action was not only unwanted in the Ivory Coast (Côte d'Ivoire), but it was also undermining AU efforts at mediation in Libya. He further stated that the problems in Libya should have been dealt with by the AU and not by means of an external intervention that appears to resemble a humanitarian intervention.[34] In this regard, the AU

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[31] Greg Mills and Terence McNamee, "Bombing Can Make Gaddafi a Freedom Fighter," *Business Day* on the Web, 29 March 2011, http://www.businessday.co. za/articles/Content.aspx?id=138497 (accessed 13 March 2011).
[32] Mills and McNamee, "Bombing Can Make".
[33] Thandi Winston, "AU at Loss over Libya," *Free State Times*, 25-31 March 2011, 9.
[34] Scott Baldauf, "Ivory Coast, Libya Highlight Growing Rift between Africa and the West," *Christian Science Monitor,* 14 April 2011, http://www.csmonitor.com/World/

met on 25 March 2011 with a delegation from the Libyan government and a so-called 'roadmap' for a political solution to the crisis in Libya was adopted. This roadmap boiled down to an appeal for the following conditions:

- political reforms necessary to meet the aspirations of the Libyan people;
- a political dialogue between the relevant Libyan actors in order to reach an agreement on the modalities for ending the political crisis; and
- the establishment and management of an inclusive transitional period.[35]

In view of the above, Amitav Acharya's concept of "norm subsidiarity"[36] is a useful tool to explain the role of developing world countries in world politics. Norm subsidiarity is the process whereby local or regional actors develop rules or create norms with a view to "preserv[ing] their authority from dominance, neglect, violation, or abuse by more powerful actors."[37] This being said, there has been a tendency among developing world role-players to question existing international norms as a response to (what is perceived) as the dominance or even tyranny of higher-level institutions in global governance. Specifically, actors in the developing world resort to norm subsidiarity when confronted with what is perceived as great power hypocrisy, that is, when they witness a violation of cherished global norms by higher-level institutions and powerful actors. Of particular importance is when a perception is sparked that the principle of non-intervention in the affairs of states is being or has been violated.[38]

Although non-intervention has been discredited internationally owing to its association with human rights violations,[39] it should also be noted that perceptions of the UN intervention in Libya were not helped by the fact that the history of foreign intervention in post-colonial Africa is still negatively viewed by many African governments and leaders. Such negative views feed on issues ranging from the killing of former Congolese president Patrice Lumumba in 1961, to the indifference or lack

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Africa/2011/0414/Ivory-Coast-Libya-highlight-growing-rift-between-Africa-and-the-West (accessed 23 October 2011).
[35] International Coalition for the Responsibility to Protect, "The Crisis in Libya".
[36] Acharya, "Norm Subsidiarity."
[37] Acharya, "Norm Subsidiarity," 96-97.
[38] Acharya, "Norm Subsidiarity," 100.
[39] Acharya, "Norm Subsidiarity," 118.

of action shown during the Rwandan genocide in 1994, to the UN force bombing the military in Abidjan in the Ivory Coast in 2010.[40]

The response of the AU—specifically its rejection of external influence or intervention in matters pertaining to the African continent—did not come as a surprise. Acharya points out that Kwame Nkrumah of Ghana took the lead in the formulation of subsidiarity norms in the Pan-African context by strongly advocating the principle of non-intervention by outside powers in African affairs. Norm subsidiarity in the Pan-African framework also included the abstention of Africans from participation in superpower-led alliances or defence pacts. After Nkrumah's departure from the political scene, the African normative order continued to reject big power intervention and espoused regional autonomy.[41]

From the South African side, President Jacob Zuma, who has always been a leading African voice on this issue in his capacity as a member of the AU High-Level Ad Hoc Committee on Libya, articulated the African position in no uncertain terms. He lashed out against NATO-led military intervention in Libya, arguing that it amounted to the undermining of the AU. He argued that the continental body and its member states had been reduced to mere spectators in the ensuing Libyan conflict and that the AU should have played a much more prominent role. What should be noted here is Zuma's insistence that both sides in the Libyan conflict—Gaddafi and the Transitional National Council (who took charge of Tripoli)—had to be accommodated at the negotiating table. On the question of whether Gaddafi could be persuaded to step aside, Zuma stated that he was confident that the former Libyan leader would accept any solution that would bring about peace; "knowing him I think we would be able to discuss some things that could perhaps help move towards resolving the problem."[42] Zuma also expressed his disappointment in a decision by the International Criminal Court to issue a warrant of arrest for Gaddafi and his son, Abdullah al-Senussi, for crimes against humanity.[43]

Former South African President Thabo Mbeki, who is still a vocal spokesperson for Africa in international affairs, went a step further than Zuma by stating that Africans had lost confidence in the UN and accused

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[40] Baldauf, "Ivory Coast, Libya".

[41] Acharya, "Norm Subsidiarity," 115.

[42] Sunday Times Staff Reporter, "AU is Not Being Taken Seriously," 4.

[43] Mail&Guardian Staff Reporter, "Zuma Says Warrant Against Gaddafi Undermines the AU," *Mail&Guardian Online*, 27 June 2011, http://mg.co.za/article/2011-06-27-zuma-says-warrant-against-gaddafis-undermines-the-au (accessed 27 June 2011).

the world body of being controlled by Western powers and installing biased leaders to run the African continent. He claimed that if there had been respect for the positions the AU had taken on resolving political issues in Libya, whereby Libyans would come together and decide their future, there would have been progress towards democratisation. Mbeki also drew a parallel between the role played by the UN in the conflicts in both Libya and the Ivory Coast. He argued that the mandated role of the UN in the Ivory Coast had been to maintain peace between the rebel-occupied northern parts and the government strongholds in the southern parts of the country. The UN had been given the task of making sure that peace was maintained and a political solution found, yet had instead, according to Mbeki, opened the door for the rebels in the North to march into Abidjan and carry out operations there side-by-side with the UN forces. As such, the UN forces were not neutral peacekeepers but rather took a side. In Libya, Mbeki argued, the UN delegated its responsibilities to NATO, a military organisation for "some countries"[44] (a clear reference to Western actors)which is neither accountable to the UN nor to Africans.[45]

In brief, the South African position on Libya was that NATO's actions in Libya were a "manifestation of military means" aimed at "changing governments,"[46] which stood in contrast to the bringing of lasting peace and stability by way of the intensification of continental conflict prevention mechanisms through the AU. For South Africa, it was important to re-assert the commitment to conflict resolution in the Middle East and North Africa. At the same time, Mbeki acknowledged the weakness of the AU in this regard. He pointed out that the AU Commission was unable to carry out its work properly because member states were not making their financial contributions to provide the funds required. This has resulted in a situation in which, when the AU wants to carry out an operation, it has to appeal to the European Union for funds.[47]

Nevertheless, the South African and AU positions on Gaddafi proved to be somewhat naïve, as the Transitional National Council ultimately

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[44] Ncana Nkululeko, "Mbeki: Africa has Lost Faith in the UN," *Sunday Times*, 31 July 2011, 4
[45] Nkululeko, "Mbeki: Africa," 4.
[46] Ebrahim I, Ebrahim, Draft Lecture by Deputy Minister of International Relations and Cooperation, Ebrahim I Ebrahim, on the Occasion of the Speakers Meeting at the South African Institute of International Affairs, 22 July 2011, 7 (also at http://www.dfa.gov.za/docs/speeches/2011/ebra0722.html).
[47] Nkululeko, "Mbeki: Africa," 4.

rejected any deal that would see Gaddafi remaining in power. Unlike the Russian Federation, which criticised the NATO operation but joined Western nations in their call for Gaddafi to relinquish power,[48] the AU High-Level Ad Hoc Committee on Libya never called for Gaddafi's departure. Until 27 September 2011, the AU also refused to recognise Libya's Transitional National Council as the official representative of the Libyan people.[49] In particular, South African president Jacob Zuma made it clear at a meeting of the AU's Peace and Security Council that the organisation should not recognise the Transitional National Council as long as the fighting in Libya continued—"if there is fighting, there is fighting. So we cannot stand here and say this is the legitimate government."[50] Only a month before Gaddafi's death on 20 October 2011, the AU indicated that it was ready to recognise the Transitional National Council, which by then controlled most of Libya's territory.[51] In this regard, the AU basically had no choice but to recognise the Transitional National Council, as most European nations and the United States, along with several prominent African governments including Nigeria, Ethiopia, Senegal and Ivory Coast, had already done so.[52]

The South African position stood in contrast to that of the Nigerian government which, on 25 August 2011, stated through its Minister of State and Foreign Affairs, Prof. Viola Onwuliri, that the Libyan rebel-led Transitional National Council was to be recognised as the legitimate representative of the Libyan people. From Nigeria's side it was also felt that, for too long, African leaders and countries have dithered when it comes to defending the powerless from bloodthirsty and oppressive

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[48] Reuters, "Libya Dominates Russian Meetings with NATO, Zuma", 4 July 2011, http://www.reuters.com/article/2011/07/04/us-russia-nato-libya-idUSTRE76326J20110704 (accessed 21 October 2011).

[49] Scott Stearns, "AU's Slow Recognition of NTC Prompts Calls for Reform," *VOA News.com*, 21 September, http://www.voanews.com/english/news/africa/AUs-Slow-Recognition-of-NTC-Prompts-Calls-for-Reform-130264578.html (accessed 23 October 2011).

[50] Independent Pan-African News Staff Reporter, "The African Union Refuses to Recognise Libya's Transitional Council," *Independent Pan-African News,* 27 August 2001, http://ipan.co.za/wp/?p=610 (accessed 23 October 2011).

[51] VOA News, "African Union Recognises Libya's Transitional Council," *VOA News.com*, 20 September 2011,http://www.voanews.com/english/news/africa/African-Union-Recognizes-Libyas-Transitional-Govt-130215588.html (accessed 23 October 2011).

[52] Stearns, "AU's Slow Recognition".

dictators, represented in the likes of Muammar Gaddafi, Robert Mugabe and others.[53]

According to South African foreign policy expert Laurie Nathan, Pretoria's foreign policy stance of recent years should be understood in the light of an anti-imperialist paradigm, particularly evident in the foreign policy approach of the Thabo Mbeki administration. He also argues that South Africa's foreign policy position is strongly informed by the leading ANC's (contemporary) views on anti-colonial and anti-neocolonial commitments. Furthermore, South Africa's foreign policy position goes hand in hand with an ever-growing conflict between a highly industrialised and affluent North and an impoverished, underdeveloped and highly populated South. Specifically, the anti-imperialist paradigm revolves around the following themes:[54]

- the iniquitous political and economic power imbalance between the North and the South, which is to the detriment of the poor;
- the need to reform the UN, the Bretton Woods institutions and other international organisations in order to address issues of imbalance and resultant inequities;
- the domineering and hypocritical approach of Western states that use the above-mentioned organisations to chide and bully developing countries;
- South-South co-operation and solidarity as a form of collective strength; and
- multilateralism and respect for international law as the only legitimate basis for interstate relations and the resolution of international crises.

The above-mentioned principles have brought South Africa to the point where the country provoked international dismay and criticism when it tried to block UN censure of Myanmar/Burma, Sudan and Zimbabwe for gross human rights abuses.[55]

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[53] Edward Oparaoji, "Nigeria is Right to Recognise Libya's Transitional Council," *ELOMBAH.com: A Nigerian Perspective on World Affairs*, 25 August 2011, http://www.elombah.com/index.php?option=com_content&view=article&id=7912:ni geria-is-right-to-recognize-libyas-transitional-council&catid=25:politics&Itemid=92 (accessed 23 October 2011).
[54] Nathan, "Interests, Ideas and Ideology," 63-71.
[55] Nathan, "Interests, Ideas and Ideology," 55.

As mentioned in a previous section, there were several South African foreign policy commentators who severely criticised the AU for its role in the Libyan conflict. Various points could be cited, but for the sake of brevity two broad issues of special relevance will be mentioned.[56] Firstly, commentators highlighted the institutional weakness of the AU and its lack of swift action in crises. It was argued that the crisis in Libya presented an opportunity to successfully deliver an African solution to an African problem. This, however, did not result in a feasible plan and exposed the weakness of the AU. Without political and material investment in the AU, the slogan 'African solutions for African problems', like the notion of the African Renaissance, "will be banished to a political dustbin filled with rotten linguistic promises."[57] The question African leaders should be asking themselves is how the tools and instruments available to the AU and regional African organisations can be used effectively and quickly to stop leaders from killing their own citizens. Moreover, African leaders should ask whether other actors should sit idly by and watch Africans get slaughtered by bad leaders while African leaders deliberate on African solutions.[58]

Secondly, a parallel was drawn between the lack of decisive action in both the Ivory Coast and Libyan crises. It was argued that, in the case of the Ivory Coast, the AU-led intervention failed miserably and that the AU should take much of the blame for the fact that renegade President Laurent Gbagbo plunged his country into civil war before the UN decided to request that French military forces intervene, which eventually led to Gbagbo's capture early in 2011.[59] It was argued that Africa was initially firm on Gbagbo, but that subsequently the continent's leaders started to vacillate and attempted to find some point of accommodation between Gbagbo and the legitimate winner of the democratic elections, Alassane Quatarra. This vacillating response in dealing with the situation in the Ivory Coast was mainly attributed to President Zuma and it angered the Ivorian people. Moreover, it was left to the French to enter the crisis, which was followed by cries of imperialism and neo-colonialism. Similarly, it was argued that the African leaders (and South Africa) were lethargic in their response to Gaddafi's slaughtering of Libyans. By not acting firmly in the Libyan crisis, the AU effectively opened the door for external role-players such as the UN and NATO to do the work for

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[56] Nathan, "Interests, Ideas and Ideology," 63.
[57] Eusebius Mc Kaiser, "Diplomacy Debacle in Libya: SA Failed to Take Advantage of a Golden Opportunity," *Sunday Times*, 21 August 2011, 5.
[58] Makhanya, "We Don't Take Charge," 4.
[59] Baldauf. "Ivory Coast, Libya".

them.[60] Even Rwandan president Paul Kagame, who is certainly familiar with the consequences of lethargy, bemoaned the slow-moving response of the AU in an opinion piece and came out in support of external action on the Libyan crisis.[61] In this context, the AU's handling of matters in both Libya and the Ivory Coast has divided African opinion quite sharply.[62]

In the same context, *The Economist* perceptively observed that the South African government, which was a leading African (and AU) voice on the crises in both the Ivory Coast and Libya, often appeared to be pursuing two contradictory sets of values. In some instances, President Zuma was upholding the principles of national sovereignty and non-interference—principles that suit despots around the world. In other instances, he was insisting that his primary goal was to contribute to democracy, human rights and justice in the international community. The result, according to *The Economist*, was "a mishmash of unpredictable responses to apparently similar situations in different countries."[63] In this regard, observers were quick to point out that in the face of dreadful factional violence and impending civil war in the Ivory Coast, South Africa's position had been one of sitting on the fence for months, refusing to endorse Alassane Ouattara's internationally recognised victory.[64]

Against this background, the AU has been criticised for letting the principle of non-interference take precedence over the values of democracy, social justice, clean government, ethnic inclusiveness and peace on the African continent. Critics specifically contend that state security in Africa is viewed as being of greater importance than human security. This approach is at the centre of shielding despots from criticism rather than coming to the aid of desperate citizens. The problem is also that the rules for AU membership are too lenient to be effective. Hence, African member states will have to bring new ideas and provide new energy to make regional and continental institutions work.[65]

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[60] Makhanya, "We Don't Take Charge," 4.

[61] Mondli Makhanya, "Let's Not Become a Pontius Pilate Regarding the Atrocities in Syria," *Sunday Times (Review)*, 10 July 2011b, 4.

[62] Baldauf, "Ivory Coast, Libya"; Stearns, "AU's Slow Recognition.

[63] The Economist, "South Africa's Foreign Policy: All Over the Place," *The Economist* on the Web, 24 April 2011, http://www.economist.com/node/18447027?story_id=18447027 (accessed 28 April 2011).

[64] The Economist, "South Africa's Foreign Policy".

[65] William Gumede, "Back to the Drawing Board for AU," *Sunday Times*, 3 July 2011, 10.

Evaluation and conclusion

The Libyan crisis and UNSC Resolution 1973 once again placed the focus on the critical and complex issue of *The Responsibility to Protect*. In Libya, the international community—and the AU—was faced with the hotly debated question of when, where and how nations should respond to populations threatened with the gravest international crises, including genocide, war crimes, crimes against humanity and ethnic cleansing.

For many activists the the UN response to the Libyan crisis, which was based on the gradual implementation of diplomatic, economic, humanitarian and coercive measures, was an indication that *The Responsibility to Protect* as a principle was coming closer to being solidified as an actionable norm.[66] From such a point of view, the swift and decisive action by the UN and NATO demonstrated the international community's prioritisation of the protection of civilians, and an honouring of the commitment to the principles agreed to in 2005. Concerning the position of the AU, Bjorn Møller rightly argued that the continental organisation made a significant departure from the past by establishing its right to intervene in the domestic affairs of member states in cases of war crimes, genocide and crimes against humanity, based on a decision taken by the AU Assembly with a two-thirds majority. As pointed out earlier, the list of triggering events was expanded to include "serious threats to legitimate order,"[67] and in doing this, the AU put itself way ahead of the rest of the international community at a time when there has been considerable international debate on *The Responsibility to Protect*. However, one should not be too optimistic about organisational pronouncements, since what really matters is the political will to do what is needed.[68] This has once again been illustrated and underscored by the AU's attempt to deal with the crisis in Libya or, rather, the lack of swift action on its part.

As much as one should concede the point that *The Responsibility to Protect* can easily be used as an excuse for regime change, the only defensible position that the AU could take was that the uprising in Libya and subsequent rebel action constituted a serious threat to political order in Libya. The AU, in recent years, and for this very reason, had taken a firm stance against military coups or other attempts at overthrowing governments. However, the Libyan government was never legitimate and

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[66] International Coalition for the Responsibility to Protect, "The Crisis in Libya".
[67] Bjorn Møller, "The African Union as Security Actor: African Solutions to African Problems?" *Crisis States Working Papers Series*, 2 (August 2009): 9.
[68] Møller, "The African Union," 9.

what in Makhanya's view is indeed worrisome is that Africans often do not take charge in African affairs when a humanitarian crisis manifests itself, but become annoyed with external actors who do.[69]

As far as South Africa's position is concerned, the conceptual tool of norm subsidiarity is indeed a useful and important construct to study norm dynamics in South Africa's foreign relations, specifically in the African context. Clearly, the South African position coincides with the reference to norm subsidiarity as a critical response by role-players in the developing world to the rulemaking or norm-setting of higher-level institutions (most specifically the UNSC) in global governance. This is particularly true when actors from the developing world see or experience the violation of global norms. In fact, "hypocrisy is often a trigger for subsidiarity norms in the Third World".[70]

In the final analysis, for many scholars and analysts outside Africa, the crisis in Libya has raised the question of whether the phrase 'African solutions to African problems,' as well as the AU's professed commitment to *The Responsibility to Protect,* signal a genuine moral commitment to a special responsibility to help solve the problems on the continent or are rather empty policy positions. For Møller the AU needs at least one power —or hegemon—to take the lead in moving away from its dismal record with regard to conflicts.[71]   Before and since the establishment of the AU, South Africa has been active in setting new norms and standards in the field of security-related issues on the African continent but, critically speaking, South Africa was not an effective role-player in terms of facilitating the enforcement of these norms and standards in Libya. Thus, as much as South Africa played a notable and significant role in the AU's departure from the former OAU's untenable and rigid stance on sovereignty and non-interference, South Africa— unlike Nigeria, for example—took a protective stance against Gaddafi. This has led to a gap between the AU's ambitions and its plans to work towards accomplishing the ideals associated with *The Responsibility to Protect*. In this regard, Nathan indeed makes a solid point by stating that it is hard to fault South Africa's stand on inequitable global power relations, but it is equally hard to see any productive results arising from a strategy that blocks international action against dictatorial regimes.[72]

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[69] Makhanya, "We Don't Take Charge," 4.
[70] Acharaya, "Norm Subsidiarity," 96-97.
[70] Acharaya, "Norm Subsidiarity," 115.
[71] Møller, "The African Union," 1.
[72] Nathan, "Interests, Ideas and Ideology," 74.

Such a strategy does nothing to facilitate equitable power relations in the international community and yields no benefits to South Africa or the AU as a security actor on the African continent.

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